CHAPTER 1

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

[Approved by Governor January 27, 1992. Filed with Secretary of State January 27, 1992.]

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

SECTION 1. Notwithstanding any other provision of law, of the amount appropriated pursuant to Section 33.50 of Chapter 118 of the Statutes of 1991, six million dollars ($6,000,000) is hereby reappropriated in accordance with the following schedule:

(a) Of the amount appropriated to the Senate pursuant to subdivision (a) of Section 33.50 of the Budget Act of 1991 (Ch. 118, Stats. 1991) and available for transfer to the Joint Legislative Audit Committee for support of the expenses of the Auditor General, two million four hundred eighty-four thousand dollars ($2,484,000) is hereby reappropriated to Item 8860-001-001 of Section 2.00 of the Budget Act of 1991 for expenditure by the Department of Finance for support costs of the Auditor General associated with audits that are mandated by state or federal statutes, or both, to be conducted by the Auditor General.

(b) Of the amount appropriated to the Assembly pursuant to subdivision (b) of Section 33.50 of the Budget Act of 1991 (Ch. 118, Stats. 1991) and available for transfer to the Joint Legislative Audit Committee for support of the expenses of the Auditor General, three million five hundred sixteen thousand dollars ($3,516,000) is hereby reappropriated to Item 8860-001-001 of Section 2.00 of the Budget Act of 1991 for expenditure by the Department of Finance for support costs for the Auditor General associated with audits that are mandated by state or federal statutes, or both, to be conducted by the Auditor General.

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 funding is available at the earliest possible time for the conduct of audits that are mandated by state or federal statutes to be conducted by the Auditor General, it is necessary that this act take immediate effect.
CHAPTER 2

An act to amend Section 615 of, to add Section 608 to, and to repeal and add Section 29207 of, the Elections Code, and to repeal and add Section 6254.4 of the Government Code, relating to voting records.

[Approved by Governor January 29, 1992. Filed with Secretary of State January 30, 1992.]

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

SECTION 1. Section 608 is added to the Elections Code, to read: 608. (a) Unless otherwise specifically provided, an application for voter registration information available pursuant to law and maintained by the Secretary of State or by the elections official of any county shall be made pursuant to this section.

(b) The application shall set forth all of the following:

1. The printed or typed name of the applicant in full.

2. The complete residence address and complete business address of the applicant, giving street and number. If no street or number exists, a postal mailing address as well as an adequate designation sufficient to readily ascertain the location.

3. The telephone number of the applicant, if one exists.

(c) If the application is on behalf of a person other than the applicant, the applicant shall, in addition to the information required by subdivision (b), set forth all of the following:

1. The name of the person, organization, company, committee, association, or group requesting the voter registration information, including their complete mailing address and telephone number.

2. The name of the person authorizing or requesting the applicant to obtain the voter registration information.

(d) The application shall set forth a statement of the intended use of the information requested.

(e) The applicant shall certify to the truth and correctness of the content of the application, under penalty of perjury, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The applicant shall state the date and place of execution of the declaration.

(f) The Secretary of State may prescribe additional information to be included in the application for voter registration information.

SEC. 2. Section 615 of the Elections Code is amended to read: 615. (a) With respect to a voter who registers or reregisters to vote by means of a confidential affidavit of registration pursuant to Section 6254.4 of the Government Code:

1. The home address, telephone number, occupation, precinct number, and prior registration information of the voter shall be replaced by the word "confidential" on every computer terminal, list, affidavit, duplicate affidavit, or any other medium routinely available to the public at the clerk's office.
(2) The home address, telephone number, occupation, precinct number, and prior registration information of a person granted confidentiality pursuant to Section 6254.4 of the Government Code shall be provided to the following:

(A) An election official, candidate, proponent, person, or committee provided pursuant to Section 600, 603, 604, 605, 607, 611, or 611.1, provided that the election official, candidate, proponent, person, chair or vice chair of a party state central committee, or a party county central committee, or committee treasurer requests the index, cards, or tape in writing signed by the election official, candidate, proponent, person, chair or vice chair of a party state central committee, or a party county central committee, or committee treasurer.

(B) A faculty member or researcher with an accredited educational institution for the purpose of academic research, provided the information is requested in writing signed by the faculty member or researcher.

(3) Indexes prepared on or after January 1, 1992, pursuant to Section 606 shall not include any information relating to voters registering or reregistering by means of a confidential affidavit of registration pursuant to Section 6254.4 of the Government Code.

(b) The home address of a voter to whom confidentiality is granted shall be released whenever the person's vote is challenged pursuant to Sections 1403, 1405 to 1408, inclusive, or 14216 to 14299, inclusive. The address shall be released pursuant to this section only to the challenger, to elections officials, and to other persons as necessary to make or defend against, or to adjudicate, the challenge.

(c) If a person who has registered or reregistered by means of a confidential affidavit files a declaration of candidacy, and during the filing period for that election, another person files a declaration of candidacy for the same office, the elections official shall immediately transfer the confidential information concerning that candidate to the public record, and from that time through the day following the date of the election for that office the candidate shall not be entitled to confidentiality pursuant to this section as to either current or past registration records.

(d) No action in negligence may be maintained against any governmental entity or officer or employee thereof as a result of disclosure of the information which is the subject of this section unless by a showing of gross negligence or willfulness.

(e) Nothing in this section shall require a change to or replacement of any information on any public record for an individual created prior to the date the individual registers by means of a confidential affidavit of registration.

SEC. 3. Section 29207 of the Elections Code is repealed.
SEC. 4. Section 29207 is added to the Elections Code, to read:
29207. (a) It is a misdemeanor for any person in possession of information obtained pursuant to Article 4 (commencing with Section 600) of Chapter 2 of Division 1, or Section 6254.4 of the

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Government Code, knowingly to use or permit the use of all or any part of that information for any purpose other than as permitted by law.

(b) It is a misdemeanor for any person knowingly to acquire possession or use of voter registration information referred to in subdivision (a) without first complying with Section 608.

SEC. 5. Section 6254.4 of the Government Code is repealed.
SEC. 6. Section 6254.4 is added to the Government Code, to read:

6254.4. (a) The home address, telephone number, occupation, precinct number, and prior registration information shown on the voter registration card for the following persons is confidential if the person requests confidentiality of that information at the time of registration or reregistration and shall not be disclosed to any person except pursuant to Section 615 of the Elections Code:

1) Any active or retired judge, magistrate, or court commissioner.

2) Any active or retired district attorney, assistant district attorney, or deputy district attorney.

3) Any active or retired public defender or assistant public defender or public defender investigator.

4) Any active or retired peace officer as defined in Section 830.1, subdivision (a), (b), (c), (d), or (e) of Section 830.2, or Section 830.5 of the Penal Code.

5) The spouse or children of any person included in paragraphs (1) to (4), inclusive, who are living with that person.

(b) Confidentiality granted under this section shall apply only to records prepared or generated on or after the date that the voter is granted confidentiality.

(c) A person who requests confidentiality of the information specified in subdivision (a) shall register or reregister to vote by means of a confidential affidavit of registration form which shall be prescribed by the Secretary of State and which shall be attested to under penalty of perjury by the affiant that he or she is a person entitled to confidential treatment pursuant to this section.

(d) For purposes of this section, "home address" means only street address and does not include an individual's city or post office address.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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 3

An act to amend Section 6254 of the Government Code, and to add Section 841.5 to the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 10, 1992. Filed with Secretary of State February 10, 1992.]

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

SECTION 1. Section 6254 of the Government Code 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, 273.5, 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. 2. Section 841.5 is added to the Penal Code, to read:

841.5. (a) Except as otherwise required by Chapter 10 (commencing with Section 1054) of Title 7, or by the United States Constitution or the California Constitution, no law enforcement officer or employee of a law enforcement agency shall disclose to any arrested person, or to any person who may be a defendant in a criminal action, the address or telephone number of any person who is a victim or witness in the alleged offense.

(b) Nothing in this section shall impair or interfere with the right of a defendant to obtain information necessary for the preparation of his or her defense through the discovery process.

(c) Nothing in this section shall impair or interfere with the right of an attorney to obtain the address or telephone number of any person who is a victim of, or a witness to, an alleged offense where a client of that attorney has been arrested for, or may be a defendant in, a criminal action related to the alleged offense.

(d) Nothing in this section shall preclude a law enforcement agency from releasing the entire contents of an accident report as required by Section 20012 of the Vehicle 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 protect the safety and privacy of victims and witnesses of crime, it is necessary that this act take effect immediately.
CHAPTER 4

An act to add Article 20 (commencing with Section 429.994) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, and to amend Sections 4080, 17601, and 17602 of, to add Section 17601.10 to, and to repeal Section 5652.5 of, the Welfare and Institutions Code, relating to health, and making an appropriation therefor.

[Approved by Governor February 11, 1992. Filed with Secretary of State February 13, 1992.]

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

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

(a) In 1988 the Legislature enacted Senate Concurrent Resolution 93, which recognized the significant relationship between diet and cancer as a threat to public health, and declared a goal for yearly consumption of fruits and vegetables of 500 pounds, or the equivalent of five servings per person per day.

(b) Working with national grant funds, the State Department of Health Services has successfully conducted the “5 A Day — For Better Health” campaign, which has attracted participation by produce organizations and supermarkets throughout the state.

(c) The grant which supports the “5 A Day — For Better Health” campaign will expire in 1991, and there exists no other health promotion campaign focusing on fruits and vegetables in California.

(d) The need for further promotion of increased dietary consumption of fruits and vegetables is indicated by federal government reports that consumption of fruits and vegetables averages less than three servings daily, with one in 10 adults eating no fruits and vegetables at all on any given day.

(e) State law currently requires nutrition guidelines developed by the State Department of Education to consider recommendations for children contained in the California Daily Food Guide published by the State Department of Health Services, including a recommendation for consumption of at least five servings of fruits and vegetables per day.

(f) Budgetary restrictions in the state General Fund makes full funding of a continued “5 A Day — For Better Health” program in California impossible, but funding sources which combine public and private resources and allow leveraged use of state funds can permit continuation of the campaign to improve the diets of all Californians.

SEC. 2. Article 20 (commencing with Section 429.994) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:
Article 20. "5 A Day — For Better Health" Program

429.994. (a) The state department shall establish and implement, to the extent funds are available pursuant to subdivision (d) which are other than state general funds, a "5 A Day — For Better Health" program for the purpose of promoting public awareness of the need to increase the consumption of fruits and vegetables as part of a low-fat, high-fiber diet in order to improve health and prevent major chronic diseases, including diet-related cancers.

(b) The state department may promote the "5 A Day — For Better Health" program to the public through channels, including, but not limited to, print and electronic media, retail, grocers, schools, and other government programs. For purposes of this article, "public" includes, but is not limited to, the general adult population, adults with lower educational attainment, schoolage children and youth, and high-risk groups determined by the state department.

(c) The state department may, at its sole discretion, contract with qualified organizations for general or specialized services to implement this article, including personnel, marketing, public relations, research, evaluation, and administration.

(d) The state department is encouraged to investigate all available funding sources, public and private, for the purposes of this article, including application for public and private grants.

429.996. Notwithstanding any other provision of law, nothing shall operate to prohibit contributions to the program created pursuant to this article by organizations and commissions subject to Division 22 (commencing with Section 64001) of the Food and Agricultural Code.

SEC. 3. Section 4080 of the Welfare and Institutions Code is amended to read:

4080. (a) Psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, shall only be licensed by the State Department of Mental Health subsequent to application by counties, county contract providers, or other organizations pursuant to this part.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for the facility and a description of the services to be provided. The local mental health director shall then submit to the governing body the explanation and description in the form of an amendment to the county Bronzan-McCorquodale plan. The governing body, upon its approval of the amendment, may submit the amendment and application to the State Department of Mental Health.

(2) Other organizations that will be applying for licensure and do not intend to use any Bronzan-McCorquodale funds pursuant to Section 5707 shall submit to the local mental health director and the governing body in the county in which the facility is to be located
a written and dated proposal of the services to be provided. The local mental health director and governing body shall have 30 days during which to provide any advice and recommendations regarding licensure, as they deem appropriate. At any time after the 30-day period, the organizations may then submit their applications, along with the mental health director's and governing body's advice and recommendations, if any, to the State Department of Mental Health.

(c) The State Fire Marshal and other appropriate state agencies, to the extent required by law, shall cooperate fully with the State Department of Mental Health to assure that the State Department of Mental Health approves or disapproves the licensure applications not later than 90 days after the application submission by a county, county contract provider, or other organization.

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of Mental Health. The inspection shall be conducted no less than once every two years and as often as necessary to assure the quality of care provided. During the inspections the review team shall offer such advice and assistance to the psychiatric health facility as it deems appropriate.

(e) (1) The program aspects of a psychiatric health facility which shall be reviewed and may be approved by the State Department of Mental Health shall include, but not be limited to:

(A) Activities programs.
(B) Administrative policies and procedures.
(C) Admissions including provisions for a mental evaluation.
(D) Discharge planning.
(E) Health records content.
(F) Health records services.
(G) Interdisciplinary treatment teams.
(H) Nursing services.
(I) Patient rights.
(J) Pharmaceutical services.
(K) Program space requirements.
(L) Psychiatrist and clinical psychological services.
(M) Rehabilitation services.
(N) Restraint and seclusion.
(O) Social work services.
(P) Space, supplies, and equipment.
(Q) Staffing standards.
(R) Unusual occurrences.
(S) Use of outside resources, including agreements with general acute care hospitals.

(T) Linguistic access and cultural competence.
Structured outpatient services to be provided under special permit.

(2) The State Department of Mental Health has the sole authority to grant program flexibility.
(f) The State Department of Mental Health shall adopt regulations which shall include, but not be limited to, the following:

(1) Procedures by which the State Department of Mental Health shall review and may approve the program and facility requesting licensure as a psychiatric health facility as being in compliance with program standards established by the department.

(2) Procedures by which the Director of Mental Health shall deny approval or approve, the program and facility licensed as a psychiatric health facility pursuant to this section.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program and facility standards.

(4) Provisions for the State Department of Mental Health for any administrative proceeding regarding denial, suspension, or revocation of a psychiatric health facility license.

(g) Regulations shall be adopted by the State Department of Mental Health, which shall establish standards for pharmaceutical services in psychiatric health facilities.Licensed psychiatric health facilities shall be exempt from requirements to obtain a separate pharmacy license or permit.

(h) (1) It is the intent of the Legislature that the State Department of Mental Health shall license the facility in order to establish innovative and more competitive acute care services as alternatives to hospital care.

(2) The State Department of Mental Health shall review and may approve the program aspects of public or private facilities, with the exception of those facilities which are federally certified or accredited by a nationally recognized commission which accredits health care facilities, only if the average per diem charges or costs of service provided in the facility is approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital.

(3) (A) When a private facility is accredited by a nationally recognized commission which accredits health care facilities, the department shall review and may approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(B) When a private facility serves county patients, the department shall review and may approve the program aspects only if the facility is federally certified by the Health Care Financing Administration and serves a population mix which includes a proportion of Medi-Cal patients sufficient to project an overall cost savings to the county, and the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(4) When a public facility is federally certified by the Health Care
Financing Administration and serves a population mix which includes a proportion of Medi-Cal patients sufficient to project an overall program cost savings with certification, the department shall approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(5) (A) The State Department of Mental Health may set a lower rate for private or public facilities than that required by paragraph (3) or paragraph (4), respectively if so required by the federal Health Care Financing Administration as a condition for the receipt of federal matching funds.

(B) This section does not impose any obligation on any private facility to contract with a county for the provision of services to Medi-Cal beneficiaries, and any contract for that purpose is subject to the agreement of the participating facility.

(6) (A) In using the guidelines specified in this subdivision, the department shall take into account local conditions affecting the costs or charges.

(B) In those psychiatric health facilities authorized by special permit to offer structured outpatient services not exceeding 10 daytime hours, the following limits on per diem rates shall apply:

(i) The per diem charge for patients in both a morning and an afternoon program on the same day shall not exceed 60 percent of the facility’s authorized per diem charge for inpatient services.

(ii) The per diem charge for patients in either a morning or afternoon program shall not exceed 30 percent of the facility’s authorized per diem charge for inpatient services.

(i) The licensing fees charged for these facilities shall be credited to the State Department of Mental Health for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities.

(j) Proposed changes in the standards or regulations affecting health facilities which serve the mentally disordered shall be effected only with the review and coordination of the Health and Welfare Agency.

(k) In psychiatric health facilities where the clinical director is not a physician, psychiatrist, or if one is temporarily not available, a physician shall be designated who shall direct those medical treatments and services which can only be provided by, or under the direction of, a physician.

(l) This section shall become inoperative on July 1, 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. 4. Section 5652.5 of the Welfare and Institutions Code, as amended by Chapter 241 of the Statutes of 1991, is repealed.

SEC. 5. 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.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Allocation Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alameda</td>
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<tr>
<td>Alpine</td>
<td>0.018</td>
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<tr>
<td>Amador</td>
<td>0.070</td>
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<tr>
<td>Butte</td>
<td>0.548</td>
</tr>
<tr>
<td>Calaveras</td>
<td>0.082</td>
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<tr>
<td>Colusa</td>
<td>0.073</td>
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<tr>
<td>Contra Costa</td>
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<tr>
<td>Del Norte</td>
<td>0.088</td>
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<tr>
<td>El Dorado</td>
<td>0.285</td>
</tr>
<tr>
<td>Fresno</td>
<td>2.045</td>
</tr>
<tr>
<td>Glenn</td>
<td>0.080</td>
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<tr>
<td>Humboldt</td>
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<tr>
<td>Imperial</td>
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<td>Inyo</td>
<td>0.104</td>
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<td>Kern</td>
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<tr>
<td>Kings</td>
<td>0.293</td>
</tr>
<tr>
<td>Lake</td>
<td>0.167</td>
</tr>
<tr>
<td>Lassen</td>
<td>0.087</td>
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<td>Los Angeles</td>
<td>28.968</td>
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<tr>
<td>Madera</td>
<td>0.231</td>
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<td>Marin</td>
<td>0.940</td>
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<td>Mariposa</td>
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<td>Merced</td>
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<td>Modoc</td>
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<td>Mono</td>
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<td>Napa</td>
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<td>Nevada</td>
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<tr>
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<td>San Benito</td>
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<td>3.193</td>
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<td>San Diego</td>
<td>5.603</td>
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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-twelth of the total amount of the county’s contract with the department for state hospital services.
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>First Year State Hospital Withholding</th>
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<td>Amador</td>
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<td>Butte</td>
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<td>Calaveras</td>
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<td>Colusa</td>
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<td>Contra Costa</td>
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<td>El Dorado</td>
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<td>Fresno</td>
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<td>Modoc</td>
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<td>San Mateo</td>
<td>6,497,179</td>
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<tr>
<td>Santa Barbara</td>
<td>2,168,758</td>
</tr>
</tbody>
</table>

670
(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 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 Institutions for Mental Disease 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 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 Institutions for Mental
Disease 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. 6. 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 deposits into the Mental Health Subaccount in the Sales Tax Account in the Local Revenue Fund.

CHAPTER 5

An act to amend Sections 1203.016 and 4532 of the Penal Code, and to amend Section 207.1 of the Welfare and Institutions Code, relating to criminal law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 19, 1992. Filed with Secretary of State February 19, 1992.]

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

SECTION 1. Section 1203.016 of the Penal Code is amended to read:

1203.016. (a) Notwithstanding any other provision of law, the board of supervisors of any county may authorize the correctional administrator, as defined in subdivision (h), to offer a program under which minimum security inmates and low-risk offenders committed to a county jail or other county correctional facility or inmates participating in a work furlough program may voluntarily participate in a home detention program during their sentence in lieu of confinement in the county jail or other county correctional facility.
(b) The board of supervisors may prescribe reasonable rules and regulations under which a home detention program may operate. As a condition of participation in the home detention program, the inmate shall give his or her consent in writing to participate in the home detention program and shall in writing agree to comply with the rules and regulations of the program, including, but not limited to, the following rules:

1. The participant shall remain within the interior premises of his or her residence during the hours designated by the correctional administrator.

2. The participant shall admit any person or agent designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

3. The participant shall agree to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the home detention program. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the person supervising the participant which is to be used solely for the purposes of voice identification.

4. The participant shall agree that the correctional administrator in charge of the county correctional facility from which the participant was released may, without further order of the court, immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of home detention or if the person fails to remain within the place of home detention as stipulated in the agreement or for any other reason no longer meets the established criteria for release under this section. A copy of the agreement shall be delivered to the participant and a copy retained by the correctional administrator.

(c) Whenever the peace officer supervising a participant has reasonable cause to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the correctional administrator, and without a warrant of arrest, retake the person into custody to complete the remainder of the original sentence.

(d) Nothing in this section shall be construed to require the correctional administrator to allow a person to participate in this program if it appears from the record that the person has not satisfactorily complied with reasonable rules and regulations while in custody. A person shall be eligible for participation in a home detention program only if the correctional administrator concludes that the person meets the criteria for release established under this section.
(e) The correctional administrator may permit home detention program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, or seek medical and dental assistance. Willful failure of the program participant to return to the place of home detention not later than the expiration of any period of time during which he or she is authorized to be away from the place of home detention pursuant to this section and unauthorized departures from the place of home detention are punishable as provided in Section 4532.

(f) At the time of sentencing or at any time that the court deems it necessary, the court may restrict or deny the defendant's participation in a home detention program.

(g) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of the electronic monitoring or supervising device and the cost of administration of the program, to be paid by each home detention participant according to his or her ability to pay. Inability to pay shall not preclude participation in the program.

(h) As used in this section, the following words have the following meanings:

1. "Correctional administrator" means the sheriff, probation officer, or other official in charge of a county correctional facility or work furlough program.

2. "Minimum security inmate" means an inmate who, by established local classification criteria, would be eligible for placement in a Type IV local detention facility, as described in Title 15 of the California Code of Regulations, or for placement into the community for work or school activities, or who is determined to be a minimum security risk under a classification plan developed pursuant to Section 1050 of Title 15 of the California Code of Regulations.

3. "Low-risk offender" means a probationer, as defined by the National Institute of Corrections model probation system.

(i) The Board of Corrections shall monitor home detention programs operated pursuant to this section and shall report to the Legislature on or before January 1, 1992, regarding their effectiveness. The report shall include an evaluation of the costs of the programs, the impact upon jail overcrowding, and the effect upon the safety of the public.

SEC. 2. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail, prison, industrial farm, or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his or her regular educational program or authorized
to secure employment or education away from the place of confinement, pursuant to the Cobey Work Furlough Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, or who is a participant in a home detention program pursuant to Section 1203.016, and who thereafter escapes or attempts to escape from the county or city jail, prison, industrial farm, or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for a determinate term of one year and one day, or in a county jail not exceeding one year. However, if the escape or attempt to escape is by force or violence, the person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in a county jail not exceeding one year. When the second term of imprisonment is to be served in a county jail, it shall commence from the time the prisoner otherwise would have been discharged from jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his or her regular educational program, authorized to secure employment or education pursuant to the Cobey Work Furlough Law (Section 1208), authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, or permitted to participate in a home detention program pursuant to Section 1203.016 to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he or she is authorized to be away from that place of confinement, is an escape from the place of confinement punishable as provided in this subdivision.

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

(b) Every prisoner arrested and booked, charged with, or convicted of a felony, and every person committed by order of the juvenile court, who is confined in any county or city jail, prison, industrial farm, or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011.9, who escapes or attempts to escape from a county or city jail, prison, industrial farm, or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, or from confinement pursuant to Section 4011.9, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is
punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in a county jail not exceeding one year. If the escape or attempt to escape is by force or violence, the person is guilty of a felony and is punishable by imprisonment in the state prison for a full term of two, four, or six years to be consecutive to any other term of imprisonment, commencing from the time the person would otherwise have been released from imprisonment and the term shall not be subject to reduction pursuant to subdivision (a) of Section 1170.1, or in a county jail for a consecutive term not to exceed one year, that term to commence from the time the prisoner would otherwise have been discharged from jail.

(c) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a felony offense under this section in that he or she escaped or attempted to escape from a secure main jail facility, from a court building, or while being transported between the court building and the jail facility. In any case in which a person is convicted of this offense designated as a misdemeanor, he or she shall be confined in a county jail for not less than 90 days nor more than one year except in unusual cases where the interests of justice would best be served by the granting of probation. For the purposes of this subdivision, “main jail facility” means the facility used for the detention of persons pending arraignment, after arraignment, during trial, and upon sentence or commitment. The facility shall not include an industrial farm, industrial road camp, work furlough facility, or any other nonsecure facility used primarily for sentenced prisoners. As used in this subdivision, “secure” means that the facility contains an outer perimeter characterized by the use of physically restricting construction, hardware, and procedures designed to eliminate ingress and egress from the facility except through a closely supervised gate or doorway.

If the court grants probation under this subdivision, it shall specify the reason or reasons for that order on the court record.

Any sentence imposed under this subdivision shall be served consecutive to any other sentence in effect or pending.

SEC. 3. 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 Department of 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, upon the conclusion of the fitness hearing, shall 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 the 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, upon request, shall 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 December 1, 1992, 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 also shall 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 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 be granted only 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 extend only 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 also shall 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 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 also may 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, also may establish, in addition to the juvenile hall, 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 that 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 delayed unnecessarily 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 in excess of two hours.

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 permit the Department of the Youth Authority to authorize a county or offshore law enforcement facility to detain minors in a jail or other secure facility for the confinement of adults for a reasonable period of time, as specified, it is necessary that this act take effect immediately.

CHAPTER 6

An act to amend Sections 12071, 12071.1, and 12803 of the Penal Code, relating to firearms, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 19, 1992. Filed with Secretary of State February 19, 1992.]

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

SECTION 1. Section 12071 of the Penal Code is amended to read: 12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) The duly constituted licensing authority of a city, county, or
a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller’s permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant when the department’s records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face “Valid for Retail Sales of Firearms” and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant’s intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and
events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age
to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) Commencing July 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 2. Section 12071.1 of the Penal Code is amended to read:

12071.1. (a) No person shall produce, promote, sponsor, operate, or otherwise organize a gun show or event, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, unless that person possesses a valid certificate of eligibility from the Department of Justice. A certificate of eligibility shall be
issued by the department to an applicant unless the department's records indicate that the applicant is a person prohibited from possessing firearms.

(b) The Department of Justice shall adopt regulations to administer the certificate of eligibility program under this section and shall recover the full costs of administering the program by fees assessed applicants who apply for certificates.

(c) A knowing violation of this section shall be a misdemeanor and make the person ineligible for a certificate of eligibility for one year from the date of the violation or conviction, whichever is later.

(d) No later than 24 hours prior to the commencement of a gun show or event, the producer or promoter thereof shall, upon request, make available within 72 hours, or a later specified time, to the local law enforcement agency a complete and accurate list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

The producer shall thereafter, upon request, for every day the gun show or event operates, make available within 24 hours, or a later specified time, to the local law enforcement agency, an accurate, complete, and current list of the persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

This subdivision applies to persons, entities, and organizations whether or not they participate in the entire gun show or event, or only a portion thereof.

(e) It is the intent of the Legislature that the certificate of eligibility program established pursuant to this section be incorporated into the certificate of eligibility program established pursuant to Section 12071 to the maximum extent practicable.

SEC. 3. Section 12803 of the Penal Code is amended to read:

12803. (a) Beginning on January 1, 1993, and prior to July 1, 1993, the Department of Justice shall do all of the following:

(1) Develop the course content and instructional materials for a basic firearms safety course. The course shall consist of not less than two, nor more than four, hours of instruction, including, but not limited to, instruction in the following areas as they pertain to pistols, revolvers, and other firearms capable of being concealed upon the person:

(A) The safe use, handling, and storage of those firearms.

(B) Methods for childproofing those firearms.

(C) The laws applicable to the carrying and handling of those firearms.

(D) The responsibilities of ownership of those firearms.

(2) Develop an instructional manual and, if the department deems necessary, audiovisual materials, to be issued to an instructor certified by the department. The department shall make the
instructional manual available to firearms dealers licensed pursuant to Section 12071, who shall have it available to the general public. Essential portions of the manual may be included in the pamphlet described in Section 12080.

(3) Prescribe a minimum level of skill, knowledge, and competency to be required of all basic firearms safety instructors, and develop and provide the guidelines to be used to certify the instructors.

(4) Develop an objective test on the subject matter of the basic firearms safety course. The objective test shall be based on the instructional manual referred to in paragraph (2). There shall be no less than five distinct versions of the objective test. The purpose of the objective test shall be to ensure knowledge of basic firearms safety. The test shall consist of not less than 20, nor more than 30, questions. An applicant shall respond successfully to at least 75 percent of the total number of questions in order to pass the test.

(b) The department shall solicit input from any reputable association or organization which has, as one of its objectives, the promotion of firearms safety in the development of the basic firearms safety course.

(c) The department shall periodically update the curriculum of the basic firearms safety course, instructional materials, the basic firearms safety manual, the objective test, and guidelines for certifying basic firearms safety instructors, as needed.

(d) The department shall develop basic firearms safety certificates to be issued by the department, or an instructor certified by the department, to those persons who have complied with this article.

(e) The department shall ensure that the course shall be available to persons at convenient times and locations in a person's county of residency by June 1, 1993.

(f) The Department of Justice shall be immune from any liability arising from implementing this section.

SEC. 4. This act shall become operative on March 1, 1992.

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.

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:

To ensure that the intended timeframe is followed for
establishment of basic firearm safety courses and to completely implement the firearm safety certificate program, it is necessary that this act take effect immediately.

CHAPTER 7

An act to amend Section 1263.320 of, and to add Sections 1235.155 and 1263.321 to, the Code of Civil Procedure, to amend Section 823 of, and to add Section 824 to, the Evidence Code, and to add Section 7267.9 to the Government Code, relating to public property acquisitions.

[Approved by Governor February 19, 1992. Filed with Secretary of State February 19, 1992.]

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

SECTION 1. Section 1235.155 is added to the Code of Civil Procedure, to read:

1235.155. "Nonprofit, special use property" means property which is operated for a special nonprofit, tax-exempt use such as a school, church, cemetery, hospital, or similar property. "Nonprofit, special use property" does not include property owned by a public entity.

SEC. 2. Section 1263.320 of the Code of Civil Procedure is amended to read:

1263.320. (a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

SEC. 3. Section 1263.321 is added to the Code of Civil Procedure, to read:

1263.321. A just and equitable method of determining the value of nonprofit, special use property for which there is no relevant, comparable market is as set forth in Section 824 of the Evidence Code, but subject to the exceptions set forth in subdivision (c) of Section 824 of the Evidence Code.

SEC. 4. Section 823 of the Evidence Code is amended to read:

823. Notwithstanding any other provision of this article, the value of property for which there is no relevant, comparable market may be determined by any method of valuation that is just and equitable.
SEC. 5. Section 824 is added to the Evidence Code, to read:

824. (a) Notwithstanding any other provision of this article, a just and equitable method of determining the value of nonprofit, special use property, as defined by Section 1235.155 of the Code of Civil Procedure, for which there is no relevant, comparable market, is the cost of purchasing land and the reasonable cost of making it suitable for the conduct of the same nonprofit, special use, together with the cost of constructing similar improvements. The method for determining compensation for improvements shall be as set forth in subdivision (b).

(b) Notwithstanding any other provision of this article, a witness providing opinion testimony on the value of nonprofit, special use property, as defined by Section 1235.155 of the Code of Civil Procedure, for which there is no relevant, comparable market, shall base his or her opinion on the value of reproducing the improvements without taking into consideration any depreciation or obsolescence of the improvements.

(c) This section does not apply to actions or proceedings commenced by a public entity or public utility to acquire real property or any interest in real property for the use of water, sewer, electricity, telephone, natural gas, or flood control facilities or rights-of-way where those acquisitions neither require removal or destruction of existing improvements, nor render the property unfit for the owner’s present or proposed use.

SEC. 6. Section 7267.9 is added to the Government Code, to read:

7267.9. (a) Prior to the initiation of negotiations for acquisition by a public entity or public utility of nonprofit, special use property, as defined by Section 1235.155 of the Code of Civil Procedure, the acquiring public entity or public utility shall make every reasonable effort to seek alternative property which is other than nonprofit, special use property. However, this requirement shall not apply to properties acquired by public entities for transportation purposes, including, but not limited to, the construction, expansion, or improvement of streets, highways, or railways.

(b) This section does not apply to actions or proceedings commenced by a public entity or public utility to acquire real property or any interest in real property for the use of water, sewer, electricity, telephone, natural gas, or flood control facilities or rights-of-way where those acquisitions neither require removal or destruction of existing improvements, nor render the property unfit for the owner’s present or proposed use.

SEC. 7. The changes made by this act shall apply to eminent domain actions or proceedings commenced on or after January 1, 1993.

SEC. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
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 8

An act to amend Sections 116.220, 116.610, and 116.770 of the Code of Civil Procedure, relating to small claims court, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 19, 1992. Filed with Secretary of State February 19, 1992.]

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

SECTION 1. Section 116.220 of the Code of Civil Procedure is amended to read:

116.220. (a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivision (c), for recovery of money, if the amount of the demand does not exceed five thousand dollars ($5,000).

(2) Except as provided in subdivision (c), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars ($5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars ($5,000).

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages, and shall retain jurisdiction until full payment and performance of any judgment or order.

(c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only if the demand does not exceed one thousand five hundred dollars ($1,500).
(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver shall not become operative until judgment.

SEC. 2. Section 116.610 of the Code of Civil Procedure is amended to read:

116.610. (a) The small claims court shall give judgment for damages, or equitable relief, or both damages and equitable relief, within the jurisdictional limits stated in Sections 116.220 and 116.231, and may make such orders as to time of payment or otherwise as the court deems just and equitable for the resolution of the dispute.

(b) The court may, at its discretion or on request of any party, continue the matter to a later date in order to permit the parties to attempt resolution by informal or alternative means.

(c) The judgment shall include a determination whether the judgment resulted from a motor vehicle accident on a California highway caused by the defendant’s operation of a motor vehicle, or by the operation by some other individual, of a motor vehicle registered in the defendant’s name.

(d) If the defendant has filed a claim against the plaintiff, or if the judgment is against two or more defendants, the judgment, and the statement of decision if one is rendered, shall specify the basis for and the character and amount of the liability of each of the parties, including, in the case of multiple judgment debtors, whether the liability of each is joint or several.

(e) In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper.

(f) The prevailing party is entitled to the costs of the action, including the costs of serving the order for the appearance of the defendant.

(g) When the court renders judgment, the clerk shall promptly deliver or mail notice of entry of the judgment to the parties, and shall execute a certificate of personal delivery or mailing and place it in the file.

(h) The notice of entry of judgment shall be on a form approved or adopted by the Judicial Council.

SEC. 3. Section 116.770 of the Code of Civil Procedure is amended to read:

116.770. (a) The appeal to the superior court shall consist of a new hearing.

(b) The hearing on an appeal to the superior court shall be conducted informally. The pretrial discovery procedures described in subdivision (a) of Section 2019 are not permitted, no party has a right to a trial by jury, and no tentative decision or statement of decision is required.

(c) Article 5 (commencing with Section 116.510) on hearings in the small claims court applies in hearings on appeal in the superior court, except that attorneys may participate.
(d) The scope of the hearing shall include the claims of all parties who were parties to the small claims action at the time the notice of appeal was filed. The hearing shall include the claim of a defendant which was heard in the small claims court.

(e) The clerk of the superior court shall schedule the hearing for the earliest available time and shall mail written notice of the hearing to the parties at least 14 days prior to the time set for the hearing.

(f) The Judicial Council may prescribe by rule the practice and procedure on appeal and the time and manner in which the record on appeal shall be prepared and filed.

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 better protect tenant rights, and to clarify the law regarding the authority of a small claims court to continue matters before it and the rights of the parties on appeal from a small claims judgment, it is necessary that this act take effect immediately.

CHAPTER 9

An act to amend Section 19849.3 of the Government Code, relating to state agencies.

[Approved by Governor February 28, 1992. Filed with Secretary of State February 28, 1992.]

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

SECTION 1. Section 19849.3 of the Government Code is amended to read:

19849.3. When a state employee dies while traveling on official state business the state shall, under rules and regulations adopted by the department, pay the approved traveling expenses necessary to return the body to his or her official headquarters or the place of burial. This subdivision shall not be construed to authorize the payment of the traveling expenses, either going or returning, of one accompanying the body.
CHAPTER 10

An act to amend Section 733 of, and to add and repeal Sections 731.6, 731.7, 731.8, and 731.9 to, the Welfare and Institutions Code, relating to law enforcement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 28, 1992. Filed with Secretary of State February 28, 1992.]

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

SECTION 1. Section 731.6 is added to the Welfare and Institutions Code, to read:

731.6. (a) The Legislature hereby finds and declares the following:

There is a desire to develop and implement innovative and cost-effective options that will alleviate crowding within the institutions operated by the Department of the Youth Authority, that will increase the department's substance abuse treatment capability, that will improve ward performance after release to parole, and that will prevent the further incursion of youthful offenders into the criminal justice system.

(b) The Legislature, therefore, intends to establish a pilot program within the Department of the Youth Authority to test and evaluate innovative and cost-effective sentencing options; to instill discipline, responsibility, and self-esteem among the youth admitted to the program; and to facilitate the successful return of these youth to law-abiding and productive participation in their home communities.

(c) There shall be within the Department of the Youth Authority an intensive correctional program for minors adjudged wards of the juvenile court on he grounds that they are persons described by Section 602. The program shall be known as the Leadership, Esteem, Ability, and Discipline (LEAD) program and shall be intended to promote leadership, esteem, ability, and discipline among wards who participate. The program shall be implemented as a treatment continuum consisting of a short-term and highly structured institutional component followed by an intensive parole experience component. The institutional component shall not exceed four months from the time the ward enters into the LEAD program until the time the ward is released to parole, except as provided in subdivision (g). The institutional component shall be based on a military training model and shall include such discipline, educational, and vocational training, substance abuse prevention, esteem-building, and other activities as may be deemed appropriate and effective by the department. The last month of the institutional component shall include a special emphasis on preparole and transitional needs of wards, emphasizing public service, personal
accountability, employability, and good citizenship. The intensive parole experience shall consist of six months of enriched parole services designed to facilitate the successful return of the ward to society. As used in this section, "enriched parole services" means that parole agents assigned to the LEAD program shall have caseloads of not more than 15 parolees per agent. The intensive parole component of the LEAD program shall consist of services and strategies deemed appropriate and effective by the department, including, but not limited to, substance abuse prevention support services, individual and group counseling, family support services, drug testing, electronic monitoring, job training and job placement services, and the development of linkages to community-based agencies and services that can assist the ward in making a successful readjustment. The intensive parole phase of the LEAD program shall include a relapse-management strategy designed to focus intensive services upon wards who are at risk of failing on parole, and this relapse-management may include specialized, short-term residential, and noninstitutional placement for parolees who need a temporary and structured environment in order to succeed on parole. Upon the successful completion of six months of intensive parole, LEAD participants may be transferred to the regular parole caseload of the Department of the Youth Authority for six months and shall be subject to general provisions of parole in order to receive continued supervision and parole services at less intensive levels.

(d) The LEAD program shall be implemented as a 60-bed pilot program at a northern California facility to be designated by the Department of the Youth Authority, and shall begin enrolling wards on or before September 30, 1992. The second phase shall consist of a 60-bed program at a southern California facility to be designated by the Department of the Youth Authority and shall begin enrolling wards during the 1993 calendar year, unless one of the following events occur:

(1) The LEAD program is ended by the Department of the Youth Authority on the basis of an operational failure, such as a chronic insufficiency of wards meeting the eligibility requirements of subdivision (a) of Section 731.7.

(2) There is an insufficient number of wards meeting the eligibility requirements of subdivision (a) of Section 731.7 to sustain at least a 40-bed program in southern California.

(3) Insufficient funds are available to implement the southern California expansion of the LEAD program.

If the Department of the Youth Authority determines, based on one or more of these events, that it cannot add an additional LEAD program to serve southern California wards, it shall make a written report to the Legislature of its decision not to proceed with the second phase of the LEAD program and of its reasons for making the decision not to proceed.

The Department of the Youth Authority may, at any time and in its discretion, increase LEAD program capacity at either the
northern or southern California facility if resources are available to support the increase.

(e) Wards who participate in the LEAD program shall, to the extent practical, be separated while institutionalized from wards who are not enrolled in the LEAD program.

(f) The Department of the Youth Authority shall, in its design, staffing, and implementation of the institutional component of the LEAD program, take steps to ensure that the disciplinary and esteem-building activities do not involve the corporal punishment of wards or the application of training methods which are personally degrading, humiliating, or inhumane.

(g) In exceptional cases, a ward may be retained in the institutional component of the LEAD program for up to 30 additional days if additional time is, in the opinion of the department, needed to allow the ward to complete the program successfully after illness or some other unforeseen circumstance which may delay the ward’s normal progress and timely release to parole. If a ward’s release to parole is delayed beyond the normal four-month institutional stay, the department shall maintain documentation in the ward’s file regarding the need for and the length of any additional time spent in the institutional component of the program.

(h) This section shall be repealed on June 30, 1997, unless that date is extended or deleted by a later enacted statute.

SEC. 2. Section 731.7 is added to the Welfare and Institutions Code, to read:

731.7. (a) A ward shall be eligible for participation in the LEAD program of the Department of the Youth Authority established by Section 731.6 if the ward meets all of the following criteria:

1. The ward has been committed to the department by the juvenile court after a finding of wardship under Section 602 and has not previously been placed in the LEAD program.

2. The ward is committed to the Department of the Youth Authority on the basis of an offense or parole violation which does not, in the opinion of the department, involve serious violence or serious bodily injury.

3. The ward is at least 16 years of age.

4. The ward has been involved with substance abuse or is identified by the department as an addictive personality or as a person at risk of future substance abuse.

5. The ward has been examined by the department and has received medical clearance for participation in a program involving strenuous physical activity.

6. The ward consents to participation in the program after being fully informed of the purpose, nature, and activities of the program, including a clear explanation of the prospective benefit of reduced institutional stay and of the consequences of failing the program.

(b) A prerequisite to the enrollment and participation of any ward in the LEAD program shall be the approval of the Youthful Offender Parole Board, with full consideration of the
recommendation of the Department of the Youth Authority. The board shall cooperate with the department by acting in a timely manner, not to exceed 15 days, on departmental recommendations for enrollment in the LEAD program and by making a good faith effort to keep all available pilot program slots filled with qualified wards.

(c) The judge of the juvenile court may, when ordering commitment of a juvenile to the Department of the Youth Authority, recommend that the juvenile be assigned to the LEAD program. The recommendation shall be stated in the court’s dispositional order and shall be communicated to the department in such manner as the department shall deem appropriate. This recommendation shall be taken into consideration by the department and by the Youthful Offender Parole Board when selecting wards for participation in the LEAD program. The department shall keep track of the judicial recommendations for program participation and their final disposition by the department and by the Youthful Offender Parole Board. Upon the request of a juvenile court judge who has recommended that a ward be entered into the program, the department shall inform the requesting judge of the ward’s status with regard to entry or denial of entry into the program and removal from or completion of the program.

(d) This section shall be repealed on June 30, 1997, unless that date is extended or deleted by a later enacted statute.

SEC. 3. Section 731.8 is added to the Welfare and Institutions Code, to read:

731.8. (a) The Department of the Youth Authority shall adopt a written policy setting forth the rules and requirements for wards in the institutional and parole components of the LEAD program and shall make this written policy available to program participants. It shall be the policy of the department to encourage a ward’s continued participation and successful completion of the LEAD program by all appropriate means. A ward may be dismissed from the LEAD program only upon a material violation of rules and requirements made known to the ward upon enrollment in the program. Violations shall be documented by the department. The department shall use its existing disciplinary decisionmaking system whereby the ward has the opportunity to contest any allegation of misconduct which is the basis for the proposed dismissal of the ward from the program.

(b) A ward who resigns or is dismissed from the LEAD program shall be given credit by the Youthful Offender Parole Board for institutional time served while in the program and shall not have time added to his or her parole consideration date by the Youthful Offender Parole Board solely on the basis that the ward stated and failed to complete the LEAD program.

(c) This section shall be repealed on June 30, 1997, unless that date is extended or deleted by a later enacted statute.

SEC. 4. Section 731.9 is added to the Welfare and Institutions
Code, to read:

731.9. The Department of the Youth Authority shall provide for the evaluation of the LEAD program in order to document the implementation and operations of the program and to measure the program's impact on subsequent behavior and recidivism of wards and on the institutional and parole populations of the department.

(a) There shall be an implementation and process evaluation which shall describe the program qualitatively and shall fully document the startup, operations, size, volume, location, program description, staffing cost, and other relevant characteristics of the pilot programs in both the northern and southern California phases. Additionally, the implementation and process evaluation shall monitor and report on the selection of wards for the program, including judicial recommendations for admission, profiles and characteristics of wards eligible for the program and of wards selected for inclusion in the program by the department, recommendations made to the Youthful Offender Parole Board, acceptances and rejections by the board, and reasons for rejection by the board. Additionally, this evaluation shall include information on wards who resign or are dismissed from the program in all phases, including their total length of institutional stay, their reasons for dismissal and the steps taken, if any, to replace wards who leave the program before completion. An implementation and process study shall be conducted over the first 12 months of program operation at each facility site where the program is established and shall be completed and presented to the Legislature by the end of 16 months from the effective date of this section.

(b) There shall be an impact evaluation to determine the effect of the program on the subsequent behavior of wards including measures of recidivism. The impact evaluation shall apply strict experimental and control study protocols to compare the followup behavior and recidivism of wards completing the program to the behavior and recidivism of eligible wards who are not in the program. Measures of recidivism shall include revocations and removals from parole as well as new law violations by frequency and severity. Particular attention in the evaluation shall be given to determining the recidivism characteristics at 12-, 18-, and 24-month followup periods after successful completion of the LEAD program, with comparison to the performance of a pool of wards who are eligible for the program but were not assigned to it. The impact evaluation shall report specially on the effect which the program may have on the size of present and future Department of the Youth Authority populations, including measures of length of stay for program participants, dropouts, and nonparticipants; bed savings or increases attributable to the operation of the program; and the cost-effectiveness of the program or lack thereof. Interim impact evaluation reports shall be completed and submitted to the Legislature on or before December 31, 1994, and December 31, 1995, with a final impact evaluation report due on or before December 31,
1996.

(c) This section shall be repealed on June 30, 1997, unless that date is extended or deleted by a later enacted statute.

SEC. 5. Section 733 of the Welfare and Institutions Code is amended to read:

733. No ward of the juvenile court who is under the age of 11 years, and no ward of the juvenile court who is suffering from any contagious, infectious, or other disease which would probably endanger the lives or health of the other inmates of any state school shall be committed to the Department of the Youth Authority.

SEC. 6. The sum of four million two hundred forty thousand dollars ($4,240,000) is hereby appropriated for the purposes of this act, as follows:

(a) The sum of one million dollars ($1,000,000) is appropriated from the Federal Trust Fund to the Office of Criminal Justice Planning in augmentation of subdivision (f) of Item 8100-101-890 of Section 2.00 of the Budget Act of 1991 for the following purposes:

1. For the Department of Justice’s Bureau of Narcotic Enforcement’s Clandestine Laboratory Enforcement Program for the purposes of providing training, safety equipment, and air operations support to special agents engaged in the investigation and seizure of illicit drug labs, five hundred thousand dollars ($500,000).

2. For a community-based drug prevention, intervention, and suppression project selected by the Office of Criminal Justice Planning, which includes community-based policing in high-intensity, drug-related crime areas, five hundred thousand dollars ($500,000).

(b) The sum of five hundred fifty thousand dollars ($550,000) is appropriated from the Federal Trust Fund to the Office of Criminal Justice Planning in augmentation of Item 8100-001-890 of Section 2.00 of the Budget Act of 1991 for the purposes of purchasing, installing, and operating a local area network computer system within the Office of Criminal Justice Planning.

(c) The sum of five hundred thousand dollars ($500,000) is appropriated from the Federal Trust Fund to the Office of Criminal Justice Planning for allocation to the Department of the Youth Authority for the purposes of expanding the Leadership, Esteem, Ability, Discipline (LEAD) program pilot project to prevent the further incursion of youthful offenders into the criminal justice system by increasing parole readiness and parole success utilizing a treatment continuum.

(d) The sum of one million dollars ($1,000,000) is appropriated from the General Fund to the Youthful Offender Parole Board in augmentation of Item 5450-001-001 of Section 2.00 of the Budget Act of 1991. It is the intent of the Legislature by this appropriation to enable the board to continue its statutory functions.

(e) The sum of one million one hundred ninety thousand dollars ($1,190,000) is appropriated from the General Fund to the Board of Prison Terms in augmentation of Item 5440-001-001 of Section 2.00 of
the Budget Act of 1991. It is the intent of the Legislature by this appropriation to enable the board to continue its statutory functions following the failure to enact urgency legislation permitting the board to hold revocation hearings with one hearing officer and adoption of the budget deleting that amount from the board's appropriation for the 1991-92 fiscal year based upon the passage of such urgency legislation.

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

(a) The curtailment of the Board of Prison Terms revocation hearings and the operations of the Youthful Offender Parole Board would directly and immediately adversely affect public safety. In order to avoid that consequence, it is necessary that this act take effect immediately.

(b) In order to ensure the enrollment of wards into the new Department of the Youth Authority LEAD program by the target date of September 30, 1992, it is necessary that this act take effect immediately.

(c) In order to prevent further inappropriate commitment of wards of the juvenile court to the Department of the Youth Authority who are under the age of 11 years as soon as possible, it is necessary that this act take effect immediately.

(d) In order to provide necessary funding for drug enforcement and crime prevention programs of the Office of Criminal Justice Planning, it is necessary that this act take effect immediately.

CHAPTER 11

An act to amend Sections 8823 and 9323 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 4, 1992. Filed with Secretary of State March 5, 1992.]

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

SECTION 1. Section 8823 of the Elections Code is amended to read:

8823. In each city and county a county central committee shall be elected by Assembly districts and shall consist of 12 members elected from Assembly District 12, and 12 members elected from Assembly District 13.

SEC. 2. Section 9323 of the Elections Code is amended to read:

9323. In each city and county a county central committee shall be elected by Assembly districts and shall consist of 13 members elected
from Assembly District 12 and 12 members elected from Assembly District 13.

SEC. 3. The registrar of voters of a city and county shall, following the June 2, 1992, direct primary election, deliver a certificate of election to each person elected to a county central committee in accordance with this act.

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

In order that the election procedures proposed by this act be in effect in time for the county central committee elections held at the June 2, 1992, direct primary election, it is necessary that this act take effect immediately.

CHAPTER 12

An act to amend Section 17705.5 of, to add Section 17705.9 to, and to add Chapter 21.2 (commencing with Section 17640) to Part 10 of, the Education Code, and to repeal and add Section 65997 of the Government Code, relating to funding school construction through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 11, 1992. Filed with Secretary of State March 11, 1992]

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

SECTION 1. Chapter 21.2 (commencing with Section 17640) is added to Part 10 of the Education Code, to read:

CHAPTER 21.2. SCHOOL FACILITIES BOND ACT OF 1992


17640. This chapter shall be known and may be cited as the School Facilities Bond Act of 1992.

17640.10. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the State School Building Finance Committee created pursuant to Section 15909.

(b) "Fund" means the State School Building Lease-Purchase Fund.
Article 2. Program Provisions

17640.15. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the fund.

17640.20. All moneys deposited in the fund shall be available to provide aid to school districts of the state in accordance with the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700)), and of all acts amendatory thereof and supplementary thereto, to provide aid to school districts of the state in accordance with Section 17640.30, to provide funds to repay any money advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

17640.30. Of the proceeds from the sale of bonds pursuant to this chapter, not more than five hundred seventy million dollars ($570,000,000) may be used for one or more of the following purposes:

(a) Project funding for applicant districts under Chapter 22 (commencing with Section 17700) that are eligible for that funding, but that lack funding priority due to the size of pupil enrollment in the district.

(b) The identification, assessment, or abatement of hazardous asbestos in school facilities, pursuant to either Chapter 22 (commencing with Section 17700) or Section 39619.6.

(c) The acquisition of portable classrooms for use in accordance with Chapter 25 (commencing with Section 17785).

(d) The reconstruction or modernization of facilities pursuant to Chapter 22 (commencing with Section 17700). Notwithstanding Section 17721.3, the State Allocation Board may allocate funding pursuant to this subdivision for the reconstruction or modernization of an existing structure in an amount that exceeds 25 percent of the replacement cost of that structure in order to finance structural improvements needed to avert future earthquake damage.

(e) The purchase and installation of air-conditioning equipment and insulation materials, and related costs, pursuant to Section 42250.1 for schools operated on a year-round multitrack schedule in a manner that increases school capacity and reduces or eliminates the school district’s need for the construction of additional classroom space.


17640.40. Bonds in the total amount of one billion nine hundred million dollars ($1,900,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond
Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

17640.44. The State School Building Finance Committee, created by Section 15909 and composed of the Governor, Controller, Treasurer, Director of Finance, and the Director of Education, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall be designated to chair the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet and advise with the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and as that committee shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide the assistance to the committee as it may require. The Attorney General of the state shall be the legal adviser of the committee.

17640.45. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the "board."

17640.50. Upon request of the board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Section 17640.20, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

17640.55. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and
every act which is necessary to collect that additional sum.

17640.60. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 17640.70, appropriated without regard to fiscal years.

17640.63. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. 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 this chapter. The board shall execute those 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 this chapter.

17640.65. Notwithstanding any other provision of this chapter, 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 that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes subject to designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and for 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 that is 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.

17640.70. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

17640.75. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.
17640.80. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of the bonds described in this chapter shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

17640.85. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 1.5. Chapter 21.2 (commencing with Section 17640) is added to Part 10 of the Education Code, to read:

CHAPTER 21.2. SCHOOL FACILITIES BOND ACT OF 1992


17640. This chapter shall be known and may be cited as the School Facilities Bond Act of 1992.

17640.10. As used in this chapter, the following terms have the following meanings:
(a) "Committee" means the State School Building Finance Committee created pursuant to Section 15909.
(b) "Fund" means the State School Building Lease-Purchase Fund.

Article 2. Program Provisions

17640.15. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the fund.

17640.20. All moneys deposited in the fund shall be available to provide aid to school districts of the state in accordance with the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700)), and of all acts amendatory thereof and supplementary thereto, to provide aid to school districts of the state in accordance with Section 17640.30, to provide funds to repay any money advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

17640.30. Of the proceeds from the sale of bonds pursuant to this chapter, not more than five hundred seventy million dollars ($570,000,000) may be used for one or more of the following purposes:
(a) Project funding for applicant districts under Chapter 22
(commencing with Section 17700) that are eligible for that funding, but that lack funding priority due to the size of pupil enrollment in the district.

(b) The identification, assessment, or abatement of hazardous asbestos in school facilities, pursuant to either Chapter 22 (commencing with Section 17700) or Section 39619.6.

(c) The acquisition of portable classrooms for use in accordance with Chapter 25 (commencing with Section 17785).

(d) The reconstruction or modernization of facilities pursuant to Chapter 22 (commencing with Section 17700). Notwithstanding Section 17721.3, the State Allocation Board may allocate funding pursuant to this subdivision for the reconstruction or modernization of an existing structure in an amount that exceeds 25 percent of the replacement cost of that structure in order to finance structural improvements needed to avert future earthquake damage.

(e) The purchase and installation of air-conditioning equipment and insulation materials, and related costs, pursuant to Section 42250.1 for schools operated on a year-round multitrack schedule in a manner that increases school capacity and reduces or eliminates the school district's need for the construction of additional classroom space.


17640.40. Bonds in the total amount of one billion nine hundred million dollars ($1,900,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

17640.44. The State School Building Finance Committee, created by Section 15909 and composed of the Governor, Controller, Treasurer, Director of Finance, and the Director of Education, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall be designated to chair the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet and advise with the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and
as that committee shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide the assistance to the committee as it may require. The Attorney General of the state shall be the legal adviser of the committee.

17640.45. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the "board."

17640.50. Upon request of the board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Section 17640.20, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

17640.55. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

17640.60. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 17640.70, appropriated without regard to fiscal years.

17640.63. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. 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 this chapter. The board shall execute those 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 this chapter.
17640.65. Notwithstanding any other provision of this chapter, 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 that include a bond
counsel opinion to the effect that the interest on the bonds is
excluded from gross income for federal tax purposes subject to
designated conditions, the Treasurer may maintain separate
accounts for the bond proceeds invested and for 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 that is 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.

17640.70. For the purposes of carrying out this chapter, the
Director of Finance may authorize the withdrawal from the General
Fund of an amount or amounts not to exceed the amount of the
unsold bonds which have been authorized by the committee to be
sold for the purpose of carrying out this chapter. Any amounts
withdrawn shall be deposited in the fund. Any money made available
under this section shall be returned to the General Fund, plus an
amount equal to the interest the money would have earned in the
Pooled Money Investment Account, from proceeds received from
the sale of bonds for the purpose of carrying out this chapter.

17640.75. All money deposited in the fund that is derived from
premium and accrued interest on bonds sold shall be reserved in the
fund and shall be available for transfer to the General Fund as a
credit to expenditures for bond interest.

17640.80. The bonds may be refunded in accordance with Article
6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division
4 of Title 2 of the Government Code, which is a part of the State
General Obligation Bond Law. Approval by the electors of the state
for the issuance of the bonds described in this chapter shall include
approval of the issuance of any bonds issued to refund any bonds
originally issued under this chapter or any previously issued
refunding bonds.

17640.85. The Legislature hereby finds and declares that,
inasmuch as the proceeds from the sale of bonds authorized by this
chapter are not "proceeds of taxes" as that term is used in Article
XIII B of the California Constitution, the disbursement of these
proceeds is not subject to the limitations imposed by that article.

SEC. 1.7. Section 17705.5 of the Education Code is amended to
read:

17705.5. (a) The total building cost portion of any state funding
for any project approved under this chapter for the construction of
one or more school facilities shall be reduced by the amount of the
local matching share requirement computed under subdivision (b).

(b) Each school district to which funds are allocated pursuant to
this chapter for the construction or reconstruction of one or more school facilities shall provide, as its share of the cost of the project, an amount equal to the product of the applicable maximum fee authorized under Section 53080 of the Government Code, or Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code, or both, times the number of square feet of new residential, commercial, and industrial construction, as appropriate, for which building permits are issued within the boundaries of the school district from the date on which the board approves the district's application for project funding under this chapter to the date upon which the notice of completion for the project is issued. Notwithstanding any other provision of this subdivision, as to any construction for which the payment of a fee, charge, or dedication is required under a contract as described in paragraph (1) of subdivision (c) of Section 65995 of the Government Code, the matching share required under this subdivision shall be deemed to be the maximum payment that may be required under that contract as a condition of the approval of that construction. The amount calculated in this subdivision is reduced by the sum of the following:

(1) Any amounts expended by the district during the described period of time for the acquisition of interim classroom facilities pursuant to Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code from the proceeds of the fee levied by the district during that period. This amount is limited to the acquisition of interim classroom facilities necessary to temporarily house that number of pupils calculated, under state pupil loading standards, by subtracting the average daily attendance of the district based on a three-year enrollment projection from the average daily attendance of the district based on a five-year enrollment projection. Notwithstanding that limit, the board may authorize the acquisition of additional interim classroom facilities for the purposes of this paragraph to the extent it determines that acquisition to be necessary to alleviate severe classroom overcrowding. Enrollment projections for this purpose shall be made in accordance with this chapter.

(2) Any amounts expended by the district during the described period of time for the local matching share of any project funded under this chapter from the proceeds of the fee levied by the district during that period.

(3) An amount reflecting the extent to which the district is precluded from collecting those fees by reason of the levy and collection of developer fees by another school district having common territorial jurisdiction.

(4) An amount reflecting the reasonable administrative expenses incurred by the school district in calculating and collecting the fees or other requirements levied by the school district during that period. If the school district has entered into an agreement pursuant to subdivision (a) of Section 53080 of the Government Code whereby
the fees or other requirements imposed are collected in whole or in part by a city or county, the amount of administrative expenses calculated under this paragraph shall include any amount paid by the school district to the city or county as reimbursement for that service. In no event shall the total amount of the administrative expenses calculated under this paragraph exceed 3 percent of the fees collected during that period.

(5) The fees, charges, dedications, or any other requirements imposed pursuant to Section 53080 of the Government Code that are waived in an agreement between a school district and a property owner, if the school district receives land in lieu of the fees and other requirements. The land shall be used for the future construction of a school on the property and the credit allowed shall not exceed the lesser of the amount of fees offset by the district or the fair market value of the property as determined by two appraisals. The value of the property shall be determined by the board on the date that the school district defers the collection of fees based on the transfer of property for the project or projects for which the match is required. The property shall have received all approvals required by law for use as a school site by the State Department of Education before or concurrent with the acquisition of the property. The school district shall demonstrate a need for and eligibility for construction on the land received in lieu of fees and other requirements within five years of acquiring the land. If the land received in lieu of fees is not approved by the State Allocation Board for a school project within 10 years from the date the school district acquires the property, the school district shall repay the full amount of the match offset and 50 percent of the amount of appreciation of the property which occurred during the 10-year period since the date of acquisition.

(c) Where part or all of the local matching share is funded from the proceeds of a special tax or other charge, rather than from the imposition of a school facilities fee or other requirement, the applicant district shall not be required to pay that amount of the local matching share until those proceeds become available to the district.

(d) For purposes of establishing an estimate of the state project costs pursuant to subdivision (a), the board may estimate the local matching share by using the product of the annual average of the amount that would have resulted from the application of the maximum fee to the square footage of all new construction within the district over the three calendar years preceding the district’s project application times the number of years over which the board estimates the fee will be collected by the district pursuant to the project to be funded.

(e) Only those project applications for which, prior to January 1, 1987, the board had made the apportionment for site acquisition and working drawings or the final apportionment for construction of the project shall be subject to the provisions of this chapter in effect prior to that date.

(f) The board may provide a loan to any applicant district in an
amount equal to all or a part of the district's obligation under subdivision (b), subject to the requirement that the district pay each month to the board, as reimbursement, an amount equal to the proceeds that would be received by the district from the imposition of the fee described under subdivision (b) until the total amount of the loan has been repaid, together with interest computed pursuant to Section 16065.

(g) The board may make the loan specified in subdivision (f) from any funds available from any source, including, but not limited to, those amounts made available pursuant to Section 16065.

(h) All loan and interest amounts paid to the state pursuant to this section shall be available for the use of the board in the funding of projects as otherwise provided under this chapter, including, but not limited to, additional loans.

(i) The board is authorized to accept from applicant school districts, as a method of compliance with all or part of the local matching share requirement calculated under this section, land that will be part of the project for which the matching share is to be paid, in which event title to the land shall be conveyed to the state. The board shall determine the value of the land to be used for this purpose, and shall adopt rules and regulations as necessary to otherwise implement this subdivision.

SEC. 1.8. Section 17705.9 is added to the Education Code, to read:
17705.9. (a) Section 17705.5 shall remain in effect only until such date as any state general obligation bond measure submitted to the voters of this state for their ratification, which measure includes within its purposes the funding of school facilities construction, fails to receive that ratification, and as of that date is repealed.

(b) This section shall become operative December 31, 1992.

SEC. 2. Section 65997 of the Government Code is repealed.

SEC. 3. Section 65997 is added to the Government Code, to read:
65997. (a) This chapter shall remain in effect only until such date as any state general obligation bond measure submitted to the voters of this state for their ratification, which measure includes within its purposes the funding of school facilities construction, fails to receive that ratification, and as of that date is repealed.

(b) This section shall become operative on December 31, 1992.

SEC. 4. Section 1 of this act shall become operative upon the adoption by the people, at the June 2, 1992, direct primary election, of the School Facilities Bond Act of 1992, as set forth in Section 1 of this act, in which case Section 1.5 of this act shall not become operative. Section 1.5 of this act shall become operative upon the adoption by the people, at the November 3, 1992, general election, of the School Facilities Bond Act of 1992, as set forth in Section 1.5 of this act, which shall be submitted to the people at the November 3, 1992, general election only if the School Facilities Bond Act of 1992, as set forth in Section 1 of this act, is not approved by the voters at the June 2, 1992, direct primary election.

SEC. 5. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, and
3578 of the Elections Code or any other provisions of law, Section 1 of this act shall be submitted to the voters at the June 2, 1992, primary election.

(b) The Secretary of State shall ensure the placement of Section 1 of this act on the June 2, 1992, direct primary election ballot, in substantial compliance with any statutory time requirements applicable to the submission of statewide measures to the voters at a statewide election.

(c) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 3578 of the Elections Code, the information specified in Section 3570 of that code regarding the bond act contained in Section 1 of this act.

(d) If the voters at the June 2, 1992, direct primary election do not approve the School Facilities Bond Act of 1992, as set forth in Section 1 of this act, then the School Facilities Bond Act of 1992, as set forth in Section 1.5 of this act, shall be submitted to the people at the November 3, 1992, general election in accordance with provisions of the Government Code and the Elections Code governing the submission of statewide measures to the voters.

SEC. 6. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "School Facilities Bond Act of 1992", and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of one billion nine hundred million dollars ($1,900,000,000) to provide capital outlay for construction or improvement of public schools." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting of the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with the provisions of this section.

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

In order that the School Facilities Bond Act of 1992 may be submitted to the voters for approval in 1992 in order to provide financing at the earliest possible time for urgently needed school facilities, and to make related changes on a timely basis, it is necessary that this act take effect immediately.
CHAPTER 13

An act to add Chapter 14.6 (commencing with Section 67358) and Chapter 14.7 (commencing with Section 67359.6) to Part 40 of the Education Code, relating to funding higher education facilities through the issuance and sale of bonds of the State of California, and by providing for the handling and disposition of those funds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 11, 1992. Filed with Secretary of State March 11, 1992.]

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

SECTION 1. Chapter 14.6 (commencing with Section 67358) is added to Part 40 of the Education Code, to read:

CHAPTER 14.6. HIGHER EDUCATION FACILITIES BOND ACT OF JUNE 1992


67358. This chapter shall be known and may be cited as the Higher Education Facilities Bond Act of June 1992.

67358.1. The Legislature finds and declares all of the following:

(a) California's economic and social prosperity relies on a higher education system that keeps pace with California's growth. In the coming decades, the state's economic prosperity will depend on increasing the productivity of the work force and on the ability to compete successfully in the world marketplace.

(b) The system of public higher education in this state includes the University of California containing nine campuses, the California State University containing 20 campuses, the California Community Colleges consisting of 71 districts containing 107 campuses, the Hastings College of the Law, the California Maritime Academy, and their respective off-campus centers. Each of these institutions plays a vital role in maintaining California's dominance in higher education in the United States.

(c) Over the last several years, studies have been completed by the University of California, the California State University, and the California Community Colleges to assess their long-term and short-term capital needs. Those studies demonstrate that the long-term and short-term needs total, in the aggregate, several billion dollars.

(d) The purpose of the Higher Education Facilities Bond Act of June 1992 is to assist in meeting the capital outlay financing needs of California's public higher education system.

67358.2. As used in this chapter, the following terms have the
following meanings:

(a) "Committee" means the Higher Education Facilities Finance Committee created pursuant to Section 67353.

(b) "Fund" means the 1992 Higher Education Capital Outlay Bond Fund created pursuant to Section 67358.3.

Article 2. Higher Education Facilities Bond Act Program

67358.3. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 1992 Higher Education Capital Outlay Bond Fund, which is hereby created.

67358.4. The committee shall be and is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of funding aid to the University of California, the California State University, the California Community Colleges, the Hastings College of the Law, and the California Maritime Academy for the construction, including the construction of buildings and the acquisition of related fixtures; the equipping of new, renovated, or reconstructed facilities; funding for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings; renovation and reconstruction of facilities; and the construction or improvement of off-campus facilities of the California State University approved by the Trustees of the California State University on or before July 1, 1990, including the acquisition of sites upon which these facilities are to be constructed.

The addition of the Hastings College of the Law to this section is not intended to mark a change from the funding authorizations made by Section 67354, as contained in the Higher Education Facilities Bond Act of 1988, or Section 67334, as contained in the Higher Education Facilities Bond Act of 1988, but is intended to state more clearly what was intended by the Legislature in those sections as well.


67358.5. (a) Bonds in the total amount of nine hundred million dollars ($900,000,000), not including the amount of any refunding bonds issued in accordance with Section 67359.3, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds
authorized by the committee at any different times necessary to service expenditures required by the apportionments.

67358.6. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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), and all of the provisions of that law shall apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter. For purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the bond fund is designated as the “board” for projects funded by those appropriations.

67358.7. The committee shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 67358.4 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

67358.8. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

67358.9. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out the provisions of Section 67359, appropriated without regard to fiscal years.

67359. (a) For the purposes of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, together with interest at the rate paid on moneys in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this chapter.
(b) No funds shall be expended pursuant to this chapter for the acquisition and development of new campuses that would increase the number of campuses designated in Section 67358.1.

(c) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in Section 67358.4 by the University of California, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan of the particular university or college and shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, by the 2000-01 fiscal year, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college.

67359.1. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

67359.2. The board may request the Pooled Money Investment Board for a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, and may execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. The loan shall be deposited in the fund for the purpose of carrying out the provisions of this chapter. The amount of the loan shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purposes of this chapter.

67359.3. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance and sale or exchange of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. The approval by the electors of this state of the issuance and sale of bonds under this chapter includes approval of the issuance and sale or exchange of any bonds issued to refund either those bonds or any previously issued refunding bonds.

67359.4. Notwithstanding any provision of this chapter or the State General Obligation Bond Law set forth in 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 chapter 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 investment of bond proceeds and the investment earnings on these proceeds, and the Treasurer shall be authorized to use or direct the use of these proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as 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.

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67359.5. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 2. Chapter 14.7 (commencing with Section 67359.6) is added to Part 40 of the Education Code, to read:

CHAPTER 14.7. HIGHER EDUCATION FACILITIES REVENUE BOND ACT

67359.6. The Legislature finds and declares, based on current depressed economic conditions, that immediate commencement of construction of certain higher education instructional and research facilities is necessary.

67359.7. The State Public Works Board may construct the following higher education instructional and research facilities to be financed from the Public Buildings Construction Fund, from proceeds from the sale of bonds, negotiable notes, or negotiable bond anticipation notes for the construction of those facilities pursuant to Chapter 3.8 (commencing with Section 15820.50) of Part 10b of Division 3 of Title 2 of the Government Code:

(a) University of California:

(1) Davis Campus:

99.03.090 Social Science and Humanities Building—Working drawings and construction $23,717,000
(The sum of twenty-three million seven hundred seventeen thousand dollars)

(2) Riverside Campus:

99.05.050 Engineering Sciences Building—Working drawings and construction $36,300,000
(The sum of thirty-six million three hundred thousand dollars)

(3) San Diego Campus:

99.08.085 Engineering Building Unit 2—Working drawings and construction $25,286,000
(The sum of twenty-five million two hundred eighty-six thousand dollars)

(b) The California State University:

(1) California State University, Long Beach:

06.71.092 Renovate Applied Arts and Sciences and Additions—Working drawings and construction $18,758,000
(The sum of eighteen million seven hundred fifty-eight thousand dollars)

(2) California State University, Northridge:

06.82.069 Engineering Addition, Asbestos Abatement, Renovation, Phase I—Working
drawings and construction ........................................ $12,719,000
(The sum of twelve million seven hundred
nineteen thousand dollars)
(3) California State University, San Bernardino:
06.78.070 Health, Physical Education,
Classroom and Faculty Office
Complex—Working drawings and
construction ...................................................... $22,011,000
(The sum of twenty-two million eleven
thousand dollars)

67359.8. (a) In addition to the cost of construction, the State
Public Works Board may authorize any additional amounts necessary
to pay the costs of financing, including interest during construction
of the project, a reasonably required reserve fund, and the cost of
issuance of permanent financing.
(b) The State Public Works Board may authorize the cost of
working drawings and construction relating to the projects listed in
this act.
(c) The State Public Works Board may authorize the
augmentation of the amounts authorized by Section 67359.7 subject
to the limitations specified in Section 13332.11 of the Government
Code.
(d) Notwithstanding Section 13340 of the Government Code,
funds derived from the interim and permanent financing or
refinancing of the projects authorized in Section 67359.7 are hereby
continuously appropriated for those purposes.
SEC. 2.5. Section 1 of this act shall take effect upon the adoption
by the voters of the Higher Education Facilities Bond Act of June
1992, set forth in Section 1 of this act.
SEC. 3. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, and
3578 of the Elections Code, or any other provision of law, Section 1
of this act shall be submitted to the voters at the June 2, 1992, primary
election.
(b) The Secretary of State shall ensure the placement of Section
1 of this act on the June 2, 1992, direct primary election ballot, in
substantial compliance with any statutory time requirements
applicable to the submission of statewide measures to the voters at
a statewide election.
(c) The Secretary of State shall include, in the ballot pamphlet
mailed pursuant to Section 3578 of the Elections Code, the
information specified in Section 3570 of that code regarding the bond
act contained in Section 1 of this act.
SEC. 4. Notwithstanding any other provision of law, all ballots of
the election shall have printed thereon and in a square thereof, the
words: "Higher Education Facilities Bond Act of June 1992," and in
the same square under those words, the following in 8-point type:
"This act authorizes a bond issue of nine hundred million dollars
($900,000,000) to fund the construction or improvement of
California’s public college and university facilities. These construction projects will create jobs, ensure access to higher education for California’s students, and enable public colleges and universities to prepare a well trained and competitive workforce to strengthen the state’s economy. Authorized projects for the 138 public campuses shall include, but are not necessarily limited to, earthquake and other health safety improvements, modernization of laboratories to keep up with scientific advances, and construction of classrooms and libraries.” Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters’ choice by means thereof are in compliance with this section.

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

This bill would provide the people of California with an opportunity to provide funding in 1992 for critically needed higher education facilities. In order that the Higher Education Facilities Bond Act of 1992 contained in Section 1 of this act, which provides for this funding, be included on the June 2, 1992, primary election ballot and in order to commence construction of the facilities described in the Higher Education Facilities Revenue Bond Act contained in Section 2 of this act as soon as possible, it is necessary that the act take effect immediately.

CHAPTER 14

An act to add Sections 54 and 531.05 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 17, 1992. Filed with Secretary of State March 18, 1992.]

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

SECTION 1. Section 54 is added to the Revenue and Taxation Code, to read:

54. (a) Notwithstanding any other provision of law, no modification of assessment procedures shall be made with respect to real property on the basis of the invalidity of any portion of Section 2 of Article XIII A of the California Constitution as determined by the United States Supreme Court in the case of Nordlinger v. Hahn.
(b) This section shall only be operative if the United States Supreme Court, in its decision in the case of Nordlinger v. Hahn, determines that any portion of Section 2 of Article XIII A of the California Constitution is invalid, and shall, in that event, absent a shorter period specified by the Legislature by statute, be operative for only two years from the date of that decision.

SEC. 2. Section 531.05 is added to the Revenue and Taxation Code, to read:

531.05. Notwithstanding any other provision of law, no escape assessment of real property shall be made solely on the basis of the invalidity of any portion of Section 2 of Article XIII A of the California Constitution as determined by the United States Supreme Court in the case of Nordlinger v. Hahn. Any escape assessments levied with respect to any period prior to the effective date of the decision of the United States Supreme Court in the case of Nordlinger v. Hahn shall be consistent with Section 2 of Article XIII A of the California Constitution as that provision was in effect on January 1, 1992.

SEC. 3. (a) The Legislature finds and declares as follows:

(1) California real property owners have, since the adoption of Article XIII A of the California Constitution, reasonably relied upon the definition of “full cash value” in Section 2 of that article. That definition of “full cash value,” upheld by the California Supreme Court in 1978 in the case of Amador Valley Joint Union School Dist. v. State Board of Equalization, 22 Cal. 3d 308, has assured that real property owners shall not be subject to sudden or large increases in property tax assessments based solely on fluctuations in the real estate market.

(2) If, in deciding the case of Nordlinger v. Hahn, the United States Supreme Court determines on a retrospective basis that the definition of “full cash value” in Section 2 of Article XIII A of the California Constitution is invalid, many real properties could be subject to massive property tax escape assessments for prior fiscal years. Those escape assessments would not only upset the reasonable and long held expectations of real property owners, but would have far-reaching and crippling effects on the ability of businesses and homeowners to meet property tax obligations. Fairness and sound policy are therefore served by precluding those assessments, and thus preserving the viability of real property ownership for millions of Californians.

(b) Therefore, it is the intent of the Legislature in enacting this act to accomplish all of the following:

(1) Protect real property owners from the unfair and burdensome escape assessments that could result from the retrospective application of a holding of the United States Supreme Court in the case of Nordlinger v. Hahn, determining that the definition of “full cash value” in Section 2 of Article XIII A of the California Constitution is invalid.

(2) Provide real property owners, given the potentially immense
economic dislocations that would result from the invalidity of Section 2 of Article XIII A of the California Constitution, a reasonable transition period and reasonable measure of stability in the real estate market.

(3) Provide, given the complexity of property taxation, a brief and reasonable transition period, not to exceed two years, within which a new valuation standard would be implemented.

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 prevent severe economic dislocations that could arise from a decision in the case of Nordlinger v. Hahn, to be rendered by the United States Supreme Court in mid-1992, it is necessary that this act take effect immediately.

CHAPTER 15

An act to amend Sections 12162.5 and 12162.6 of, and to add Sections 12162.7 and 12162.8 to, the Insurance Code, relating to insurance.

[Approved by Governor March 17, 1992 Filed with Secretary of State March 18, 1992 ]

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

SECTION 1. Section 12162.5 of the Insurance Code is amended to read:

12162.5. All motor clubs applying for a certificate of authority to act as a motor club in this state shall demonstrate to the satisfaction of the commissioner that such club has a net worth of not less than two hundred fifty thousand dollars ($250,000). For the purposes of Sections 12162.5 and 12162.6, net worth is defined as the excess of total assets over total liabilities. Such net worth shall be maintained at all times as a condition for the continuance of its certificate of authority to act as a motor club in this state.

SEC. 2. Section 12162.6 of the Insurance Code is amended to read:

12162.6. (a) A motor club holding a certificate of authority to act as a motor club granted prior to January 1, 1992, may continue to retain the certificate until July 1, 1996, without complying with the increased minimum net worth requirement of Section 12162.5.

(b) A motor club shall be deemed to be insolvent and subject to Section 12164 proceedings whenever its net worth is less than two hundred fifty thousand dollars ($250,000) and it fails to comply with one of these two conditions:

(1) An audit by an independent certified public accountant with
an audit report prepared by the certified public accountant and filed with the commissioner no later than June 30 of the year following the year covered by the audit.

(2) A demonstration to the satisfaction of the commissioner, on a quarterly basis, of an amount of liquid assets sufficient to satisfy its current liabilities to members.

SEC. 3. Section 12162.7 is added to the Insurance Code, to read:

12162.7. For purposes of this article, "liquid assets" means cash, cash equivalents, and marketable securities readily convertible into cash. Liquid assets also include bonds, stocks, certificates of deposit, negotiable short-term instruments, service members' dues receivable not over 90 days, receivables due from affiliates not over 90 days, acquisition costs deferred not over 90 days, federal income tax recoverables, and interest and dividends due and accrued.

SEC. 4. Section 12162.8 is added to the Insurance Code, to read:

12162.8. If any portion of the audit report required by paragraph (1) of subdivision (b) of Section 12162.6 includes a qualified opinion as to the financial condition of the motor club or its ability to exist as a going concern, the motor club shall be considered materially deficient under Section 717, and subject to Section 12164. Similarly, if a motor club qualifying under paragraph (2) of subdivision (b) of Section 12162.6 fails to demonstrate to the commissioner an amount of liquid assets sufficient to satisfy its current liabilities to members, it shall be considered materially deficient under Section 717 and subject to Section 12164.

CHAPTER 16

An act to amend Section 48915 of the Education Code, relating to pupils.

[Approved by Governor March 26, 1992. Filed with Secretary of State March 26, 1992.]

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

SECTION 1. Section 48915 of the Education Code is amended to read:

48915. (a) The principal or the superintendent of schools shall recommend a pupil's expulsion for any of the following acts, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil at school or at a school activity off
school grounds.

(3) Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) The principal or the superintendent of schools shall immediately suspend pursuant to Section 48911 and shall recommend to the governing board the expulsion of any pupil found to be in possession of a firearm at school or at a school activity off school grounds. The governing board shall expel that pupil or, as an alternative, refer that pupil to an alternative education program, whenever the principal or superintendent of schools and the governing board confirm that:

(1) The pupil was in knowing possession of the firearm.

(2) Possession of the firearm was verified by an employee of the school district.

(3) There was no reasonable cause for the pupil to be in possession of the firearm.

(c) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900, except that a pupil found in possession of a firearm shall be expelled as specified in subdivision (b) of this section.

(d) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (f), (g), (h), (i), (j), (k), or (l) of Section 48900 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

SEC. 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 17

An act to amend Section 682.5 of the Streets and Highways Code, relating to highways.

[Approved by Governor March 26, 1992. Filed with Secretary of State March 26, 1992.]

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

SECTION 1. Section 682.5 of the Streets and Highways Code is amended to read:

682.5. (a) Notwithstanding Section 731, the department may issue permits to counties and cities for the use of highways within their boundaries and to community-based nonprofit corporations for special events upon terms and conditions relating to the safe and orderly movement of traffic that the department finds necessary. A city or county or a community-based nonprofit corporation issued a permit may allow or conduct vending on or adjacent to the highway immediately preceding, during, or immediately following the permitted special event in accordance with the terms and conditions specified by the department in the permit.

Not more than four permits for the same activity at the same location shall be issued to any city or county or community-based nonprofit corporation in any calendar year. No permit shall be issued to a community-based nonprofit corporation unless that corporation has been issued an acknowledgment by the city or county within which the special event is proposed to be conducted.

Neither the department, in issuing permits for the use of highways, nor the city or county, in issuing acknowledgments, shall be responsible for the conduct or operation of the permitted activity and shall require the permit applicant to agree to indemnify and hold harmless the state and the city or county against any and all claims arising out of any activity for which the permit is issued.

(b) As used in this section, "community-based nonprofit corporation" means a corporation formed under the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of the Corporations Code) having an office located within the county within which the special event is to be held.

(c) As used in this section, "acknowledgment" means the issuance by a city or county to a community-based nonprofit corporation of a special event permit, road closure or detour permit, or letter of permission authorizing the special event for which a permit from the department is sought.
CHAPTER 18

An act to amend Section 10149 of the Business and Professions Code, to amend Sections 8695, 8696.5, 8697, 8697.5, 8897.1, 29900.5, and 43602.5 of the Government Code, to amend Sections 4010.55, 4010.7, 4010.75, and 4020 of the Health and Safety Code, to add Section 10100.2 to the Streets and Highways Code, and to amend Sections 42 and 56 of Chapter 303 of the Statutes of 1951, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 26, 1992. Filed with Secretary of State March 26, 1992 ]

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 July 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. 1.5. Section 8695 of the Government Code is amended to read:

8695. This chapter shall be known and may be cited as the Farr Economic Disaster Act of 1984.

SEC. 2. Section 8696.5 of the Government Code is amended to read:

8696.5. As used in this chapter, the term “disaster” means those conditions specified in subdivisions (b) and (c) of Section 8558 if the estimated damage exceeds three billion dollars ($3,000,000,000) or the Governor orders the Director of Emergency Services to carry out the provisions of this chapter.

SEC. 3. Section 8697 of the Government Code is amended to read:

8697. (a) Upon the completion of the emergency phase and the immediate recovery phase of a disaster, appropriate state agencies shall take actions to provide continuity of effort conducive to long-range economic recovery.

(b) The Director of the Office of Emergency Services shall invoke the assignments made pursuant to Section 8595, specifying the emergency functions of each agency or department.

(c) The Director of the Office of Emergency Services may make assignments to assist local agencies in implementing Chapter 12.4 (commencing with Section 8877.1).

SEC. 4. Section 8697.5 of the Government Code is amended to read:

8697.5. The Director of the Office of Emergency Services, in executing the purposes of this chapter, shall establish appropriate task forces or emergency teams to include concerned elements of federal, state, and local governments and the private sector.

SEC. 5. Section 8897.1 of the Government Code is amended to read:

8897.1. (a) After January 1, 1993, 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.

SEC. 6. Section 29900.5 of the Government Code is amended 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 registered civil engineer or a licensed 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. The board of supervisors shall declare in the bond proposition that loans made from bond proceeds pursuant to this section to owners of private buildings for seismic strengthening of unreinforced buildings or other buildings constitute a public purpose resulting in a public benefit. 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.

(c) 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).

(d) The Legislature hereby declares that loans made from bond proceeds pursuant to this section to owners of private buildings for seismic strengthening of unreinforced buildings or other buildings constitute a public purpose resulting in a public benefit.

SEC. 7. Section 43602.5 of the Government Code is amended to read:

43602.5. (a) 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 registered civil engineer or a licensed 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. The legislative body of a city or city and county shall declare in the bond proposition that loans made from bond proceeds pursuant to this section to owners of private buildings for seismic strengthening of unreinforced buildings or other buildings constitute a public purpose resulting in a public benefit. 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.

(c) 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).

(d) The Legislature hereby declares that loans made from bond proceeds pursuant to this section to owners of private buildings for seismic strengthening of unreinforced buildings or other buildings constitute a public purpose resulting in a public benefit.

SEC. 8. Section 4010.55 of the Health and Safety Code is amended to read:

4010.55. The department shall be responsible for assuring that all public water systems are operated in compliance with the provisions of this chapter and any regulations adopted hereunder. The department shall directly enforce the provisions of this chapter for all public water systems with 200 or more service connections. Effective July 1, 1993, the department shall directly enforce the provisions of this chapter for all public water systems except as set forth in Section 4010.9.

SEC. 9. Section 4010.7 of the Health and Safety Code is amended to read:

4010.7. (a) The department may contract with a local health officer for enforcement of the provisions of this chapter for all or none of the community water systems and noncommunity water systems serving less than 200 service connections within the local jurisdiction, provided the local health officer demonstrates to the department that he or she has the capability to comply with the public water system program requirements established pursuant to subdivision (h) of Section 4023.3.

(b) A contract with a local health officer pursuant to this section shall not exceed three years and may be renewed or revoked upon mutual agreement of the department and the local health officer. The department may unilaterally revoke the contract if it makes a finding that the provisions of the contract have not been complied with by the local health officer. Notification to the local health officer and the board of supervisors and the opportunity for a public hearing shall be provided prior to a unilateral contract revocation by the
department.

(c) A contract entered into with the local health officer pursuant to this section shall include reimbursement by the department to the local health officer of some or all of the costs incurred by the local health officer in carrying out the provisions of the contract.

(d) This section shall become operative on July 1, 1993.

SEC. 10. Section 4010.75 of the Health and Safety Code is amended 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 fewer 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, 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. 11. Section 4020 of the Health and Safety Code is amended to read:

4020. (a) There is hereby established in the General Fund the Small Water Systems Account. Each public water system serving fewer than 200 service connections shall pay an annual operating fee to the department in accordance with the regulations specified in subdivision (b), which shall be deposited in the Small Water Systems Account. Funds in the Small Water Systems Account shall be sufficient to cover the reasonable and necessary costs of the department to carry out the activities for public water systems with fewer than 200 service connections mandated by this chapter which are directly related to the issuance of permits, conduct of inspections and surveillance activities, taking of enforcement actions, and the costs of administering any contracts with local health officers.

(b) The department shall adopt regulations establishing a schedule of annual operating fees which shall be paid to the department by all community and noncommunity water systems of fewer than 200 service connections. The regulations shall specify the amount of the fee and the method of payment. In establishing the amount of the fee, the department shall, as directed in subdivision (c), charge each water system an amount that reflects the actual
costs of the department in conducting the activities specified in subdivision (a) relative to that system.

(c) For the purposes of determining the fees provided for in subdivision (b), the department shall maintain a record of its actual costs for pursuing the activities specified in subdivision (a) relative to each system required to pay fees. To the extent feasible, the fee charged each system should be the same as or less than actual costs. In determining actual costs, the department may consider personnel requirements, materials, travel expenses, office overhead, and other pertinent direct and indirect expenses.

(d) Notwithstanding Section 6103 of the Government Code, each public water system operating under the permit issued pursuant to this chapter shall pay an annual operating fee to the department pursuant to this section. A public water system shall be permitted to collect a fee from its customers to recover the fee paid pursuant to this section.

(e) Fees collected by the department pursuant to this section shall not exceed a total of eight million two hundred fifty thousand dollars ($8,250,000) per year.

(f) This section shall become operative on July 1, 1993, and shall remain in effect until January 1, 1997, and as of that date is repealed, unless a statute is enacted which is chaptered before January 1, 1997, which deletes or extends that date.

SEC. 12. Section 10100.2 is added to the Streets and Highways Code, to read:

10100.2. Whenever the public interest or convenience requires, the legislative body may use the powers of this division to pay for work or to make loans deemed necessary to bring buildings, including privately owned buildings, into compliance with seismic safety standards or regulations. The legislative body shall declare that public loans or funds to owners of private buildings for seismic strengthening of unreinforced buildings or other buildings pursuant to this section constitute a public purpose resulting in a public benefit.

(a) 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 or the construction of a new or substantially new building may be financed pursuant to this section. 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) Any financing for 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 that 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 a loan issued pursuant to
this section remains unpaid.
(c) No lot, parcel, or building shall be included in the district
without the owner’s consent.
(d) The Legislature hereby declares that public funds or loans to
owners of private buildings pursuant to this section for seismic
strengthening of unreinforced buildings or other buildings constitute
a public purpose resulting in a public benefit. Public funds or 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. 13. Section 42 of Chapter 303 of the Statutes of 1951 is
amended to read:
Sec. 42. The district may acquire, construct, reconstruct, alter,
enlarge, lay, repair, renew, replace, maintain, and operate such
sewers, drains, septic tanks, and sewage collection, outfall, treatment
works, and other sanitary disposal systems, and storm water, storm
water collection, outfall, and disposal systems, and water reclamation
and distribution systems, within or without the district, as in the
judgment of the board shall be necessary and proper.

SEC. 14. Section 56 of Chapter 303 of the Statutes of 1951, is
amended to read:
Sec. 56. The district may sell any effluent resulting from the
operation of any sewage treatment plant constructed by or for the
district. Sections 6520.7 and 6520.9 of the Health and Safety Code are
applicable to the district.

SEC. 15. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because the
Legislature finds and declares that there are savings as well as costs
in this act which, in the aggregate, do not result in additional net
costs. 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. 16. This act is an urgency statute necessary for the
immediate preservation of the public peace, health, or safety within
the meaning of Article IV of the Constitution and shall go into
immediate effect. The facts constituting the necessity are:
In order to clarify duties and responsibilities of local agencies with
respect to recovering from disasters, strengthening of buildings, and
maintaining of water and sewer systems at the earliest possible time,
it is necessary that this act take effect immediately.
CHAPTER 19

An act to amend Section 13263.5 of the Water Code, relating to water.

[Approved by Governor March 26, 1992. Filed with Secretary of State March 26, 1992]

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

SECTION 1. Section 13263.5 of the Water Code is amended to read:
13263.5. (a) When the regional board issues waste discharge requirements pursuant to Section 13263, or revises waste discharge requirements pursuant to subdivision (g) of Section 25159.17 of the Health and Safety Code, for any injection well into which hazardous waste is discharged, the waste discharge requirements shall be based upon the information contained in the hydrogeological assessment report prepared pursuant to Section 25159.18 of the Health and Safety Code and shall include conditions in the waste discharge requirements to ensure that the waters of the state are not polluted or threatened with pollution.

(b) If the state board applies to the federal Environmental Protection Agency to administer the Underground Injection Control Program pursuant to Part 145 (commencing with Section 145.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations, that application shall not include a request to administer the Underground Injection Control Program for any oil, gas, or geothermal injection wells supervised or regulated by the Division of Oil and Gas pursuant to Section 3106 or 3714 of the Public Resources Code.

CHAPTER 20

An act to repeal and add Section 30796.7 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 26, 1992. Filed with Secretary of State March 26, 1992]

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 construction of the San Diego-Coronado Bridge was financed with revenue bonds which have been paid for with toll revenues.
(2) There are no outstanding state bonds, and the maintenance of the bridge is paid for with revenues from the State Highway Account in the State Transportation Fund.

(3) Locally elected officials in San Diego County are strongly supportive of the continuation of tolls as a pricing scheme and as a source of revenue for improving transportation service in the corridor.

(4) Tolls should help support transportation services that either increase the capacity of the bridge and its approaches or reduce the demand for travel in the transportation corridor that includes the bridge or alternative forms of transportation, within the transportation corridor that includes the bridge, that reduce congestion and air pollution, including, but not limited to, ferry service and public transit, or both.

(5) Other than for the purposes expressed in paragraph (4), there is no need for a state-imposed toll on the bridge, and any toll charge after June 30, 1995, should be imposed by an association of locally elected officials for the purposes expressed in paragraph (4).

(b) In order to transfer the authority to levy tolls on the San Diego-Coronado Bridge to the San Diego Association of Governments, the Legislature has enacted Section 30796.7 of the Streets and Highways Code, as added by Section 3 of this act.

SEC. 2. Section 30796.7 of the Streets and Highways Code is repealed.

SEC. 3. Section 30796.7 is added to the Streets and Highways Code, to read:

30796.7. (a) Notwithstanding any other provision of law, the San Diego Association of Governments may impose a toll on vehicles crossing the San Diego-Coronado Bridge not to exceed one dollar and fifty cents ($1.50) per vehicle. The toll shall be established by the association after conducting at least one public hearing.

(b) The authority of the commission relative to tolls on the bridge is hereby transferred to the San Diego Association of Governments. All tolls established by the commission shall remain in effect until June 30, 1995, and as of that date are abolished.

(c) (1) The revenues from any tolls imposed on the bridge shall be used first for expenses related to the collection of tolls and operation of the bridge, including, but not limited to, reimbursement for any operating and maintenance costs and, second, for improvements to the bridge and its approaches. Tolls shall be established at an amount which will generate revenue sufficient to meet the requirements set forth in this paragraph, as determined by the department.

(2) The revenues from any tolls imposed on the bridge may also be used for costs incurred by the San Diego Association of Governments in administering this section and for either or both of the following:

(A) Transportation services that either increase the capacity of the bridge and its approaches or reduce the demand for travel in the
transportation corridor that includes the bridge.

(B) Alternative forms of transportation, within the transportation corridor that includes the bridge, that reduce congestion and air pollution, including, but not limited to, ferry service and public transit.

(d) Not later than June 30, 1995, and not later than June 30 of every even-numbered year thereafter, the San Diego Association of Governments shall adopt an expenditure plan specifying the projects and programs that are to be funded with toll revenues, and shall submit copies of each plan to the Senate Committee on Transportation and the Assembly Committee on Transportation.

(e) If the San Diego Association of Governments imposes tolls pursuant to subdivision (a), it shall reimburse the department for costs incurred by the department in operating the bridge, collecting tolls, and performing other related services. The association and the department shall enter into an agreement which provides for the full reimbursement of the department for all operating and maintenance costs.

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, as quickly as possible, to permit the use of San Diego-Coronado Bridge tolls for purposes of transportation services that either increase the capacity of the bridge and its approaches or reduce the demand for travel in the corridor that includes the bridge or for alternative forms of transportation within that corridor which will reduce congestion and air pollution, including, but not limited to, ferry service and public transit, it is necessary that this act take effect immediately.

CHAPTER 21

An act to amend Sections 400, 401, 402, and 403 of the Insurance Code, and to amend Item 2290-001-217 of Section 2.00 of the Budget Act of 1991, relating to insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 31, 1992. Filed with Secretary of State March 31, 1992.]

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

SECTION 1. Section 400 of the Insurance Code is amended to read:

400. (a) Except as otherwise provided in this article, commencing May 1, 1992, no policy or endorsement insuring a private passenger automobile as defined in paragraphs (1) and (2)
of subdivision (a) of Section 660 shall be issued or amended by an
insurer in this state to provide collision or comprehensive coverage,
or both, to a person not formerly an insured of the insurer or to an
insured not formerly insured by the insurer for those coverages
unless the insurer or its designated authorized representative has
inspected the automobile.

(b) Except as otherwise provided in this article, automobile
collision or comprehensive coverage, or both, shall not be effective
on an additional or replacement private passenger automobile until
the insurer or its designated authorized representative has inspected
the automobile.

(c) The inspection required by subdivision (a) shall be recorded
on an inspection report adopted by the commissioner, however, an
application for insurance which incorporates the provisions
promulgated by the commissioner shall be deemed in compliance
with this requirement. Two color photographs, taken as directed on
the inspection report at angles which show the front, back, and sides
of the vehicle, shall be attached thereto. In addition, a color
photograph shall be attached showing a closeup of the Safety
Certification Label otherwise known as "49 CFR Part 567
Certification Label" containing the vehicle identification number
(VIN), located on the driver's side door jamb. The photograph shall
be of sufficient clarity that the vehicle identification number on the
label is legible. Where the Safety Certification Label is missing or
where the photograph does not produce a legible reproduction of
the VIN, the inspector shall include the required photograph and
indicate the circumstances in the appropriate place on the inspection
form. The inspector may take additional photographs showing any
damaged areas, which shall also be attached to the report. A copy of
the report, without photographs, shall be provided to the insured by
the insurer.

(d) For purposes of this section, "color photograph" means any
legally accepted technology which produces a retrievable visual
image including, but not limited to, a photograph, video tape, digital
or visual imagery, or other technology approved by the
commissioner. Nothing in this article shall preclude an insurer from
electronically storing photographs mandated by this section.

SEC. 2. Section 401 of the Insurance Code is amended to read:

401. An insurer may waive or dispense with the mandatory
inspection required by this article under any of the following
circumstances:

1. The insured vehicle is a temporary substitute vehicle.
2. The insured vehicle is leased for less than six months, provided
the insurer receives the lease or rental agreement containing a
description of the vehicle, including its condition.
3. The vehicle is over seven model years old.
4. The vehicle is a new and unused automobile purchased or
leased from a dealer licensed under the Vehicle Code, and the
insurer is provided with either a copy of the bill of sale or purchase
order or conditional sales contract, as defined in subdivision (a) of Section 2981 of the Civil Code, that contains a full description of the automobile, including all options and accessories, or a copy of the federally mandated window sticker or the dealer invoice showing the itemized manufacturer-installed options and equipment in addition to the total retail price of the vehicle on which will be added together with a due bill or other descriptive evidence of any dealer-installed options purchased by the customer at the time of sale. The collision or comprehensive coverage, or both, on the vehicle shall not be suspended during the term of the policy due to the insured’s failure to provide the required document or documents, but payment of a claim shall be conditioned upon receipt by the insurer of the documents, and no collision or comprehensive loss occurring after the effective date of coverage shall be payable until the documents are provided to the insurer.

(5) The vehicle is an additional or a replacement vehicle, and the named insured has been continuously insured for three or more policy years for automobile insurance with the same insurer or an affiliate of that insurer.

(6) Where the insured’s coverage is being transferred to a new insurer within an existing agency or production facility; or to a new agent or broker within the existing insurer or insurer group; and the new insurer or agent or broker is provided with a copy of the inspection report completed on behalf of the previous insurer, or its designated representative provided the insured vehicle was inspected by the previous insurer within the last 12 months. If the new insurer does not receive a copy of the inspection report within 60 days of the effective date of coverage, the new insurer shall cause an inspection to be performed within 30 days of notice to the insured.

(7) The insured vehicle is insured under a commercially rated policy that insures five or more vehicles.

(8) Whenever, with respect to the use of a nonowned vehicle by an insured where the insurer or its agent is notified of the use, the insurer or its agent determines it is reasonable to do so because the likelihood of a fraudulent physical damage claim is remote, including, but not limited to, when it is determined that the nonowned vehicle is insured under a policy providing automobile collision or comprehensive insurance and the vehicle has otherwise been inspected in accordance with this article.

(9) A buyer, borrower, or lessee of the vehicle is obligated under the terms of a conditional sale contract, loan agreement, note, or lease to maintain insurance on the vehicle and fails to procure or maintain the required coverage and the creditor or lessor procures the insurance in accordance with the conditional sale contract, loan agreement, note, or lease.

SEC. 3. Section 402 of the Insurance Code is amended to read:

402. (a) Upon the insured's request for coverage for private passenger automobile collision or comprehensive insurance, or both, on an additional or replacement vehicle, the insurer may provide
coverage immediately, and the inspection required by this article may be deferred for seven days following the effective date of coverage if an inspection at the time of a request for coverage would create a serious inconvenience for the applicant.

(b) An insurer may defer the inspection required by this article under the following circumstances.

(1) On additional vehicles for up to seven days following the effective date of coverage.

(2) On replacement vehicles, an insurer may provide the same type or level of collision or comprehensive coverage, or both, that covered the replaced vehicle without a request for coverage by the insured. That automatic coverage prior to the insured’s request for coverage may be for a period of up to seven days after the day on which the automobile is acquired.

(c) The seven-day period set forth in subdivisions (a) and (b) may be extended to a period not to exceed 30 days by agreement of the insurer and the insured.

(d) If an inspection is not conducted prior to the expiration of the seven-day period set forth in this section, or other period agreed to by the insurer and insured, not to exceed 30 days, collision or comprehensive coverage, or both, on the vehicle shall be suspended on the day following the seventh day or other agreed upon day, and that suspension shall continue until the inspection is conducted. However, where there is a lienholder interest of a federal or state regulated financial institution, collision or comprehensive coverage, or both, on the vehicle shall not be suspended, but payment of a claim shall be restricted to the lienholder interest of a federal or state regulated financial institution until the inspection is conducted. The insurer, however, shall inspect the vehicle and reinstate the lapsed coverage for automobile physical damage if the insured thereafter requests an inspection.

(e) Whenever automobile collision or comprehensive coverage, or both, is suspended or restricted pursuant to subdivision (d) for the failure to have an inspection report, the insurer shall immediately notify the insured that the collision or comprehensive coverage, or both, is restricted or suspended until the vehicle is inspected.

(f) The commissioner shall adopt by regulation a notice of mandatory preinsurance inspection requirement letter, which shall be provided the applicant by the insurer or its agent. If the insurer or its agent fails to give notice to the insured of the mandatory requirement of physical inspection or otherwise fails to comply with this article, the collision or comprehensive coverage, or both, shall not be suspended or restricted pursuant to subdivision (d).

(g) An insurer may provide a grace period, not to exceed seven days, to obtain the required inspection where the automobile is purchased from an automobile dealer licensed under the Vehicle Code or where the applicant was not previously insured by the insurer.

SEC. 4. Section 403 of the Insurance Code is amended to read:
403. (a) Inspections required or permitted by this article shall be made by a designated authorized representative or inspection service of the insurer at times and places reasonably convenient to the insured, except that the insurer is not required to send an agent to the insured's home or place of business.

(b) An insurer shall utilize authorized representatives or inspection services who shall do all of the following:

1. Be responsible for the accuracy, completeness, and signature of the inspector for each inspection report in writing.

2. Utilize sequentially numbered inspection reports, by location, and maintain a control system on those reports. Alternatively, an insurer may utilize an internal system of distinctive identification which permits, by location, maintenance of a control system designed to prevent backdating or other fraudulent activity concerning the reports.

3. For one year after the date of the inspection, retain and supply to the insurer, upon request, a copy of any inspection report.

(c) The insurer shall bear the cost of the inspection, however, where the inspection is performed by an agent or broker, the insurer shall not be required to reimburse the agent or broker for the labor costs of those inspections. The cost of the inspection may be included as an administrative expense for ratemaking purposes.

(d) The inspection report shall be used by the insurer to document previous damage, prior condition, optional equipment and accessories, and mileage of the vehicle. Optional equipment and accessories listed shall include, but are not limited to, alarm systems, radar detectors, custom tires and wheels, and sound and communication systems, such as radios, stereos, tape decks, compact disks, and CB radios. Nothing in this section shall be interpreted to require the inspection to be used for the purpose of certifying the current registration of an automobile or the safety or function of the automobile or any of its optional equipment.

(e) The inspection report information and photographs as necessary shall be used by the insurer in the settlement of all collision or comprehensive claims, or both, in excess of two thousand dollars ($2,000), except that when the inspection reveals no prior damage to the vehicle, the requirement to use the inspection report information and photographs in the settlement of the claim is satisfied if the insurer indicates the lack of prior damage in the records of the policy and those records are used in the settlement of the claim. The inspection report information and photographs as necessary shall be used and made part of the claim file in the settlement of all unrecovered theft claims or total loss claims. The inspection report shall be part of the claim file regardless of whether or not the loss payment is reduced based on the information contained in the report. The commissioner shall periodically increase the amount of damages for which it is necessary to utilize the inspection report to settle a collision or comprehensive claim to account for inflation.
(f) The commissioner shall adopt regulations as may be necessary, including the promulgation of necessary forms to implement this section. In adopting forms to implement this section, the commissioner shall provide insurers with the option of using preapproved forms or incorporating standardized provisions into the application for coverage.

SEC. 5. Item 2290-001-217 of Section 2.00 of the Budget Act of 1991 is amended to read:

2290-001-217—For support of Department of Insurance, payable from the Insurance Fund ......................... 70,695,000

Schedule:

(a) 10-Regulation of Insurance Companies and Insurance Producers............. 65,756,000
(b) 20-Fraud Control ........................................... 4,270,000
(c) 30-Tax Collection and Audit ................. 744,000
(d) 40-Earthquake Recovery Fund Management....................................... 15,659,000
(e) 50.01-Administration ......................... 21,815,000
(f) 50.02-Distributed Administration ..........—21,815,000
(g) Amount payable from Insurance Fund (Item 2290-002-217) ..................... —75,000
(h) Amount payable from the California Residential Earthquake Insurance Recovery Fund (Item 2290-001-285) ...................................................—15,659,000

Provisions:
1. Of the funds appropriated in this item, $2,901,000 shall be transferred to the Department of Aging for support of the Health Insurance Counseling and Advocacy Program.

2. Of the reserve moneys in the Insurance Fund, $14,605,000 shall be available for transfer to Item 2290-001-285 as a loan to the California Residential Earthquake Recovery Fund for the administration of the Earthquake Insurance Program, notwithstanding any other provision of law. This amount is to be transferred in equal monthly installments during the 1991-92 fiscal year, only as needed by the program. The loan shall be repaid in full, with interest at the Pooled Money Investment Account rate, as soon as sufficient revenues are available in the California Residential Earthquake Recovery Fund, but no later than two years from the date the loan is made.

3. Of the funds appropriated in this item, $451,000 shall be transferred as of July 1, 1991, to the State and Consumer Services Agency for support of

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the Office of Insurance Advisor, to provide assistance to the Governor on Insurance related matters.

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 the orderly administration of the preinsurance photo inspection program which is to take effect May 1, 1992, and to provide for the proper support of the Department of Insurance, it is necessary that this act take effect immediately.

CHAPTER 22

An act to amend Sections 4003 and 4552 of, and to add Section 3506 to, the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 1, 1992. Filed with Secretary of State April 1, 1992]

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

SECTION 1. Section 3506 is added to the Unemployment Insurance Code, to read:

3506. Notwithstanding any other provision of this part, the Governor may, if permitted by federal law, suspend the payment of extended duration benefits under this part, to the extent necessary to ensure that otherwise eligible individuals are not denied, in whole or in part, the receipt of emergency unemployment compensation benefits authorized by the federal Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) or any extension of that act, including, but not limited to, Public Law 102-244, and that the state receives maximum reimbursement from the federal government for the payment of those emergency benefits.

SEC. 2. Section 4003 of the Unemployment Insurance Code is amended to read:


(b) There is an "on" indicator for purposes of federal-state extended benefits for a week in which the rate of insured unemployment for that week and the immediately preceding 12 weeks equals or exceeds either of the following:
(1) One hundred twenty percent of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years, and equals or exceeds 5 percent.

(2) Six percent.

(c) There is an "off" indicator for a week in which the rate of insured unemployment for that week and the immediately preceding 12 weeks is less than 6 percent and also less than either of the following:

(1) One hundred twenty percent of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years.

(2) Five percent.

(d) For purposes of this section, the rate of insured unemployment for a 13-week period shall be determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period. This section shall be effective with respect to compensation for weeks of unemployment after September 25, 1982. The provisions of this section in effect prior to that date shall continue to apply to weeks after March 30, 1977, but prior to September 25, 1982.

(e) The indicators specified in subdivisions (b) and (c) shall be operative only if mandated or permitted by federal law. Any amendments to the Federal-State Extended Unemployment Compensation Act of 1970, enacted before January 1, 1983, which mandate or permit any reduction in the insured unemployment rate indicator described in this section shall be operative on the effective date of the amendment.

(f) Notwithstanding any other provision of this part, the Governor may, if permitted by federal law, suspend the payment of extended duration benefits under this part, to the extent necessary to ensure that otherwise eligible individuals are not denied, in whole or in part, the receipt of emergency unemployment compensation benefits authorized by the federal Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) or any extension of that act including, but not limited to, Public Law 102-244, and that the state receives maximum reimbursement from the federal government for the payment of those emergency benefits.

SEC. 3. Section 4552 of the Unemployment Insurance Code is amended to read:

4552. An unemployed individual is eligible to receive federal-state extended benefits with respect to any week only if the director finds that:

(a) An extended compensation claim has been established for him or her.

(b) The week is within an extended benefit period and his or her eligibility period.

(c) He or she meets the eligibility requirements of Part 1 (commencing with Section 100), except those excluded under
subdivision (b) of Section 4002.

(d) He or she is not subject to disqualification for normal benefits under any provision of Part 1 (commencing with Section 100). If the individual has been subject to disqualification under subdivision (b) of Section 1257, he or she has satisfied subdivision (b) of Section 1260 and, during a week following the first week of disqualification, has done either of the following:

(1) Performed service in bona fide employment during a week on a full-time basis.

(2) Performed service in bona fide employment during a week from which service he or she earned remuneration at least equal to his or her weekly benefit amount.

(e) With respect to compensation payable to any individual for any week, he or she had earnings from employment subject to the provisions of this division which exceed 40 times his or her most recent weekly benefit amount or 1.5 times the highest quarter, in the base period in which he or she exhausted all rights to regular compensation.

(f) An individual subject to disqualification under subdivision (a) of Section 1256.5 has satisfied subdivision (a) of Section 1260.

(g) The amendments to subdivision (e) made by the act adding this subdivision shall not be implemented unless the director determines that those amendments have been approved by the United States Department of Labor. The director shall immediately seek approval of the amendments to subdivision (e) from the United States Department of Labor.

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 unemployed Californians may take full advantage of unemployment compensation benefits available under federal law, and that the state receives maximum reimbursement from the federal government for the payment of those benefits, it is necessary that this act take effect immediately.

CHAPTER 23

An act to amend Sections 4380, 4390, and 5902 of, and to add Section 4383 to, the Welfare and Institutions Code, and to repeal Section 3 of Chapter 757 of the Statutes of 1991 relating to mental health, and declaring the urgency thereof, to take effect immediately.
The people of the State of California do enact as follows:

SECTION 1. Section 4380 of the Welfare and Institutions Code is amended to read:

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 4 (commencing with Section 4343) of Part 3.
(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.

SEC. 2. Section 4383 is added to the Welfare and Institutions Code to read:

4383. (a) For the 1991-92 and 1992-93 fiscal years, a local schoolsite may be awarded funding from the director pursuant to this part and from the Superintendent of Public Instruction pursuant to the Healthy Start Support Services for Children Act of 1991 (Chapter 5 (commencing with Section 8800) of Part 6 of the Education Code) if both of the following criteria are met:

(1) The application to the director for funding under this part delineates how the program will coordinate and interface with, and is not duplicative of, the program proposed for funding under the Healthy Start Support Services for Children Act of 1991.

(2) The application to the Superintendent of Public Instruction for funding under the Healthy Start Support Services for Children Act of 1991 delineates how the program will coordinate and interface with, and is not duplicative of, this part.

(b) Up to 20 percent of the schoolsites which receive operational grants from the Healthy Start Support Services for Children program and which apply for grants under this part may receive these grants. The State Department of Mental Health and the State Department of Education shall jointly review the effectiveness of providing both grants to a single schoolsite and make this information available no later than January 1, 1993.

SEC. 3. Section 4390 of the Welfare and Institutions Code is
amended to read:
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. Beginning in 1993, this shall, to the extent information is provided by the local mental health department, include a description of the availability of federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. 1396 and following) through a cooperative agreement or contract with the local mental health department. The county office of education may submit the report on the availability of federal financial participation on behalf of the participating local education agencies with the county. In any county in which there is an interagency children's services coordination council established pursuant to Section 18986.10, a report submitted pursuant to this paragraph shall be submitted to the council for its review and
approval.

(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. 4. Section 5902 of the Welfare and Institutions Code is
amended to read:

5902. (a) In the 1991–92 fiscal year, funding sufficient to cover
the cost of the basic level of care in institutions for mental disease at
the rate established by the State Department of Health Services shall
be made available to the department for skilled nursing facilities,
plus the rate established for special treatment programs. The
department may authorize a county to administer institutions for
mental disease services if the county with the consent of the affected
providers makes a request to administer services and an allocation is
made to the county for these services. The department shall continue
to contract with these providers for the services necessary for the
operation of the institutions for mental disease.

(b) In the 1992–93 fiscal year, the department shall consider
county-specific requests to continue to provide administrative
services relative to institutions for mental disease facilities when no
viable alternatives are found to exist.

(c) (1) By October 1, 1991, the department, in consultation with
the California Conference of Local Mental Health Directors and the
California Association of Health Facilities, shall develop and publish
a county-specific allocation of institutions for mental disease funds
which will take effect on July 1, 1992.

(2) By November 1, 1991, counties shall notify the providers of any
intended change in service levels to be effective on July 1, 1992.

(3) By April 1, 1992, counties and providers shall have entered into
contracts for basic institutions for mental disease services at the rate
described in subdivision (e) for the 1992–93 fiscal year at the level
expressed on or before November 1, 1991, except that a county shall
be permitted additional time, until June 1, 1992, to complete the
processing of the contract, when any of the following conditions are
met:

(A) The county and the affected provider have agreed on all
substantive institutions for mental disease contract issues by April 1, 1992.

(B) Negotiations are in process with the county on April 1, 1992, and the affected provider has agreed in writing to the extension.

(C) The service level committed to on November 1, 1991, exceeds the affected provider’s bed capacity.

(D) The county can document that the affected provider has refused to enter into negotiations by April 1, 1992, or has substantially delayed negotiations.

(4) If a county and a provider are unable to reach agreement on substantive contract issues by June 1, 1992, the department may, upon request of either the affected county or the provider, mediate the disputed issues.

(5) Where contracts for service at the level committed to on November 1, 1991, have not been completed by April 1, 1992, and additional time is not permitted pursuant to the exceptions specified in paragraph (3) the funds allocated to those counties shall revert for reallocation in a manner that shall promote equity of funding among counties. With respect to counties with exceptions permitted pursuant to paragraph (3), funds shall not revert unless contracts are not completed by June 1, 1992. In no event shall funds revert under this section if there is no harm to the provider as a result of the county contract not being completed. During the 1992–93 fiscal year, funds reverted under this paragraph shall be used to purchase institution for mental disease/skilled nursing/special treatment program services in existing facilities.

(6) Nothing in this section shall apply to negotiations regarding supplemental payments beyond the rate specified in subdivision (e).

(d) On or before April 1, 1992, counties may complete contracts with facilities for the direct purchase of services in the 1992–93 fiscal year. Those counties for which facility contracts have not been completed by that date shall be deemed to continue to accept financial responsibility for those patients during the subsequent fiscal year at the rate specified in subdivision (a).

(e) As long as contracts with institutions for mental disease providers requires the facilities to maintain skilled nursing facility licensure and certification, reimbursement for basic services shall be at the rate established by the State Department of Health Services for skilled nursing facilities, plus the rate established for special treatment programs.

(f) In the 1993–94 fiscal year and thereafter, the department shall consider requests to continue administrative services related to institutions for mental disease facilities from counties with a population of 150,000 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. 5. Section 3 of Chapter 757 of the Statutes of 1991 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 prevent displacement of seriously mentally ill adults from existing long-term care facilities, and to make other essential changes in mental health programs at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 24

An act relating to school district reorganization, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 1, 1992. Filed with Secretary of State April 1, 1992]

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

SECTION 1. The Legislature finds and declares as follows:

(a) As of December 1, 1991, an action to reorganize school districts had been initiated, but not completed, that would dissolve the South Bay Union High School District, with the additional result that the Hermosa Beach City Elementary School District, the Manhattan Beach City Elementary School District, and the Redondo Beach City Elementary School District each would become a unified school district.

(b) Pursuant to the school district reorganization described in subdivision (a), high schools that previously were located within the South Bay Union High School District would be governed and operated by the proposed Manhattan Beach City Unified School District and the proposed Redondo Beach City Unified School District. However, no high schools would be governed or operated by the proposed Hermosa Beach City Unified School District.

SEC. 2. Notwithstanding any other provision of law, the action to reorganize school districts described in Section 1 is not effective as to the Hermosa Beach City Elementary School District, which shall remain an elementary school district without regard to that action and may continue to operate as an elementary school district on the basis set forth in Section 3. If this act becomes effective subsequent to the operative date of that action, the Hermosa Beach City Unified School District, as established by that action, shall be deunified, and become the Hermosa Beach City Elementary School District, upon the effective date of this act.

SEC. 3. (a) Prior to June 1 of each academic year that begins subsequent to the operative date of the action to reorganize school districts described in Section 1, each pupil in any of grades 9 to 12, inclusive, who resides within the boundaries of the Hermosa Beach City Elementary School District may elect to attend high school in
either the Manhattan Beach City Unified School District or the Redondo Beach City Unified School District. The governing board of the Manhattan Beach City Unified School District and the governing board of the Redondo Beach City Unified School District each shall establish a reasonable procedure to be employed by those pupils to make that annual election with regard to each of those districts.

(b) Each pupil who attends either the Manhattan Beach City Unified School District or the Redondo Beach City Unified School District pursuant to this section shall be deemed to be a pupil enrolled in that district for all purposes, including, but not limited to, his or her admission to particular high schools of the district and selection of classes, and the apportionment of state funding.

SEC. 4. Sections 2 and 3 of this act shall not become operative until the operative date of the school district reorganization described in Section 1.

SEC. 5. Due to the unique circumstances specified in Section 1 of this act concerning the South Bay Union High School District, the Hermosa Beach City Elementary School District, the Manhattan Beach City Elementary School District, and the Redondo Beach City Elementary School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 6. The Legislature finds and declares as follows:

(a) The Sacramento County Committee on School District Organization has initiated an action to create one or more unified school districts from the elementary school districts that operate as feeder districts to the Grant Joint Union High School District.

(b) The Elverta Joint Elementary School District, which is one of the feeder districts included in that reorganization action, currently educates pupils in kindergarten and grades 1 to 8, inclusive.

(c) At the present time, the population within the Elverta Joint Elementary School District is not of sufficient size to support a comprehensive high school program. However, population and development data provided by the appropriate planning agencies of Sacramento County and Placer County indicate that it is likely that, within the next 5 to 15 years, the population within the district will be of sufficient size to support a quality high school program.

(d) It is the opinion of the Sacramento County Committee on School District Organization, the governing board of the Elverta Joint Elementary School District, and parents and other residents of the Elverta community that the interests of the pupils and the community are served best by maintaining the separate identity of that elementary school district without regard to the reorganization action described in subdivision (a).

(e) It is the intent of the Legislature that the Elverta Joint Elementary School District actively pursue the creation of, or consolidation with, a unified school system at the time that it is educationally and financially appropriate to do so.

SEC. 7. (a) Notwithstanding the reorganization action
described in subdivision (a) of Section 6 and any other provision of law, all of the following shall apply under the conditions set forth in subdivision (b):

(1) The Elvera Joint Elementary School District shall continue to operate as an elementary school district, notwithstanding the reorganization action described in subdivision (a) of Section 6.

(2) Prior to March 1 of each fiscal year, the governing board of the Elvera Joint Elementary School District shall enter into agreements with one or more adjoining school districts for the succeeding fiscal year for the education of pupils in grades 9 to 12, inclusive, who, except with regard to grade level, would be within the jurisdiction of the Elvera Joint Elementary School District for that succeeding fiscal year pursuant to Article 1 (commencing with Section 48200) of Chapter 2 of Part 27 of the Education Code.

(3) Each pupil who attends school in any school district pursuant to an agreement as described in paragraph (2) shall be deemed to be a pupil enrolled in that district for all purposes.

(b) Subdivision (a) shall operate only if all of the following three conditions occur:

(1) The action to reorganize the Grant Joint Union High School District, as described in subdivision (a) of Section 6, is approved by the State Board of Education and by the voters in accordance with Chapter 4 (commencing with Section 35700) of Part 21 of the Education Code.

(2) The action to reorganize the Grant Joint Union High School District, as approved pursuant to paragraph (1), includes either of the following:

(A) The consolidation of the Elvera Joint Elementary School District and one or more other school districts into a unified school district.

(B) A request by the Sacramento County Committee on School District Organization to the State Board of Education to waive the requirements of current law that prohibit the Elvera Joint Elementary School District from continuing to operate as an elementary school district without regard to the reorganization action.

(3) Prior to the operative date of the action to reorganize the Grant Joint Union High School District, as approved pursuant to paragraph (1), the governing board of the Elvera Joint Elementary School District and the Sacramento County Committee on School District Organization each adopt a resolution in support of the operation of the Elvera Joint Elementary School District in the manner described in subdivision (a).

(c) This section shall not be construed to prohibit the Elvera Joint Elementary School District or the Sacramento County Committee on School District Organization, subsequent to the reorganization action described in subdivision (a) of Section 6, from undertaking the unification or other reorganization of the Elvera Joint Elementary School District in accordance with applicable provisions.
of the Education Code.

SEC. 8. Due to the unique circumstances specified in Section 6 of this act concerning the Grant Joint Union High School District and the Elverta Joint Elementary 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. 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.

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 revise the effect of a pending action to reorganize school districts prior to the date of an election to be held regarding that action, it is necessary that this act take effect immediately.

CHAPTER 25

An act to amend Sections 14035.1 and 14045 of the Government Code, to add Sections 183.4, 2702.23, and 2703.23 to, to repeal and add Section 2701.23 of, and to repeal Chapter 15 (commencing with Section 2560) of Division 3 of, the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 1, 1992. Filed with Secretary of State April 1, 1992.]

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

SECTION 1. Section 14035.1 of the Government Code is amended to read:

14035.1. As part of implementation of the demonstration program established pursuant to Section 14045 of the Government Code, the commission, in the allocation of funds made available pursuant to Section 99317 of the Public Utilities Code or pursuant to a voter-approved rail bond for an exclusive mass transit guideways project, shall consider those projects proposed to be located on a
demonstration site where the applicant and the local entity responsible for land use decisions have entered into a binding agreement to promote high density residential development within one-half mile of a mass transit guideway station. The commission shall consider all projects within a selected demonstration site submitted to it as a part of a regional transportation program by December 1, 1993, or as an applicant for inclusion in the 1991 or subsequent Transit Capital Improvement Program. Any project selected by the commission which is located in a demonstration site shall be considered for inclusion in the 1991 or subsequent annual Transit Capital Improvement Program or in the 1992 or subsequent State Transportation Improvement Program. This section does not authorize the granting of any priority that conflicts with any bond law governed by this section, or which impairs the rights of bondholders under any of these bond laws. Nor does this section preclude the commission from applying the criteria for making awards which may be required or permitted pursuant to other provisions of law.

SEC. 2. Section 14045 of the Government Code is amended to read:

14045. (a) The department, in cooperation with the commission, shall develop and implement a demonstration program to test the effectiveness of increasing densities of residential development in close proximity to mass transit guideway stations to increase the benefit from public investment in mass transit. The department and commission shall jointly select three or more demonstration sites, at least one of which includes an existing transit station and at least two of which include proposed transit stations. Each demonstration site shall be located in a city or county that has adopted land use policies and programs encouraging the development of high-density residential development near mass transit guideway stations. These policies and programs may be included in the locality’s general plan, zoning ordinance, including a density bonus ordinance adopted pursuant to Section 65915, development agreement adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 3 of Division 1 of Title 7, redevelopment plan or amendment to the plan adopted pursuant to Article 4 (commencing with Section 33330) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, and congestion management plan adopted pursuant to Chapter 2.6 (commencing with Section 65099) of Division 1 of Title 7.

(b) The department shall prepare a preliminary report regarding the disposition of projects proposed for inclusion in either the 1991 or subsequent annual Transit Capital Improvement Program or the 1992 or subsequent State Transportation Improvement Program, and a final report regarding the impact of the demonstration program on the level of use of mass transit by residents living within one-half mile of the mass transit guideway station. The department shall submit each report to the commission for review and comment. The commission shall submit the preliminary report, with its comments,
to the Legislature no later than January 1, 1994, and the final report, with its comments, to the Legislature no later than January 1, 1996.

SEC. 3. Section 183.4 is added to the Streets and Highways Code, to read:

183.4. (a) The department may advance funds in the State Highway Account in the State Transportation Fund to a local agency for all or a portion of the cost of a project approved for bond funding pursuant to Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code. The director shall first make a finding that there are adequate funds for the advancement without delaying or adversely affecting any other project. The total amount advanced shall not exceed the amount of the unsold bonds which the committee created by Section 99692 of the Public Utilities Code has, by resolution, authorized to be sold.

(b) All advances shall be subject to the terms and conditions of an agreement between the department and a local agency. The agreement shall contain provisions for reimbursement of the State Highway Account from the proceeds of the next bond sale for funds advanced pursuant to this section. Any amounts advanced pursuant to this section shall be repaid with interest at the rate being earned by the Pooled Money Investment Account at the time of the advance. Interest payments shall be made from funds of the local agency other than from the proceeds of bonds authorized by Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code.

SEC. 4. Chapter 15 (commencing with Section 2560) of Division 3 of the Streets and Highways Code is repealed.

SEC. 5. Section 2701.23 of the Streets and Highways Code is repealed.

SEC. 6. Section 2701.23 is added to the Streets and Highways Code, to read:

2701.23. (a) The department may advance funds in the State Highway Account in the State Transportation Fund for all or a portion of the cost of projects approved for bond funding pursuant to this chapter. The director shall first make a finding that there are adequate funds for the advancement without delaying or adversely affecting any other project. The total amount advanced shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purposes of this chapter.

(b) All advances shall be subject to the terms and conditions of an agreement between the department and the public entity which will receive the advancement. The agreement shall contain provisions for reimbursement of the State Highway Account from the proceeds of the next bond sale for funds advanced pursuant to this section. Any amounts advanced pursuant to this section shall be repaid with interest at the rate being earned by the Pooled Money Investment Account at the time of the advance. Interest payments shall be made from the funds of the public entity which received the advancement, other than from the proceeds of bonds authorized by this chapter.
SEC. 7. Section 2702.23 is added to the Streets and Highways Code, to read:

2702.23. (a) The department may advance funds in the State Highway Account in the State Transportation Fund for all or a portion of the cost of projects approved for bond funding pursuant to this chapter. The director shall first make a finding that there are adequate funds for the advancement without delaying or adversely affecting any other project. The total amount advanced shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purposes of this chapter.

(b) All advances shall be subject to the terms and conditions of an agreement between the department and the public entity which will receive the advancement. The agreement shall contain provisions for reimbursement of the State Highway Account from the proceeds of the next bond sale for funds advanced pursuant to this section. Any amounts advanced pursuant to this section shall be repaid with interest at the rate being earned by the Pooled Money Investment Account at the time of the advance. Interest payments shall be made from the funds of the public entity which received the advancement, other than from the proceeds of bonds authorized by this chapter.

SEC. 8. Section 2703.23 is added to the Streets and Highways Code, to read:

2703.23. (a) The department may advance funds in the State Highway Account in the State Transportation Fund for all or a portion of the cost of projects approved for bond funding pursuant to this chapter. The director shall first make a finding that there are adequate funds for the advancement without delaying or adversely affecting any other project. The total amount advanced shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purposes of this chapter.

(b) All advances shall be subject to the terms and conditions of an agreement between the department and the public entity which will receive the advancement. The agreement shall contain provisions for reimbursement of the State Highway Account from the proceeds of the next bond sale for funds advanced pursuant to this section. Any amounts advanced pursuant to this section shall be repaid with interest at the rate being earned by the Pooled Money Investment Account at the time of the advance. Interest payments shall be made from the funds of the public entity which received the advancement, other than from the proceeds of bonds authorized by this chapter.

SEC. 9. (a) The unencumbered balance, on the effective date of this act, of any funds in the State Highway Construction Revolving Account in the State Transportation Fund shall be transferred to the State Highway Account in the State Transportation Fund.

(b) Notwithstanding Section 13340 of the Government Code, money in the State Highway Account in the State Transportation Fund, including money transferred to the account pursuant to subdivision (a), not exceeding the amounts actually advanced, is continuously appropriated to the Department of Transportation for
making the advancements authorized by Sections 183.4, 2701.23, 2702.23, and 2703.23 of the Streets and Highways Code.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that significant new employment opportunities may be created in California as soon as possible by authorizing the immediate commencement of rail transportation improvements approved by the voters, it is necessary for this act to take effect immediately.

CHAPTER 26

An act to amend Sections 1639 and 1749.3 of, and to add Section 1707.51 to, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 1, 1992 Filed with Secretary of State April 1, 1992.]

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

SECTION 1. Section 1639 of the Insurance Code is amended to read:

1639. The following types of licenses under this chapter may be issued to nonresidents:

(a) A fire and casualty broker-agent if the nonresident is duly licensed to transact more than one class of insurance, other than life insurance, disability insurance or life and disability insurance, under the laws of the state or province of Canada wherein he or she resides, provided the state or province does not prohibit a resident of this state from acting as an insurance agent or broker.

(b) A life agent if the nonresident is licensed in the state of his or her residence to transact life insurance and disability insurance.

The class or classes of insurance which a person is licensed to transact in the state or province of his or her residence shall be determined according to the definitions of classes of insurance in Sections 101 to 120, inclusive, of this code. A certificate under official seal and original signature from the insurance regulatory authority of the nonresident’s home state or province may be accepted as evidence of the applicant’s license status and the capacity or capacities in which he or she is licensed.

(c) Nothing in this section shall require a nonresident fire and casualty or life licensee, who has completed a continuing education course in his or her resident jurisdiction, to comply with California’s continuing education requirements. However, if the resident jurisdiction has no continuing education requirements, the licensee
shall comply with California’s continuing education requirements to be eligible for a nonresident license.

SEC. 2. Section 1707.51 is added to the Insurance Code, to read:
1707.51. (a) Notwithstanding any other provision of law, qualified applicants who applied in proper form and requested an examination date for a fire and casualty or life insurance license prior to December 1, 1991, shall be provided the opportunity to qualify for licensure under statutory licensure provisions in effect on December 31, 1991.

(b) The department may require the applicant to execute a sworn statement subject to a penalty of perjury and denial of license declaring that they meet the qualifications set forth in subdivision (a). The department shall provide public notice as to the availability of these tests and as to the procedure and requirements necessary to qualify for the test. The tests shall be administered within 90 days of enactment of this section.

SEC. 3. Section 1749.3 of the Insurance Code is amended to read:
1749.3. An individual licensed as either a life agent or a fire and casualty broker-agent, but not as both, shall complete those courses, programs of instruction, or seminars approved by the commissioner for the type of license held. The minimum number of hours required is as follows:

(a) During each of the first four 12-month periods following the date of original issue, a minimum of 25 hours.

(b) Any licensee who has held a license prior to the effective date of this section, or who has complied with subdivision (a), shall satisfactorily complete 30 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(c) Notwithstanding subdivision (b), those licensees whose licenses expire in 1993 shall be required to satisfactorily complete 15 hours of continuing education prior to the 1993 license renewal.

(d) An individual whose license expires in 1992 shall not be required to show compliance with the requirements of subdivisions (a) and (b) until the next license renewal date.

(e) An individual licensed as both a fire and casualty broker-agent and as a life agent shall satisfy the requirements of this section by demonstrating completion of the courses, programs of instruction, or seminars approved by the commissioner for either license.

(f) Nothing in this section shall preclude an individual from taking courses, programs of instruction, or seminars approved by the commissioner and accumulating credits for completion thereof prior to the application of this section to the individual’s license.

(g) A licensee who is employed by a licensed automobile dealer to offer only collision coverage, involuntary unemployment insurance, or credit life and disability insurance products shall not be required to meet the requirements of this section until the license renewal date next following December 31, 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.

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 equity to all individuals who met the Department of Insurance deadline and to provide opportunity for employment to individuals who will otherwise be precluded from access to the workplace for many months, it is necessary that this act take effect immediately.

CHAPTER 27

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

[Approved by Governor April 8, 1992. Filed with Secretary of State April 8, 1992]

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

SECTION 1. This act shall be known as the California-Nevada Super Speed Ground Transportation Act.

SEC. 2. (a) It is found and declared that enactment of the California-Nevada Super Speed Ground Transportation Act is a declaration of legislative intent that the States of California and Nevada continue to jointly consider, and if justified, pursue the development of a super speed ground transportation system connecting southern California with southern Nevada.

(b) The system will serve the following public purposes:

(1) Provide economic benefits to both southern California and southern Nevada.

(2) Reduce reliance on gasoline and diesel fueled engines and encourage the use of alternative energy sources.

(3) Reduce congestion on Interstate 15 between southern California and Las Vegas.

(4) Provide a working example for a state-of-the-art transportation system that could play an essential role in the development of future commuter service in the Los Angeles basin and the Las Vegas valley.
(5) Provide quick and convenient transportation service for residents and visitors visiting in southern California and southern Nevada.

SEC. 3. As used in this act, the following terms have the following meanings:

(a) "Commission" means the California-Nevada Super Speed Ground Transportation Commission.

(b) "Southern California" means the Counties of Los Angeles, Orange, Riverside, and San Bernardino.

(c) "Super speed ground transportation system" means a system that is capable of speeds of at least 180 miles-per-hour and primarily carries passengers and operates on a grade separated, dedicated guideway.

SEC. 4. (a) There is hereby created the California-Nevada Super Speed Ground Transportation Commission.

(b) The governing body of the commission shall be constituted as follows:

(1) A California delegation, consisting of the members serving on the commission on December 31, 1991, pursuant to Chapter 149 of the Statutes of 1988, unless the appointing authority of a member so serving elects to appoint another person in place of that member.

(2) A Nevada delegation, consisting of eight members appointed as required by Nevada law.

(3) The commission shall elect one of its members to be the chairperson.

SEC. 5. (a) The commission may prepare a plan for the construction and operation of a super speed ground transportation system at no expense to the State of California principally following the route of Interstate Highway 15 between the City of Las Vegas, Nevada, and a point in southern California. The commission shall not include in the final plan any site for the western terminus unless the board of supervisors of the county of the proposed site after public hearings approves that site selection.

(b) The final plan shall be submitted to, and ratified by, the California Legislature, by statute, and the Nevada Legislature or Nevada Legislative Commission, as required by Nevada law, before the commission or a franchisee of the commission begins construction and obtains certificates and permits necessary for construction or use of public right-of-way.

(c) Subject to subdivisions (a) and (b), the commission may do any of the following:

(1) Conduct engineering and other studies related to the selection and acquisition of right-of-way and the selection of a franchisee, including, but not limited to, environmental impact studies, socioeconomic impact studies, and financial feasibility studies. All local, state, and federal environmental requirements shall be met by the commission.

(2) Evaluate alternative super speed rail technologies, systems, and operators, and select a franchisee to build and operate the super
speed rail system between southern California and Las Vegas.

(3) Establish criteria for the award of a franchise.

(4) Accept grants, gifts, fees, and allocations from Nevada or its political subdivisions, the federal government, foreign governments, and any other private sources. There shall be no public cost to the State of California or any of its political subdivisions.

(5) Issue debt, but this debt shall not constitute an obligation of the States of California or Nevada, or any of their political subdivisions.

(6) Hire an executive officer, other staff, and any consultants deemed appropriate.

(7) Select a proposed franchisee, a proposed route, and proposed terminal sites.

(d) The commission shall incorporate under the nonprofit corporation laws of California. It shall have all the powers and duties of a nonprofit corporation under California law.

(e) All meetings of the commission shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement applicable to local governments at the time meetings are held.

(f) All members of the commission who are California-elected officials shall be subject to the provisions of the Political Reform Act (Title 9 (commencing with Section 81000) of the Government Code).

SEC. 6. This act 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 the act becomes inoperative and are repealed.

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 plans and projects essential to meet the transportation needs of California may be undertaken at the earliest possible time, it is necessary that this act take effect immediately.

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CHAPTER 28

An act to amend Section 7880 of, to repeal Sections 7882, 7883, 7884, 7885, 7886, 7887, 7888, and 7890 of, and to repeal and add Section 7881 of, the Fish and Game Code, relating to fish.

[Approved by Governor April 8, 1992 Filed with Secretary of State April 8, 1992]
The people of the State of California do enact as follows:

SECTION 1. Section 7880 of the Fish and Game Code is amended to read:

7880. (a) Every person owning or operating any vessel used in connection with fishing operations for profit who has been issued a commercial boat registration pursuant to Section 7881 shall display, for the purpose of identification, a Department of Fish and Game registration number on the vessel in a manner designated by the department.

(b) The method of displaying the registration number on the vessel shall be determined by the department after consultation with the Department of Boating and Waterways, taking into consideration the responsibilities and duties of the Department of Boating and Waterways as prescribed in the Harbors and Navigation Code.

(c) The registration number is not transferable, and it is a permanent fixture upon the vessel for which it is originally issued.

SEC. 2. Section 7881 of the Fish and Game Code is repealed.

SEC. 3. Section 7881 is added to the Fish and Game Code, to read:

7881. (a) Every person who owns or operates a vessel in public waters in connection with fishing operations for profit in this state, or who brings fish into this state, or who, for profit, permits persons to fish therefrom, shall submit an application for commercial boat registration on forms provided by the department and shall be issued a registration number. The application shall contain information as required by the department for that vessel.

(b) Upon payment of a fee of one hundred sixty-five dollars ($165) and filing of the required application by the owner or operator of the vessel, the department shall issue a commercial boat registration which is valid for the period April 1 to March 31 of the following year, or, if issued after the beginning of that term, for the remainder thereof. The registration shall be carried aboard the vessel at all times and posted in a conspicuous place.

(c) 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 commercial boat registration is required.

(d) If a registered vessel is lost, destroyed, or sold, the owner of the vessel shall immediately report the loss, destruction, or sale to the department.

SEC. 4. Section 7882 of the Fish and Game Code is repealed.
SEC. 5. Section 7883 of the Fish and Game Code is repealed.
SEC. 6. Section 7884 of the Fish and Game Code is repealed.
SEC. 7. Section 7885 of the Fish and Game Code is repealed.
SEC. 8. Section 7886 of the Fish and Game Code is repealed.
SEC. 9. Section 7887 of the Fish and Game Code is repealed.
SEC. 10. Section 7888 of the Fish and Game Code is repealed.
SEC. 11. Section 7890 of the Fish and Game Code is repealed.
CHAPTER 29

An act to amend and renumber Section 6461 of, and to add Section 6461 to, the Food and Agricultural Code, relating to pest control.

[Approved by Governor April 8, 1992. Filed with Secretary of State April 8, 1992]

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

SECTION 1. Section 6461 of the Food and Agricultural Code is amended and renumbered to read:

6461.5. Except as otherwise provided in this article, if any shipment of plants or any other things in violation of this chapter or any quarantine which has been established, is brought into this state and it is found to be infested or infected, or there is reasonable cause to believe that it may be infested or infected, with any pest, the shipment shall be immediately destroyed by, or under the supervision of, the officer who inspects it, at the expense of the owner or bailee of the shipment.

SEC. 2. Section 6461 is added to the Food and Agricultural Code, to read:

6461. It is unlawful to ship or transport any plant or any other thing into this state which is infested with any pest which has been listed, by the director, as detrimental to agriculture in this state.

The director shall either establish and amend the list of pests by order, after notice and opportunity for written or oral comments, or through the adoption or amendment of quarantine regulations.

In addition to the civil, criminal, and administrative remedies specified in this division, the director may, after notice and opportunity to respond, impose inspection, treatment, certification, holding, or other requirements for any shipper or transporter that has shipped or transported three or more pest-infested shipments into this state within any 12-month period.

With regard to any commercial shipment violating any of those requirements imposed pursuant to this section, the director or commissioner may also charge the shipper or transporter the cost of inspecting and controlling the pest.

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 30

An act to repeal Title 7 (commencing with Section 1380.1) of Part 4 of Division 2 of the Civil Code, and to add Part 14 (commencing with Section 600) to Division 2 of the Probate Code, relating to powers of appointment.

[Approved by Governor April 8, 1992. Filed with Secretary of State April 8, 1992]

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

SECTION 1. Title 7 (commencing with Section 1380.1) of Part 4 of Division 2 of the Civil Code is repealed.

SEC. 2. Part 14 (commencing with Section 600) is added to Division 2 of the Probate Code, to read:

PART 14. POWERS OF APPOINTMENT

CHAPTER 1. GENERAL PROVISIONS

600. Except to the extent that the common law rules governing powers of appointment are modified by statute, the common law as to powers of appointment is the law of this state.

601. If the law existing at the time of the creation of a power of appointment and the law existing at the time of the release or exercise of the power of appointment or at the time of the assertion of a right given by this part differ, the law existing at the time of the release, exercise, or assertion of a right controls. Nothing in this section makes invalid a power of appointment created before July 1, 1970, that was valid under the law in existence at the time it was created.

CHAPTER 2. DEFINITIONS; CLASSIFICATION OF POWERS OF APPOINTMENT

610. As used in this part:
(a) "Appointee" means the person in whose favor a power of appointment is exercised.
(b) "Appointive property" means the property or interest in property that is the subject of the power of appointment.
(c) "Creating instrument" means the deed, will, trust, or other writing or document that creates or reserves the power of appointment.
(d) "Donee" means the person to whom a power of appointment is given or in whose favor a power of appointment is reserved.
(e) "Donor" means the person who creates or reserves a power of appointment.
(f) "Permissible appointee" means a person in whose favor a
power of appointment can be exercised.

611. (a) A power of appointment is "general" only to the extent that it is exercisable in favor of the donee, the donee's estate, the donee's creditors, or creditors of the donee's estate, whether or not it is exercisable in favor of others.

(b) A power to consume, invade, or appropriate property for the benefit of a person in discharge of the donee's obligation of support that is limited by an ascertainable standard relating to the person's health, education, support, or maintenance is not a general power of appointment.

(c) A power exercisable by the donee only in conjunction with a person having a substantial interest in the appontive property that is adverse to the exercise of the power in favor of the donee, the donee's estate, the donee's creditors, or creditors of the donee's estate is not a general power of appointment.

(d) A power of appointment that is not "general" is "special."

(e) A power of appointment may be general as to some appontive property, or an interest in or a specific portion of appontive property, and be special as to other appontive property.

612. (a) A power of appointment is "testamentary" if it is exercisable only by a will.

(b) A power of appointment is "presently exercisable" at the time in question to the extent that an irrevocable appointment can be made.

(c) A power of appointment is "not presently exercisable" if it is "postponed." A power of appointment is "postponed" in either of the following circumstances:

(1) The creating instrument provides that the power of appointment may be exercised only after a specified act or event occurs or a specified condition is met, and the act or event has not occurred or the condition has not been met.

(2) The creating instrument provides that an exercise of the power of appointment is revocable until a specified act or event occurs or a specified condition is met, and the act or event has not occurred or the condition has not been met.

613. A power of appointment is "imperative" where the creating instrument manifests an intent that the permissible appointees be benefited even if the donee fails to exercise the power. An imperative power can exist even though the donee has the privilege of selecting some and excluding others of the designated permissible appointees. All other powers of appointment are "discretionary." The donee of a discretionary power is privileged to exercise, or not to exercise, the power as the donee chooses.

Chapter 3. Creation of Powers of Appointment

620. A power of appointment can be created only by a donor having the capacity to transfer the interest in property to which the power relates.
CHAPTER 4. EXERCISE OF POWERS OF APPOINTMENT

Article 1. Donee's Capacity

625. (a) A power of appointment can be exercised only by a donee having the capacity to transfer the interest in property to which the power relates.

(b) Unless the creating instrument otherwise provides, a donee who is a minor may not exercise a power of appointment during minority.

Article 2. Scope of Donee’s Authority

630. (a) Except as otherwise provided in this part, if the creating instrument specifies requirements as to the manner, time, and conditions of the exercise of a power of appointment, the power can be exercised only by complying with those requirements.

(b) Unless expressly prohibited by the creating instrument, a power stated to be exercisable by an inter vivos instrument is also exercisable by a written will.

631. (a) Where an appointment does not satisfy the formal requirements specified in the creating instrument as provided in subdivision (a) of Section 630, the court may excuse compliance with the formal requirements and determine that exercise of the appointment was effective if both of the following requirements are satisfied:

(1) The appointment approximates the manner of appointment prescribed by the donor.

(2) The failure to satisfy the formal requirements does not defeat the accomplishment of a significant purpose of the donor.

(b) This section does not permit a court to excuse compliance with a specific reference requirement under Section 632.

632. If the creating instrument expressly directs that a power of appointment be exercised by an instrument that makes a specific reference to the power or to the instrument that created the power, the power can be exercised only by an instrument containing the required reference.

633. (a) If the creating instrument requires the consent of the donor or other person to exercise a power of appointment, the power can only be exercised when the required consent is contained in the instrument of exercise or in a separate written instrument, signed in each case by the person whose consent is required.

(b) Unless expressly prohibited by the creating instrument:

(1) If a person whose consent is required dies, the power may be exercised by the donee without the consent of that person.

(2) If a person whose consent is required becomes legally incapable of consenting, the person's guardian or conservator may consent to an exercise of the power.

(3) A consent may be given before or after the exercise of the
power by the donee.

634. A power of appointment created in favor of two or more donees can only be exercised when all of the donees unite in its exercise. If one or more of the donees dies, becomes legally incapable of exercising the power, or releases the power, the power may be exercised by the others, unless expressly prohibited by the creating instrument.

635. Nothing in this chapter affects the power of a court of competent jurisdiction to remedy a defective exercise of an imperative power of appointment.

Article 3. Donee's Required Intent

640. (a) The exercise of a power of appointment requires a manifestation of the donee's intent to exercise the power.

(b) A manifestation of the donee's intent to exercise a power of appointment exists in any of the following circumstances:

(1) The donee declares, in substance, that the donee exercises specific powers or all the powers the donee has.

(2) The donee purports to transfer an interest in the appointive property that the donee would have no power to transfer except by virtue of the power.

(3) The donee makes a disposition that, when considered with reference to the property owned and the circumstances existing at the time of the disposition, manifests the donee's understanding that the donee was disposing of the appointive property.

(c) The circumstances described in subdivision (b) are illustrative, not exclusive.

641. (a) A general residuary clause in a will, or a will making general disposition of all the testator's property, does not exercise a power of appointment held by the testator unless specific reference is made to the power or there is some other indication of intent to exercise the power.

(b) This section applies in a case where the donee dies on or after July 1, 1982.

642. If a power of appointment existing at the donee's death, but created after the execution of the donee's will, is exercised by the will, the appointment is effective except in either of the following cases:

(a) The creating instrument manifests an intent that the power may not be exercised by a will previously executed.

(b) The will manifests an intent not to exercise a power subsequently acquired.

Article 4. Types of Appointments

650. (a) The donee of a general power of appointment may make an appointment:

(1) Of all of the appointive property at one time, or several partial
appointments at different times, where the power is exercisable inter vivos.

(2) Of present or future interests or both.
(3) Subject to conditions or charges.
(4) Subject to otherwise lawful restraints on the alienation of the appointed interest.
(5) In trust.
(6) Creating a new power of appointment.
(b) The listing in subdivision (a) is illustrative, not exclusive.

651. Subject to the limitations imposed by the creating instrument, the donee of a special power may make any of the types of appointment permissible for the donee of a general power under Section 650.

652. (a) Except as provided in subdivision (b), the donee of a special power of appointment may appoint the whole or any part of the appointive property to any one or more of the permissible appointees and exclude others.
(b) If the donor specifies either a minimum or maximum share or amount to be appointed to one or more of the permissible appointees, the exercise of the power must conform to the specification.

Article 5. Contracts to Appoint; Releases

660. (a) The donee of a power of appointment that is presently exercisable, whether general or special, can contract to make an appointment to the same extent that the donee could make an effective appointment.
(b) The donee of a power of appointment cannot contract to make an appointment while the power of appointment is not presently exercisable. If a promise to make an appointment under such a power is not performed, the promisee cannot obtain either specific performance or damages, but the promisee is not prevented from obtaining restitution of the value given by the promisee for the promise.
(c) Unless the creating instrument expressly provides that the donee may not contract to make an appointment while the power of appointment is not presently exercisable, subdivision (b) does not apply to the case where the donor and the donee are the same person. In this case, the donee can contract to make an appointment to the same extent that the donee could make an effective appointment if the power of appointment were presently exercisable.

661. (a) Unless the creating instrument otherwise provides, a general or special power of appointment that is a discretionary power, whether testamentary or otherwise, may be released, either with or without consideration, by a written instrument signed by the donee and delivered as provided in subdivision (c).
(b) A releasable power may be released with respect to the whole
or any part of the appointive property and may also be released in such manner as to reduce or limit the permissible appointees. No partial release of a power shall be deemed to make imperative the remaining power that was not imperative before the release unless the instrument of release expressly so provides. No release of a power that is not presently exercisable is permissible where the donor designated persons or a class to take in default of the donee's exercise of the power unless the release serves to benefit all persons designated as provided by the donor.

(c) A release shall be delivered as follows:

(1) If the creating instrument specifies a person to whom a release is to be delivered, the release shall be delivered to that person, but delivery need not be made as provided in this paragraph if the person cannot with due diligence be found.

(2) In a case where the property to which the power relates is held by a trustee, the release shall be delivered to the trustee.

(3) In a case not covered by paragraph (1) or (2), the release may be delivered to any of the following:

(A) A person, other than the donee, who could be adversely affected by the exercise of the power.

(B) The county recorder of the county in which the donee resides or in which the deed, will, or other instrument creating the power is filed.

(d) A release of a power of appointment that affects real property or obligations secured by real property shall be acknowledged and proved, and may be certified and recorded, in like manner and with like effect as grants of real property, and all statutory provisions relating to the recordation or nonrecordation of conveyances of real property and to the effect thereof apply to a release with like effect, without regard to the date when the release was delivered, if at all, pursuant to subdivision (c). Failure to deliver, pursuant to subdivision (c), a release that is recorded pursuant to this subdivision does not affect the validity of any transaction with respect to the real property or obligation secured thereby, and the general laws of this state on recording and its effect govern the transaction.

(e) This section does not impair the validity of a release made before July 1, 1970.

662. (a) A release on behalf of a minor donee shall be made by the guardian of the estate of the minor pursuant to an order of court obtained under this section.

(b) The guardian or other interested person may file a petition with the court in which the guardianship of the estate proceeding is pending for an order of the court authorizing or requiring the guardian to release the ward's powers as a donee or a power of appointment in whole or in part.

(c) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1 of Division 4 to all of the following (other than the petitioner or persons joining in the petition):
(1) The persons required to be given notice under Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.
(2) The donor of the power, if alive.
(3) The trustee, if the property to which the power relates is held by a trustee.
(4) Other persons as ordered by the court.
(d) After hearing, the court in its discretion may make an order authorizing or requiring the guardian to release on behalf of the ward a general or special power of appointment as permitted under Section 661, if the court determines, taking into consideration all the relevant circumstances, that the ward as a prudent person would make the release of the power of appointment if the ward had the capacity to do so.
(e) Nothing in this section imposes any duty on the guardian to file a petition under this section, and the guardian is not liable for failure to file a petition under this section.

CHAPTER 5. EFFECT OF FAILURE TO MAKE EFFECTIVE APPOINTMENT

670. An exercise of a power of appointment is not void solely because it is more extensive than authorized by the power, but is valid to the extent that the exercise was permissible under the terms of the power.

671. (a) Unless the creating instrument or the donee, in writing, manifests a contrary intent, where the donee dies without having exercised an imperative power of appointment either in whole or in part, the persons designated as permissible appointees take equally of the property not already appointed. Where the creating instrument establishes a minimum distribution requirement that is not satisfied by an equal division of the property not already appointed, the appointees who have received a partial appointment are required to return a pro rata portion of the property they would otherwise be entitled to receive in an amount sufficient to meet the minimum distribution requirement.
(b) Where an imperative power of appointment has been exercised defectively, either in whole or in part, its proper execution may be adjudged in favor of the person intended to be benefited by the defective exercise.
(c) Where an imperative power of appointment has been created so that it confers on a person a right to have the power exercised in the person's favor, the proper exercise of the power can be compelled in favor of the person, or the person's assigns, creditors, guardian, or conservator.

672. (a) Except as provided in subdivision (b), if the donee of a discretionary power of appointment fails to appoint the property, releases the entire power, or makes an ineffective appointment, in whole or in part, the appointive property not effectively appointed passes to the person named by the donor as taker in default or, if
there is none, reverts to the donor.

(b) If the donee of a general power of appointment makes an ineffective appointment, an implied alternative appointment to the donee’s estate may be found if the donee has manifested an intent that the appointive property be disposed of as property of the donee rather than as in default of appointment.

673. (a) Except as provided in subdivision (b), if an appointment by will or by instrument effective only at the death of the donee is ineffective because of the death of an appointee before the appointment becomes effective and the appointee leaves issue surviving the donee, the surviving issue of the appointee take the appointed property in the same manner as the appointee would have taken had the appointee survived the donee, except that the property passes only to persons who are permissible appointees, including appointees permitted under Section 674. If the surviving issue are all of the same degree of kinship to the deceased appointee, they take equally, but if of unequal degree, then those of more remote degree take in the manner provided in Section 240.

(b) This section does not apply if either the donor or donee manifests an intent that some other disposition of the appointive property shall be made.

674. (a) Unless the creating instrument expressly provides otherwise, if a permissible appointee dies before the exercise of a special power of appointment, the donee has the power to appoint to the issue of the deceased permissible appointee, whether or not the issue was included within the description of the permissible appointees, if the deceased permissible appointee was alive at the time of the execution of the creating instrument or was born thereafter.

(b) This section applies whether the special power of appointment is exercisable by inter vivos instrument, by will, or otherwise.

(c) This section applies to a case where the power of appointment is exercised on or after July 1, 1982, but does not affect the validity of any exercise of a power of appointment made before July 1, 1982.

CHAPTER 6. RIGHTS OF CREDITORS

680. The donor of a power of appointment cannot nullify or alter the rights given creditors of the donee by Sections 682, 683, and 684 by any language in the instrument creating the power.

681. Property covered by a special power of appointment is not subject to the claims of creditors of the donee or of the donee’s estate or to the expenses of the administration of the donee’s estate.

682. (a) To the extent that the property owned by the donee is inadequate to satisfy the claims of the donee’s creditors, property subject to a general power of appointment that is presently exercisable is subject to the claims to the same extent that it would be subject to the claims if the property were owned by the donee.
(b) Upon the death of the donee, to the extent that the donee's estate is inadequate to satisfy the claims of creditors of the estate and the expenses of administration of the estate, property subject to a general testamentary power of appointment or to a general power of appointment that was presently exercisable at the time of the donee's death is subject to the claims and expenses to the same extent that it would be subject to the claims and expenses if the property had been owned by the donee.

(c) This section applies whether or not the power of appointment has been exercised.

683. Property subject to an unexercised general power of appointment created by the donor in the donor's favor, whether or not presently exercisable, is subject to the claims of the donor's creditors or the donor's estate and to the expenses of the administration of the donor's estate.

684. For the purposes of Sections 682 and 683, a person to whom the donee owes an obligation of support shall be considered a creditor of the donee to the extent that a legal obligation exists for the donee to provide the support.

CHAPTER 7. RULE AGAINST PERPETUITIES

690. The statutory rule against perpetuities provided by Part 2 (commencing with Section 21200) of Division 11 applies to powers of appointment governed by this part.

CHAPTER 8. REVOCABILITY OF CREATION, EXERCISE, OR RELEASE OF POWER OF APPOINTMENT

695. (a) Unless the power to revoke is in the creating instrument or exists pursuant to Section 15400, the creation of a power of appointment is irrevocable.

(b) Unless made expressly irrevocable by the creating instrument or the instrument of exercise, an exercise of a power of appointment is revocable if the power to revoke exists pursuant to Section 15400 or so long as the interest in the appointive property, whether present or future, has not been transferred or become distributable pursuant to the appointment.

(c) Unless the power to revoke is reserved in the instrument releasing the power, a release of a power of appointment is irrevocable.
An act to amend Sections 92205 and 92205.5 of the Education Code, relating to the Hastings College of the Law.

[Approved by Governor April 8, 1992 Filed with Secretary of State April 8, 1992]

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

SECTION 1. Section 92205 of the Education Code is amended to read:

92205. In the investment and management of endowment funds and properties under its jurisdiction, the Board of Directors of the Hastings College of the Law shall comply, to the extent practicable, with the endowment investment and management policies of the Regents of the University of California. Any variance from the endowment investment and management policies of the regents shall be presented to, and reviewed by, the board, which shall adopt a resolution specifying the reasons for the variance. In addition, the board shall comply with all of the following requirements:

(a) The utilization of funds shall be in accordance with the terms specified by the donor.

(b) Prior to the delegation of any authority to engage in making investments, reallocations, or reinvestments of endowment funds on its behalf, the board shall seek and review the written opinion of the general counsel regarding the propriety of the proposed action under the endowment investment and management policies of the regents then in effect.

(c) "Endowment fund" means a fund derived from a gift, bequest, or grant, the terms of which stipulate that the fund principal remain inviolate and that only the income may be expended.

(d) Annual audits shall be conducted by a certified public accountant firm in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants.

SEC. 2. Section 92205.5 of the Education Code is amended to read:

92205.5. It is the intent of the Legislature that the Regents of the University of California provide for a review of the annual audits conducted pursuant to subdivision (d) of Section 92205 and annually report any violations revealed by these audits to the Board of Directors of the Hastings College of the Law, to the appropriate fiscal and policy committees of the Legislature, and to the Legislative Analyst.
CHAPTER 32

An act to amend Sections 779.4, 779.21, 779.30, and 10203.5 of, to amend and repeal Section 779.35 of, and to add Section 779.36 to, the Insurance Code, relating to credit insurance.

[Approved by Governor April 8, 1992 Filed with Secretary of State April 8, 1992]

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

SECTION 1. Section 779.4 of the Insurance Code is amended to read:

779.4. (a) The amount of credit life insurance and credit disability insurance shall not exceed, but, except as provided in subdivision (b), may be less than, the following:

(1) Credit Life Insurance. The initial amount of credit life insurance shall at no time exceed the unpaid amount financed plus earned interest. Where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the greater of the scheduled or the actual unpaid amount financed plus earned interest. In the case of revolving loan or revolving charge accounts the insurance shall not at any time exceed the unpaid amount financed plus earned interest.

Notwithstanding the provisions of the above paragraph, the amount of insurance on agricultural or horticultural loan commitments may be equal to the amount of the loan commitment.

(2) Credit Disability Insurance. The total amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of indebtedness, and the amount of each periodic indemnity shall not exceed the original indebtedness divided by the number of periodic installments.

(b) The amount of credit life and credit disability insurance may be less than the amounts specified in subdivision (a) except as provided by subdivision (a) of Section 18291, subdivision (e) of Section 22458.1, or subdivision (e) of Section 24458.1 of the Financial Code, or by any other provision of law specifically prohibiting credit life or credit disability insurance in some lesser amount.

SEC. 2. Section 779.21 of the Insurance Code is amended to read:

779.21. The commissioner may adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable rules and regulations necessary to carry out this article.

SEC. 3. Section 779.30 of the Insurance Code is amended to read:

779.30. (a) An individual policy or group certificate may exclude from credit disability insurance coverage only those preexisting illnesses, diseases or physical conditions for which the debtor actually received medical advice, consultation, or treatment both within six
months before and six months after the effective date of the debtor’s coverage and which result in disability commencing within two years of such effective date. This provision shall not preclude the exclusion of other preexisting diseases or physical conditions by name or specific description.

(b) An individual policy or group certificate may exclude from credit life insurance coverage only those preexisting illnesses, diseases, or physical conditions for which the debtor actually received medical advice, consultation, or treatment both within six months before and six months after the effective date of the debtor’s coverage and that result in death within six months after the effective date.

(c) Preexisting condition provisions on revolving accounts for credit disability insurance shall be subject to the limitations of subdivision (a), and for credit life insurance shall be subject to the limitations of subdivision (b). Any preexisting condition provision may be applied separately to each charge or advance, in which case the time periods in the applicable subdivision shall be measured from the date of each separate charge or advance.

All periodic billing statements shall contain the following notice: “Warning: Your credit insurance may not pay part of your debt if you are disabled or die from an injury or illness for which you have seen a doctor or chiropractor within the last six months.”

SEC. 4. Section 779.35 of the Insurance Code is amended to read:

779.35. (a) (1) The premium rates applicable with respect to the sale of credit life and credit disability insurance are those rates in effect March 5, 1985, as follows:

(A) Premium rates applicable with respect to the sale of credit life insurance are those rates and presumptive loss levels contained in Section 2248.9 of Title 10 of the California Code of Regulations, except that the presumptive loss ratio level for class C credit unions shall not be 70 percent but shall be the same as that specified for all classes except C and F.

(B) Premium rates applicable with respect to the sale of credit disability insurance are those rates and presumptive loss ratio levels referred to in Section 2248.9 of Title 10 of the California Code of Regulations, except that the presumptive loss ratio level for class C credit unions shall not be 70 percent but shall be the same as that specified for all classes except C and F. The disability rates are the credit disability insurance rate tables A through E incorporated in Section 2248.9 by express reference.

(2) The foregoing rates shall not be subject to adjustment based upon creditor size criteria in effect on March 5, 1985, and contained in subdivisions (b) and (c) of Section 2248.9, and related tables, of Title 10 of the California Code of Regulations. Furthermore the rates shall not be subject to those upward or downward rate deviation provisions in effect on March 5, 1985, and contained in Section 2248.10, and related tables, of Title 10 of the California Code of Regulations. The commissioner may, however, adjust any rate
specified in paragraph (1) if it is demonstrated to his or her satisfaction that the rate provides an inadequate margin for reasonable expenses, profits, or reserves.

(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. 5. Section 779.36 is added to the Insurance Code, to read:

779.36. (a) The commissioner shall adopt regulations to become effective no later than January 1, 1994, specifying prima facie rates based upon presumptive loss ratios, not to exceed 60 percent, for each class of credit disability and credit life insurance subject to this article. The prima facie rates shall be based upon loss experience filed with the commissioner, aggregated by class.

If any rate established under the commissioner's ratemaking authority produces actual loss ratios that are lower than the presumptive loss ratio, prospective rates may be adjusted, but no retroactive refunds shall be required. In order to provide insurers an opportunity to earn a fair and reasonable rate of return, the commissioner in the ratemaking process shall consider the following factors: acquisition costs, including commissions and other forms of compensation, expenses, profits, loss ratios, reserves, and other reasonable actuarial considerations.

(b) The commissioner shall provide for rate deviations. Upward and downward deviations shall be considered by the commissioner upon initiation by the department, or at the insurer's request at the time of review of annual experience reports filed by insurers, or as provided by regulations to be adopted pursuant to Section 779.21. Requested deviation rates shall be deemed approved if not disapproved within 120 days after submission to the department for approval. Creditor and agent compensation shall be based upon the prima facie rate, and shall not be affected by a deviated rate, but an insurer may pay less compensation.

(c) The commissioner shall adopt regulations to become effective no later than January 1, 1994, specifying prima facie rates based upon presumptive loss ratios, not to exceed 60 percent, for each class of joint life and disability insurance. Those rates shall be expressed as a multiple of the prima facie rate for single life and disability insurance, and shall be based upon loss experience filed with the commissioner, aggregated by class.

If any rate established under the commissioner's ratemaking authority produces actual loss ratios that are lower than the presumptive loss ratio, prospective rates may be adjusted, but no retroactive refunds shall be required. In order to provide insurers an opportunity to earn a fair and reasonable rate of return, the commissioner in the ratemaking process shall consider the following factors: acquisition costs, including commissions and other forms of compensation, expenses, profits, loss ratios, reserves, and other reasonable actuarial considerations.

(d) Loss ratios shall consist of the ratio of incurred losses to earned
premiums in a specified reporting period.

SEC. 6. Section 10203.5 of the Insurance Code is amended to read:

10203.5. (a) Life insurance conforming to all the following conditions is another form of group life insurance:

1. Covering one of the following groups:
   (A) All members are or become borrowers from one financial institution, including subsidiary or affiliated persons, under an agreement to repay the sum borrowed.
   (B) All members are or become purchasers of merchandise or other property (exclusive of securities, investment certificates and bank deposits) under an agreement to pay the balance of the purchase price.

2. The group numbers not less than 100 new entrants yearly or, in the case of a credit union, not less than 50 borrowers yearly.

3. The amount insured on any one borrower or purchaser does not exceed:
   (A) The amount of the loan commitment in the case of an agricultural or horticultural loan commitment (as defined in Section 10203.55) repayable in one sum or in irregular installments within a period not in excess of 18 months from the initial date of the loan commitment.
   (B) In all other cases the balance of the indebtedness to the financial institution or vendor.

4. The repayment or payment of purchase price is to be made, under the agreement of loan or purchase; in substantially equal installments over a period not exceeding 40 years; or in installments that may vary according to the terms of a signed agreement; or in payments or installments in accordance with the usual terms of the creditor in the case of an open-ended agreement to extend credit, a revolving loan or revolving charge account; or in one sum or irregular installments within a period not in excess of 18 months from the initial date of the commitment on an agricultural or horticultural loan.

5. The policy is issued upon application of and made payable to the financial institution, vendor, or a creditor to whom such vendor may transfer title to the indebtedness, as beneficiary, and the premiums are paid by or through the financial institution, vendor, or such creditor.

(b) A policy of insurance conforming to the provisions of this section is not subject to the provisions of Section 10209 or 10213.
An act to amend and repeal Section 25179.7 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 8, 1992. Filed with Secretary of State April 8, 1992]

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

SECTION 1. Section 25179.7 of the Health and Safety Code is amended to read:

25179.7. (a) The department may extend the implementation date after which the land disposal of a hazardous waste is prohibited, pursuant to Section 25179.6, for a specific hazardous waste which meets the following requirements:

(1) The hazardous waste has not been restricted or prohibited by the Environmental Protection Agency pursuant to Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6924), or the hazardous waste has been granted a variance by the Environmental Protection Agency pursuant to paragraph (2) of subsection (h) of Section 6924 of Title 42 of the United States Code.

(2) Recycling and treatment capacity to process substantially all of the specific hazardous waste to meet the treatment standards adopted pursuant to subdivision (b) of Section 25179.6 will not be provided at the site of generation or at a commercial offsite hazardous waste facility in the state.

(b) The department shall establish a date pursuant to subdivision (a) based upon the earliest date on which the department projects that adequate recycling and treatment capacity will be available, but not later than two years following the date the prohibition on land disposal of the waste would otherwise be implemented.

(c) In addition to the extension specified in subdivision (a), the implementation date of a treatment standard adopted by the department pursuant to subdivision (b) of Section 25179.6 is extended to January 1, 1993, and the hazardous waste subject to that treatment standard is exempt from the land disposal prohibitions specified in paragraph (2) of subdivision (a) of Section 25179.6 from the effective date of the act amending this section until January 1, 1993, if the hazardous waste subject to that treatment standard meets both of the following requirements, as determined by the department:

(1) The hazardous waste meets one of the following:

(A) The hazardous waste has not been restricted or prohibited by the Environmental Protection Agency pursuant to Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6924) and the implementation date of the treatment
standard adopted by the department for that hazardous waste was extended by the department to May 8, 1992, pursuant to subdivision (a).

(B) The hazardous waste has been granted a variance by the Environmental Protection Agency pursuant to paragraph (2) of subsection (h) of Section 6924 of Title 42 of the United States Code.

(2) Sufficient capacity to treat substantially all of that type of hazardous waste in the state, in accordance with the treatment standards adopted by the department pursuant to Section 25179.6, is not available, on or before May 8, 1992, at the site of generation or at a commercial on-site hazardous waste facility in the state.

(d) On or before September 1, 1992, the department shall identify both of the following:

(1) The types of hazardous waste subject to the exemption provided by subdivision (c).

(2) The in-state treatment capacity which is needed to be provided by January 1, 1993, to treat the hazardous waste granted the exemption.

(e) During the period when a hazardous waste is exempted pursuant to subdivision (c), each generator of that hazardous waste shall submit a summary report to the department describing the generator’s efforts to prevent or reduce the generation of that hazardous waste. The report shall include a schedule for implementing technically feasible and economically practicable source reduction measures for that exempted hazardous waste.

(f) The identification of types of hazardous waste pursuant to subdivision (d) is not 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.

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime 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 implement the treatment standards for hazardous waste only when sufficient treatment capacity in the state is available to meet those standards, thereby protecting public health and safety
and the environment, it is necessary that this act take effect immediately.

CHAPTER 34

An act to add Sections 14088.85 and 14133.85 to the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 20, 1992. Filed with Secretary of State April 20, 1992.]

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

SECTION 1. Section 14088.85 is added to the Welfare and Institutions Code, to read:

14088.85. (a) The department may enter into primary care case management contracts with primary care providers that serve persons infected with human immunodeficiency virus (HIV). Except as otherwise provided in this section, contracts made pursuant to this section shall be subject to all the requirements of this article and regulations of the department.

(b) Primary care providers contracted with pursuant to this section may provide services exclusively to Medi-Cal eligible persons infected with HIV.

(c) Capitation payment rates for primary care providers under this section shall be calculated based on the equivalent fee-for-service costs of providing care to HIV infected patients rather than on the equivalent fee-for-service cost of providing care to all Medi-Cal patients.

SEC. 2. Section 14133.85 is added to the Welfare and Institutions Code, to read:

14133.85. (a) (1) Except as otherwise provided in this subdivision, prior authorization shall not be required for hospice services.

(2) Paragraph (1) shall not apply to any admission which violates federal law.

(b) Prior authorization shall be required for inpatient hospice services.

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

In order to ensure the application of this act for the entire 1991–92 fiscal year, and to provide necessary health care benefits to eligible individuals at the earliest possible time, it is necessary that this act take effect immediately.
An act to add Section 1596.866 to the Health and Safety Code, relating to child day care.

[Approved by Governor April 20, 1992. Filed with Secretary of State April 20, 1992.]

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

SECTION 1. Section 1596.866 is added to the Health and Safety Code, to read:

1596.866. (a) In addition to any other required training, at least one director or teacher at each child day care facility, other than a family day care home, and each licensed family day care home provider shall have at least 15 hours of training on preventative health practices. The training shall include a minimum of four hours of pediatric cardiopulmonary resuscitation, a minimum of eight hours of pediatric first aid, a minimum of three hours in preventative health practices and any additional training required to renew a pediatric cardiopulmonary resuscitation card or a pediatric basic life support card, and a pediatric first aid card required by subdivision (f). Training in preventative health practices shall include one or more of the following:

(1) Control of infectious diseases, including immunizations.
(2) Training in childhood injury prevention.
(3) Sanitary food handling.
(4) Nutrition.
(5) Emergency preparedness and evacuation.

(b) The child day care facility director shall ensure that at least one staff member currently trained in pediatric first aid and cardiopulmonary resuscitation shall be available at all times when children are present at the facility. Nothing in this subdivision shall be construed to require, in the event of an emergency, additional staff members, who are available when children are present at the facility, to be currently trained in first aid and cardiopulmonary resuscitation.

(c) All personnel described in subdivision (a) shall complete health training on or before January 1, 1995, and completion of the health training shall be a condition of licensure or relicensure. For licenses issued or subject to renewal after January 1, 1995, the director shall issue a provisional license for applicants and licensees who are not in compliance with this section once the director determines a provisional license may be issued pursuant to Section 1596.84. Notwithstanding Section 1596.84, this provisional license shall expire 90 days after the date of issuance and cannot be extended. A license or renewal shall be denied if the requirements of this section are not met by the expiration of the provisional license.

(d) Completion of the training required pursuant to subdivision
(a) shall be demonstrated, upon request of the licensing agency, by the following:

(1) A current pediatric cardiopulmonary resuscitation card issued by the American Red Cross or pediatric basic life support card issued by the American Heart Association.

(2) A current pediatric first aid card issued by the American Red Cross.

(3) A certificate of completion of a course or courses in preventative health practices as defined in subdivision (a) or certified copies of transcripts that identify the number of hours and the specific course or courses taken for training in preventative health practices as defined in subdivision (a).

(e) Any training required in order to obtain a card or certificate required pursuant to subdivision (d) shall be given by a certified or credentialed instructor employed by an agency, department, or organization offering this training, including, but not limited to, the American Red Cross, the American Heart Association, a fire department, a health department, or an accredited postsecondary institution. This training shall not be provided by a home study course. This training may be provided through on-the-job training, workshops, or classes.

(f) All personnel described in subdivision (a) shall maintain a current, unexpired pediatric cardiopulmonary resuscitation card or pediatric basic life support card, and a pediatric first aid card.

(g) The department shall, on or before July 1, 1992, adopt regulations to implement this section. Where appropriate and necessary, the department may incorporate materials and guidelines from the California Child Care Health Project Advisory Committee.

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.
An act to add Section 4800.11 to the Civil Code, relating to family law.

[Approved by Governor April 20, 1992 Filed with Secretary of State April 20, 1992]

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

SECTION 1. Section 4800.11 is added to the Civil Code, to read: 4800.11. (a) The Legislature finds and declares as follows:

1. The State of California has a strong policy of ensuring the division of community and quasi-community property in the dissolution of a marriage as set forth in Section 4800, and of providing for fair and sufficient child and spousal support awards. These policy goals can only be implemented with full disclosure of community, quasi-community, and separate assets, liabilities, income and expenses, as provided for in Section 4800.10, and decisions freely and knowingly made.

2. It occasionally happens that the division of property or the award of support, whether made as a result of agreement or trial, are inequitable when made due to the nondisclosure or other misconduct of one of the parties.

3. The public policy of assuring finality of judgments must be balanced against the public interest in ensuring proper division of marital property, in ensuring sufficient support awards, and in deterring misconduct.

4. The law governing the circumstances under which a judgment can be set aside, after the time for relief under Section 473 of the Code of Civil Procedure has passed, has been the subject of considerable confusion which has led to increased litigation and unpredictable and inconsistent decisions at the trial and appellate levels.

(b) In actions under the Family Law Act, the court may, upon such terms as may be just, relieve a spouse from a judgment, or any part or parts thereof, adjudicating support or division of property, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based upon the grounds, and within the time limits, set forth in this section.

(c) In all proceedings under this section, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original outcome and that the moving party would materially benefit from the granting of the relief.

(d) The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, shall be governed by this section and shall be one of the following:

1. Actual fraud where the defrauded party was kept in ignorance or in some other manner, other than his or her own lack of care or
attention, was fraudulently prevented from fully participating in the proceeding. Motions based upon fraud shall be brought within one year of the date on which the complaining party either did discover, or should have discovered, the fraud.

(2) Perjury in the declarations of disclosures required under Section 4800.10. Motions based upon perjury shall be brought within one year of the date on which the complaining party either did discover, or should have discovered, the perjury.

(3) Duress. Motions based upon duress shall be brought within two years from the date of entry of judgment.

(4) Mental incapacity. Motions based upon mental incapacity shall be brought within two years from the date of entry of judgment.

(5) As to stipulated or uncontested judgments or that part of a judgment stipulated to by the parties, mistake, either mutual or unilateral, whether mistake of law or mistake of fact. Motions based upon mistake shall be brought within one year of the date of entry of judgment.

(e) Notwithstanding any other provision of this section, or any other law, a judgment may not be set aside simply because the court finds that it was inequitable when made, nor simply because subsequent circumstances caused the division of assets or liabilities to become inequitable, or the support to become inadequate.

(f) The negligence of an attorney shall not be imputed to a client to bar an order setting aside a judgment, unless the court finds that the client knew or should have known, of the attorney's negligence and unreasonably failed to protect himself or herself.

(g) When ruling on a motion to set aside a judgment, the court shall set aside only those provisions materially affected by the circumstances leading to the court's decision to grant relief. However, the court shall have the discretion to set aside the entire judgment, if necessary, for equitable considerations.

(h) As to assets or liabilities for which a judgment or part of a judgment is set aside, the date of valuation shall be subject to equitable considerations. The court shall equally divide the asset or liability, unless the court finds upon good cause shown that the interests of justice require an unequal division.

(i) As to motions filed under this section, if a timely request is made, the court shall render a statement of decision where the court has resolved controverted factual evidence.

(j) Nothing in this section prohibits a party from seeking relief under Section 4353.

(k) Nothing in this section changes existing law with respect to contract remedies where the contract has not been merged or incorporated into a judgment.

(l) Nothing in this section is intended to restrict a family law court from acting as a court of equity.

(m) Nothing in this section is intended to limit existing law with respect to the modification or enforcement of support orders.

(n) This section shall be applicable to judgments entered on or
after January 1, 1993.

SEC. 2. This act shall become operative only if Assembly Bill 1437 of the 1991–92 Regular Session is enacted and adds Section 4800.10 to the Civil Code, in which case it shall become operative at the same time as that bill.

CHAPTER 37

An act to add Section 4800.10 to the Civil Code, relating to family law.

[Approved by Governor April 20, 1992. Filed with Secretary of State April 20, 1992]

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

SECTION 1. Section 4800.10 is added to the Civil Code, to read: 4800.10. (a) The Legislature finds and declares as follows:

It is the policy of the State of California (1) to marshal, preserve, and protect community and quasi-community assets and liabilities that exist at the date of separation so as to avoid dissipation of the community estate prior to distribution, (2) to ensure fair and sufficient child and spousal support awards, and (3) to achieve a division of community and quasi-community assets and liabilities upon the dissolution of marriage as provided for under California law.

Sound public policy further favors the reduction of the adversarial nature of marital dissolution and the attendant costs by fostering full disclosure and cooperative discovery.

In order to promote this public policy, a full and accurate disclosure of all assets and liabilities in which one or both parties have or may have an interest must be made in the early stages of the dissolution of marriage action, regardless of the characterization as community or separate, together with a disclosure of all income and expenses of the parties. Moreover, each party has a continuing duty to update and augment that disclosure so that at the time the parties enter into an agreement for the resolution of any of these issues, or at the time of trial on these issues, each party will have as full and complete knowledge of the relevant underlying facts as is reasonably possible under the circumstances of the case.

(b) From the date of separation to the date of the distribution of the community asset or liability in question, each party shall be subject to the standards set forth in Section 5103, as to the following activities:

(1) The accurate and complete disclosure of all assets and liabilities in which the party has or may have an interest or obligation and all current earnings, accumulations, and expenses.

(2) The accurate and complete written disclosure of any
investment opportunity that presents itself after the date of separation, but which results directly from any activity, involvement, or investment of either spouse from the date of marriage to the date of separation, inclusive. The written disclosure shall be made in sufficient time for the other spouse to make an informed decision as to whether he or she desires to participate in the investment opportunity.

In the event of nondisclosure of such an investment opportunity, the division of any gain resulting from that investment opportunity shall be governed by the standard set forth in Section 4353.

(3) The operation or management of a business or an interest in a business in which the community may have an interest.

(c) In order to provide full and accurate disclosure of all assets and liabilities in which one or both parties may have an interest, each party to the dissolution action shall serve upon the other a preliminary declaration of disclosure and a final declaration of disclosure.

(1) (A) Except by court order upon good cause or by stipulation of the parties, within 60 days of service of the petition for dissolution of marriage, each party shall serve upon the other a preliminary declaration of disclosure, executed under penalty of perjury upon a form prescribed by the Judicial Council. The commission of perjury on the preliminary declaration of disclosure may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Section 4800.11, in addition to any and all other remedies, civil or criminal, that otherwise are available under existing law for the commission of perjury. The preliminary declaration of disclosure shall not be filed with the court, except upon court order. The parties may agree in writing to accelerate or delay the time in which to exchange the preliminary declaration of disclosure.

(B) The preliminary declaration of disclosure shall set forth with sufficient particularity which a person of reasonable and ordinary intelligence can ascertain, the identity of all assets in which the declarant has or may have an interest and all liabilities for which the declarant is or may be liable, regardless of the characterization of the asset or liability as community, quasi-community, or separate. The declarant shall set forth his or her percentage of ownership in each asset and percentage of obligation for each liability where property is not solely owned by one or both of the parties to the dissolution action and may set forth his or her characterization of each asset or liability. Along with the preliminary declaration of disclosure, each party shall provide the other with a completed income and expense declaration unless an income and expense declaration has already been provided and is current and valid. A party shall be permitted to amend his or her preliminary declaration of disclosure without leave of the court.

(2) Prior to the time the parties enter into an agreement for the resolution of property or support issues other than pendente lite support, or, in the event the case goes to trial, no later than 30 days
before the first trial date is assigned, each party shall file and serve
upon the other a final declaration of disclosure and a current income
and expense declaration, executed under penalty of perjury upon a
form prescribed by the Judicial Council. The commission of perjury
on the final declaration of disclosure may be grounds for setting aside
the judgment, or any part or parts thereof, pursuant to Section
4800.11, in addition to any and all other remedies, civil or criminal,
that otherwise are available under existing law for the commission of
perjury. Unless it has already been filed pursuant to the foregoing,
the final declaration of disclosure shall be filed with the court at the
time of the filing of the judgment. All of the following information
shall be included in the final declaration of disclosure:

(A) All material facts and information regarding the
characterization of all assets and liabilities.

(B) All material facts and information regarding the valuation of
all assets which are contended to be community or in which it is
contended the community has an interest.

(C) All material facts and information regarding the amounts of
all obligations which are contended to be community obligations or
in which it is contended the community has liability.

(D) All material facts and information regarding the earnings,
accumulations, and expenses of each party which have been set forth
in the income and expense declaration. An updated income and
expense declaration shall be served and filed at this time unless a
current income and expense declaration is on file.

(d) No agreement shall be enforceable, and no judgment shall be
entered, with respect to the parties' property rights without each
party having executed and filed with the court a copy of the final
declaration of disclosure, unless the court finds that denial of entry
of judgment would unfairly prejudice a party who has complied with
the disclosure requirements of this section and who has requested
entry of judgment, or the court otherwise finds that the interests of
justice would not be served if judgment were not entered.

(e) In the event that one party fails to exchange and serve upon
the other party either a preliminary or a final declaration of
disclosure pursuant to this section, or fails to provide the information
in the respective declaration of disclosure with sufficient
particularity, and if the other party has served the respective
declaration of disclosure on the noncomplying party, the complying
party shall, within a reasonable time, request preparation of the
appropriate declaration of disclosure or further particularity. In the
event the noncomplying party fails to comply, the complying party
may do either or both of the following:

(1) File a motion to compel a further response.

(2) File a motion for an order preventing the noncomplying party
from presenting evidence on issues that should have been covered
in the declaration of disclosure.

(f) In the event of a party's failure to comply with any provision
of this section the court shall, in addition to any other remedy
provided by law, order the noncomplying party to pay to the complying party any and all reasonable attorney’s fees, expert fees, and any other costs incurred as a result of the failure to comply with any provision of this section.

(g) At any time during the proceedings, the court has the authority, upon application of a party and upon good cause, to order the liquidation of community or quasi-community assets so as to avoid unreasonable market or investment risks, given the relative nature, scope, and extent of the community estate. However, in no event shall the court grant the application unless, as provided in this section, the appropriate declaration of disclosure has been served by the moving party.

(h) Unless the context otherwise requires, the following definitions apply to this section:

1. "Asset" includes, but is not limited to, any real or personal property of any nature, whether tangible or intangible.
2. "Liability" includes, but is not limited to, any debt or obligation, whether currently existing or contingent.
3. "Earnings and accumulations" includes, but is not limited to, wages, salary, net rents, issues, profits, and business perquisites.
4. "Expenses" includes, but is not limited to, all personal living expenses, but shall not include business related expenses.

(i) This section shall be applicable to any proceeding commenced on or after January 1, 1993.

SEC. 2. This act shall become operative only if Assembly Bill 1396 of the 1991–92 Regular Session is enacted and adds Section 4800.11 to the Civil Code, in which case it shall become operative at the same time as that bill.

CHAP. 38

An act to amend Sections 50015, 50902, 51514, and 51521 of, to add Sections 51206 and 51207 to, and to repeal Article 4 (commencing with Section 51360) of Chapter 2 of Part 7 of Division 15 of, the Water Code, relating to reclamation districts.

[Approved by Governor April 20, 1992. Filed with Secretary of State April 20, 1992.]

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

SECTION 1. Section 50015 of the Water Code is amended to read:

50015. "Legal representative" means an officer or other person or persons appointed to serve in that capacity by a landowner.

SEC. 2. Section 50902 of the Water Code is amended to read:

50902. (a) In addition to its other powers, a district may, by a resolution of the board at a noticed public hearing, fix and collect
charges and fees, including minimum and standby charges, for the provision of benefits and services.

(b) Notice of the public hearing shall be given by publication once a week for two successive weeks in a newspaper of general circulation published in the principal county.

(c) The board, in fixing the charges and fees, may establish the dates of delinquency and may impose penalties for delinquency not exceeding 10 percent of the amount of the charge or fee and may, in addition, collect interest at a rate not to exceed 1.5 percent per month from the date of delinquency on all delinquent charges and fees. The district may sue for the recovery of unpaid charges and fees or the unpaid charges or fees may be added to the operation and maintenance assessment in the same manner as unpaid water charges pursuant to Section 51440.

(d) The revenue obtained from charges and fees may be in lieu of, or supplemental to, revenue obtained in any other manner and may be used for any district purpose and the payment of any district obligation.

(e) After a charge or fee is initially fixed by the board at a noticed public hearing, the board may subsequently reduce that amount of that charge or fee without notice or a public hearing.

SEC. 3. Section 51206 is added to the Water Code, to read:

51206. (a) Prior to the levy of any installment upon an original or additional assessment, or the levy of an operation and maintenance assessment, in one or more installments, by a district pursuant to this division, notice shall be given by publication once a week for two successive weeks in a newspaper of general circulation published in the principal county of the intent to levy an installment or operation and maintenance assessment, together with the time and place for a public hearing to be held by the board to consider and adopt an installment or assessment levy.

(b) If an installment upon an original or additional assessment or an operation and maintenance assessment levy has been approved by the board at a noticed public hearing, notice of subsequent installments or operation and maintenance assessments shall be required only if the amount of the installment or assessment levy is proposed to be increased.

SEC. 4. Section 51207 is added to the Water Code, to read:

51207. Any costs associated with notices, public hearings, or filing charges with the board required pursuant to this division shall be recovered through charges, fees, or assessments.

SEC. 5. Article 4 (commencing with Section 51360) of Chapter 2 of Part 7 of Division 15 of the Water Code is repealed.

SEC. 6. Section 51514 of the Water Code is amended to read:

51514. After the period of 30 days, all unpaid original assessments shall bear interest at the rate of 1 1/4 percent per month unless the board, by resolution, adopts a lesser rate and files a certified copy of the resolution with the county treasurer.

SEC. 7. Section 51521 of the Water Code is amended to read:
51521. (a) Any installment of an assessment for which no bond or time warrant has been issued, which is unpaid after 60 days from the date of the order, is delinquent with the accrued interest thereon, and a penalty of 10 percent of the amount of the installment and interest shall be added thereto and collected for the use of the district.

(b) Notwithstanding subdivision (a), the board may, for good cause, collect the unpaid installment described in subdivision (a) and waive the penalty or interest.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. 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 39

An act to amend the heading of Chapter 2 (commencing with Section 81300) of, and to add Article 8 (commencing with Section 81440) to Chapter 2 of, Part 49 of, the Education Code, relating to community colleges.

[Approved by Governor April 20, 1992 Filed with Secretary of State April 20, 1992 ]

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

SECTION 1. The heading of Chapter 2 (commencing with Section 81300) of Part 49 of the Education Code is amended to read:

CHAPTER 2. PROPERTY—SALE, LEASE, USE, GIFT, AND EXCHANGE

SEC. 2. Article 8 (commencing with Section 81440) is added to Chapter 2 of Part 49 of the Education Code, to read:

Article 8. Gift or Lease of District Property

81440. Notwithstanding any other law, no governing board of a community college district shall do either of the following:

(a) Make a gift of district real property to any entity that is not established by the district pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45.

(b) Lease real property for less than fair rental value, as defined in paragraph (2) of subdivision (c) of Section 82542, to any entity
unless the entity meets one of the following conditions:
(1) It is established by the district pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45.
(2) It is described in Section 82537.
(3) It is described in Section 72682.
(4) It was in existence on August 31, 1980, and has been or is subsequently recognized by the governing board of a community college district as having a formal relationship with, and working on behalf of, the district or a constituent college thereof.

CHAPTER 40

An act to amend Sections 40509 and 40509.5 of the Vehicle Code, relating to public offenses.

[Approved by Governor April 20, 1992 Filed with Secretary of State April 20, 1992.]

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

SECTION 1. Section 40509 of the Vehicle Code is amended to read:

40509. (a) If any person has for a period of 15 or more days violated a 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 failure to appear to the department for any violation of this code, or any violation that can be heard by a juvenile traffic hearing referee pursuant to Section 256 of the Welfare and Institutions 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. If thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) If 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. If 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 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) With respect to a violation of this code, 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. 2. Section 40509.5 of the Vehicle Code is amended to read:

40509.5. (a) If, 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 failure to appear to the department for any violation of this code, any violation that can be heard by a juvenile traffic hearing referee pursuant to Section 256 of the Welfare and Institutions 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. If 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) If, 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. If 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.
5. In addition to the proceedings described in this section, the court may elect to notify the department pursuant to subdivision (d) of Section 40509.
6. 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.
7. Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

CHAPTER 41

An act to amend Section 14581.5 of the Public Resources Code, relating to beverage containers.

[Approved by Governor April 20, 1992. Filed with Secretary of State April 20, 1992.]

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

SECTION 1. 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 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.
An act to amend Sections 11755, 11780, 11862, 11987, and 11998.2 of, and to repeal Section 11983.4 of, the Health and Safety Code, relating to alcohol and drug use.

[Approved by Governor April 27, 1992. Filed with Secretary of State April 28, 1992.]

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

SECTION 1. Section 11755 of the Health and Safety Code is amended to read:

11755. The department shall do all of the following:

(a) Adopt regulations pursuant to Section 11152 of the Government Code.

(b) Employ administrative, technical, and other personnel as may be necessary for the performance of its powers and duties.

(c) Do or perform any of the acts which may be necessary, desirable, or proper to carry out the purpose of this part.

(d) Provide funds to counties for the planning and implementation of local programs to alleviate problems related to inappropriate alcohol and drug use.

(e) Review and approve or disapprove county alcohol program plans and county drug program plans submitted for state and federal funds allocated by the department.

(f) Provide for technical assistance and training to local alcohol and drug programs to assist in the planning and implementation of quality services. The department may charge a fee to cover the cost of providing technical assistance to alcohol and drug programs.

(g) Review research in, and serve as a resource to provide information relating to, alcohol and drug programs.

(h) In cooperation with the Department of Personnel Administration, encourage training in other state agencies to assist the agencies to recognize employee problems relating to inappropriate alcohol use or drug use which affect job performance and encourage the employees to seek appropriate services.

(i) Assist and cooperate with the Office of Statewide Health Planning and Development and the California Health Policy and Data Advisory Commission in the drafting and adoption of the state health plan to assure inclusion of appropriate provisions relating to alcohol problems and drug problems.

(j) In the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the state-funded alcohol program and the state-funded drug program which shall include expenditures proposed to be made under this division, and may include expenditures proposed to be made by any other state agency relating to alcohol or drug problems, pursuant to an
interagency agreement with the department.

(k) Review and certify alcohol programs meeting state standards pursuant to Chapter 7 (commencing with Section 11830), and review and certify drug abuse treatment programs pursuant to Section 11994.

(l) Develop standards for assuring minimal statewide levels of service quality provided by alcohol and drug service programs.

(m) Review and license methadone treatment programs.

(n) Develop and implement, in partnership with the counties, alcohol and drug prevention strategies especially designed for youth.

(o) Develop and maintain a centralized alcohol and drug abuse indicator data collection system which shall gather and obtain information on the status of the alcohol and drug abuse problem in the State of California. This information shall include, but not be limited to, all of the following:

1. The number and characteristics of persons receiving recovery or treatment services from alcohol and drug programs providing publicly funded services or services licensed by the department.

2. The location and types of services offered by these programs.

3. The number of admissions to hospitals on both an emergency room and inpatient basis for alcohol- and drug-related treatment.

4. The number of arrests for alcohol and drug violations.

5. The number of the Department of the Youth Authority commitments for drug violations.

6. The number of Department of Corrections commitments for drug violations.

7. The number or percentage of persons having alcohol or drug problems as determined by survey information.

8. The amounts of illicit drugs confiscated by law enforcement in the state.

9. The statewide alcohol and drug treatment program distribution and the fiscal impact of alcohol and drug problems upon the state.

Providers of publicly funded services or services licensed by the department to clients-participants shall report data in a manner, format, and under a schedule prescribed by the department.

(p) Issue a report annually, which portrays the drugs abused, populations affected, user characteristics, crime-related costs, socioeconomic costs, and other related information deemed necessary in providing a problem profile of alcohol and drug abuse in the state.

SEC. 2. Section 11780 of the Health and Safety Code is amended to read:

11780. (a) There is a State Advisory Board on Alcohol-Related Problems to the department which shall consist of 15 members, of which five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly.

(b) The members shall be appointed for terms that commence on
January 1, 1976. Of the members first appointed by the Governor, the Senate Rules Committee, and the Speaker, two out of each five appointments, as selected by the appointing power, shall hold office for three years, two out of each five, as selected by the appointing power, shall hold office for two years, and one out of each five, as selected by the appointing power, shall hold office for one year. After these initial terms, each member shall be appointed for a term of three years. A member of the board may be replaced by the appointing power, upon recommendation of the board, for failure to attend board meetings.

(c) Members shall have a professional or personal interest in, and commitment to, alleviating alcohol problems. It is the intent of the Legislature that the appointing powers make appointments that include representatives from various economic, social, and occupational groups, and allow for geographic distribution throughout the state. No member of the board may be an employee or member of the board of directors of an organization which is a direct recipient of any state funds pursuant to a contract with a department, which shall include compensation for contracted services or membership on an advisory body or board of directors of such recipient organization. No spouse of any person described in the preceding sentence may be a member of the board.

(d) The board shall meet at least once every three months and may meet as often as required, as a full board or in committees, to implement this section. All meetings of the board, and any committees thereof, shall be open to the public and adequate notice shall be provided in advance to interested persons.

(e) The members shall select the chair of the board annually and adopt bylaws as appropriate to carrying out its duties.

(f) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

(g) The board shall advise the director on the major policy issues relating to the implementation by the department of this part and on any other related matters the director refers to it, shall encourage public understanding of the nature of alcohol problems, and encourage support throughout the state for development and implementation of effective alcohol programs. Upon request of the chair of the board, the director shall respond in writing to the board regarding each of its recommendations.

(h) The board shall participate in the regulations process pursuant to Chapter 8 (commencing with Section 11835) of this part.

(i) The department shall provide for appropriate training to the board members relating to their charge so as to assure their understanding of the state-funded alcohol program. It is the intent of the Legislature that each member of the board learn about the elements of the alcohol program and the nature of alcohol problems in his or her county of residence in order to assist him or her in understanding the major policies to be examined by the board.
(j) The board shall submit an annual report to the department and Legislature in January of each year which describes its accomplishments and includes its recommendations regarding the department’s role in alleviating alcohol problems.

(k) The board shall review the annual state reports pursuant to subdivision (f) of Section 11998.2, and shall submit its comments and recommendations regarding the reports to the Director of Alcohol and Drug Programs.

SEC. 3. Section 11862 of the Health and Safety Code is amended to read:

11862. (a) There is in state government a State Advisory Board on Drug Programs which shall consist of 15 members, of which five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly.

(b) Initial appointments to the advisory board shall be made as follows:

(1) The Governor shall appoint two members for one-year terms, two members for two-year terms, and one member for a three-year term.

(2) The speaker shall appoint two members for one-year terms, one member for a two-year term, and two members for three-year terms.

(3) The Senate Rules Committee shall appoint one member for a one-year term, two members for two-year terms, and two members for three-year terms.

(4) Subsequent appointments shall be made as prescribed in subdivision (a) for a term of three years. A member of the board may be replaced by the appointing power, upon recommendation of the board, for failure to attend board meetings.

(c) Members shall have a professional or personal interest in, and commitment to, alleviating drug problems, and shall include representatives of law enforcement agencies, public drug programs, private drug programs, education, and the general public. It is the intent of the Legislature that the appointing powers make appointments that include representatives of nongovernmental organizations or groups and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, from various economic, social, and occupational groups, and allow for the geographic distribution of members throughout the state. Representatives from public and private drug prevention or treatment programs shall not comprise more than 33⅓ percent of the total membership. These members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board.

(d) The board shall constitute the drug abuse prevention advisory council as described in federal Public Laws 92-255 and 94-237, as amended. In the interest of continuity relating to the functions of the board pursuant to subdivision (j), those members of the former
Technical Advisory Committee/Drug Abuse Prevention Advisory Council reconstituted by this part, and who have remaining terms of one or two years, shall be considered in the appointments under this section.

(e) The board shall meet at least once every three months and may meet as often as required, as a full board or in committees, to implement this section. All meetings of the board, and any committees thereof, shall be open to the public and adequate notice shall be provided in advance to interested persons.

(f) The members shall select the chair of the board annually and adopt bylaws as appropriate to carry out their duties.

(g) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

(h) The board 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:

(1) Advise the director on the major policy issues relating to the implementation by the department of this part and on any other related matters that the director refers to it, or that the board may raise, encourage public understanding of the nature of drug problems, and encourage support throughout the state for the development and implementation of effective drug programs. Upon request of the chair of the board, the department shall respond in writing to the board regarding each of its recommendations.

(2) Periodically review drug abuse services in California.

(3) Recommend to the director rules, regulations, and standards for the administration of this division.

(4) Review the federal drug abuse plans and budgets, and all amendments thereto, review the annual state reports pursuant to subdivision (f) of Section 11998.2 and advise the director on the development of the reports and the system of priorities contained in the reports.

(5) Submit an annual report to the department and the Legislature in November of each year which describes its accomplishments and includes its recommendations regarding the department's role in alleviating drug problems.

(i) The department shall provide administrative, technical, and other personnel as may be necessary for the board's performance of its powers and duties.

(j) The department shall provide appropriate training to the board members relating to their charge so as to assure their understanding of the state drug program. It is the intent of the Legislature that each member of the board learn about the elements of the drug program and the nature of drug problems in his or her county of residence, to assist him or her in understanding the major policies to be examined by the board.

(k) This section shall remain in effect until December 31, 1994, and as of that date is repealed, unless a later enacted statute which
is chartered on or before September 30, 1994, deletes or extends that date.
SEC. 4. Section 11983.4 of the Health and Safety Code is repealed.
SEC. 5. Section 11987 of the Health and Safety Code is amended to read:

11987. The state department shall, in the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget.

SEC. 6. Section 11998.2 of the Health and Safety Code is amended to read:

11998.2. (a) "Department," as used in this division, means the State Department of Alcohol and Drug Programs.

(b) The board of supervisors of each county is encouraged to prepare and adopt a county drug and alcohol abuse master plan, pursuant to paragraph (1) of subdivision (f) of Section 11998.1, that addresses as many of the long-range goals set forth in Section 11998.1 as possible. It is the intent of the Legislature that every county master plan include quantitative outcome objectives that, at a minimum, measure progress in the areas of prevention, education, enforcement, and treatment. It is the intent of the Legislature that these objectives include measurements of:

(1) The reduction of arrests for driving under the influence of drugs or alcohol, or both.
(2) The reduction of alcohol and drug-related arrests.
(3) Increased public education on the dangers of substance abuse and the available prevention techniques including specific measurements of children, parents, and teachers who have received this education.
(4) The reduction of alcohol- and drug-related deaths and injuries.
(5) The increased number of persons successfully completing drug and alcohol abuse services.

If a county master plan is adopted, the board of supervisors or its designee shall, in conjunction with the county advisory boards as established pursuant to paragraph (2) of subdivision (f) of Section 11998.1, annually assess the progress of the county in reaching its long-range goals.

(c) Every county or public or private agency within a county that applies for state or local assistance funds for drug and alcohol abuse efforts in their program, may address, to the extent possible, any long-range goals set forth in a county drug and alcohol abuse master plan established pursuant to subdivision (b), and funding priority may be given to those entities which address these goals within their respective programs.

(d) The Governor shall designate one state agency to act as the lead agency on all drug and alcohol abuse matters.

(e) Every state agency that contracts or grants money to local jurisdictions or programs for drug and alcohol abuse services shall require the submission and shall review the contents of an approved county drug and alcohol abuse master plan, to the extent a plan has
been adopted pursuant to subdivision (b).

(f) On March 1, 1993, and annually thereafter, every state agency that offers drug and alcohol abuse services or financial assistance shall report to the Legislature on its efforts to achieve the master plan goals provided in Section 11998.1. Individual agencies may report separately or in combination with other state agencies.

(g) The department shall send copies of this division to all state-funded social service programs that provide drug and alcohol abuse services.

(h) The department shall maintain copies of every county drug and alcohol abuse master plan for review by other state agencies and the Legislature.

(i) The Governor shall designate one statewide resource center to coordinate efforts of other resource centers statewide and to coordinate with local government and assist in their preparation of drug and alcohol abuse master plans.

(j) The Senate Office of Research shall prepare, on or before June 30, 1989, a summary of drug and alcohol abuse laws for use by the Legislature, the department, and all other related state agencies in oversight of drug and alcohol abuse programs, and in evaluating the need for statutory changes. To the degree possible this summary shall be available to the public.

(k) Commencing June 30, 1989, the department shall maintain an annually updated listing of all drug and alcohol abuse programs provided or funded by the state. Every other state agency shall regularly provide the department with current information on programs they fund or provide.

(l) The Governor's Policy Council on Drug and Alcohol Abuse shall review and consider all of the goals contained in Section 11998.1.

(m) After January 1, 1992, the Auditor General shall audit the department to determine the state's progress and to the degree possible, the counties' progress toward meeting the master plan objectives set forth by this division. On or before January 1, 1993, the Auditor General shall report the findings resulting from these audits to the Legislature.

CHAPTER 43

An act to amend, repeal, and add Section 68115 of the Government Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 5, 1992. Filed with Secretary of State May 5, 1992]
The people of the State of California do enact as follows:

SECTION 1. Section 68115 of the Government Code is amended to read:

68115. When war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction of or danger to the building appointed for holding the court, renders it necessary, or when a large influx of criminal cases resulting from a large number of arrests within a short period of time threatens the orderly operation of a court within a specified county or judicial district, the presiding judge, or if there is none, the sole judge of the superior, municipal or justice court, may request and the Chair of the Judicial Council may, notwithstanding any other provision of law, by order authorize the court to do one or more of the following:

(a) Hold sessions anywhere within the county.

(b) Transfer civil cases pending in the court to another court in the county which has jurisdiction of the subject matter.

(c) Transfer civil cases pending trial in the court to a court having jurisdiction of the subject matter in an adjacent county. No such transfer shall be made pursuant to this subdivision except with the consent of all parties to the case or upon a showing by a party that extreme or undue hardship would result unless the case is transferred for trial. Any civil case so transferred shall be integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council.

(d) Suspend subdivisions (d), (e), and (f) of Section 199 of the Code of Civil Procedure relating to competency to act as a juror when such suspension is necessary to obtain a sufficient number of jurors.

(e) After exhausting its own jury panel, draw jurors who reside within the judicial district from the jury panel of the superior court in the county, and thereafter, after exhausting that source, draw jurors from the remainder of the jury panel of the superior court in the county or from jury panels of any other municipal or justice court in the county.

(f) Extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense must be taken before a magistrate from two days to not more than seven days.

(g) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 days to not more than 15 days.

(h) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

SEC. 2. Section 68115 is added to the Government Code, to read:

68115. When war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction of or danger to the
building appointed for holding the court, renders it necessary, or
when a large influx of criminal cases resulting from a large number
of arrests within a short period of time threatens the orderly
operation of a court within a specified county or judicial district, the
presiding judge, or if there is none, the sole judge of the superior,
mutual or justice court, may request and the Chair of the Judicial
Council may, notwithstanding any other provision of law, by order
authorize the court to do one or more of the following:

(a) Hold sessions anywhere within the county.

(b) Transfer civil cases pending in the court to another court in
the county which has jurisdiction of the subject matter.

(c) Transfer civil cases pending trial in the court to a court having
jurisdiction of the subject matter in an adjacent county. No such
transfer shall be made pursuant to this subdivision except with the
consent of all parties to the case or upon a showing by a party that
extreme or undue hardship would result unless the case is
transferred for trial. Any civil case so transferred shall be integrated
into the existing caseload of the court to which it is transferred
pursuant to rules to be provided by the Judicial Council.

(d) Suspend subdivisions (d), (e), and (f) of Section 199 of the
Code of Civil Procedure relating to competency to act as a juror
when such suspension is necessary to obtain a sufficient number of
jurors.

(e) After exhausting its own jury panel, draw jurors who reside
within the judicial district from the jury panel of the superior court
in the county, and thereafter, after exhausting that source, draw
jurors from the remainder of the jury panel of the superior court in
the county or from jury panels of any other municipal or justice court
in the county.

(f) Extend the time period provided in Section 859b of the Penal
Code for the holding of a preliminary examination from 10 days to
not more than 15 days.

(g) Extend the time period provided in Section 1382 of the Penal
Code within which the trial must be held by not more than 30 days,
but the trial of a defendant in custody whose time is so extended shall
be given precedence over all other cases.

SEC. 3. Section 1 of this bill shall become operative on the
effective date of this bill and shall remain in effect until June 1, 1992,
at which time Section 1 is repealed and 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:

The recent civil unrest and consequent state of emergency that
was declared for the City and County of Los Angeles from and after
April 30, 1992, resulted in the arrest of over 10,000 persons within a
72-hour period. The consequent danger from the unrest to buildings
appointed for holding court sessions and the threat to the orderly
operation of the courts in Los Angeles County hindered the processing of those arrested. Thus, in order to allow the courts to process the large number of persons arrested, it is necessary that this act go into immediate effect.

CHAPTER 44

An act to add and repeal Chapter 5 (commencing with Section 1930) of Division 2.5 of the Streets and Highways Code, and to amend, repeal, and add Section 21716 of the Vehicle Code, relating to vehicles.

[Approved by Governor May 5, 1992. Filed with Secretary of State May 6, 1992]

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

SECTION 1. Chapter 5 (commencing with Section 1930) is added to Division 2.5 of the Streets and Highways Code, to read:

CHAPTER 5. GOLF CART TRANSPORTATION PILOT PROGRAM

1930. It is the intent of the Legislature, in enacting this chapter, to authorize the establishment of a five-year pilot golf cart transportation system program for the City of Palm Desert. It is the further intent of the Legislature that this transportation system be designed and developed to best serve the functional commuting needs of the employee, student, businessperson, shopper, and sportsperson, to have the physical safety of the golf cart driver’s person and property as a major planning component, and to have the capacity to accommodate golf cart drivers of every legal age and range of skills.

1931. The following definitions apply to this chapter:
(a) “City” means the City of Palm Desert.
(b) “Golf cart” means an electric motor vehicle having not less than three wheels in contact with the ground and an unladen weight less than 1,300 pounds which is designed to be and is operated at not more than 15 miles per hour and is designed to carry golf equipment and not more than two persons, including the driver.
(c) “Golf cart lanes” means all publicly-owned facilities that provide for golf cart travel. These lanes are categorized as follows:
(1) Class I golf cart lanes, which provide a right-of-way completely separated from any highway designated for the exclusive use of golf carts, with cross traffic by other motorists minimized.
(2) Class II golf cart lanes, which provide a restricted right-of-way on a highway designated for the exclusive or semiexclusive use of golf carts with through travel by motor vehicles or pedestrians prohibited, but with vehicle parking and cross traffic by pedestrians
and other motorists permitted.

(3) Class III golf cart lanes, which is a highway designated by signs or permanent markings which is shared with pedestrians and other motorists.

1932. (a) The city may, by ordinance or resolution, adopt a golf cart lane plan. No plan may be adopted which has not received a prior review and the comments of the appropriate transportation planning agency designated under subdivision (a) or (b) of Section 29532 of the Government Code.

(b) The plan shall include, but is not limited to, all of the following elements:

(1) Route selection, which shall include a finding that the route will accommodate golf carts without an adverse impact upon traffic safety, and will consider, among other things, the commuting needs of employees, businesspersons, shoppers, students, and golfers.

(2) Land use and population density and settlement patterns.

(3) Transportation interfacing, which shall include, but not be limited to, coordination with other modes of transportation so that a golf cart driver may employ multiple modes of transportation in reaching his or her destination.

(4) Citizen and community involvement in planning.

(5) Flexibility and coordination with long-range transportation planning.

(6) Local government involvement in planning.

(7) Provision for rest facilities, including, but not limited to, restrooms, drinking water, public telephones, and electrical energy for recharging golf cart batteries.

(8) Provision for parking facilities, including, but not limited to, golf cart parking in or near civic and public buildings, transit terminals, business districts, shopping centers, schools, parks and playgrounds, and other destination locations.

(c) No plan adopted pursuant to this section shall include the establishment of golf cart lanes along, or which cross, State Highway Route 111, except for crossings at intersections that are either controlled by traffic signals or are grade separated.

1933. If the city adopts a golf cart lane plan, it shall do both of the following:

(a) Establish minimum general design criteria for the development, planning, and construction of class I, class II, or class III golf cart lanes, including, but not limited to, the design speed of the facility, the space requirements of the golf cart, minimum widths and clearances, grade, radius of curvature, lane surface, lighting, drainage, and general safety. In addition, the city may establish mandatory minimum safety design criteria for the construction of golf cart lanes.

(b) In cooperation with the Department of Transportation, establish uniform specifications and symbols for signs, markers, and traffic control devices to control golf cart traffic; to warn of dangerous conditions, obstacles, or hazards; to designate the
right-of-way as between golf carts and other vehicles; to state the nature and destination of the golf cart lane; to exclude unauthorized vehicles; and to warn pedestrians and motorists of the presence of golf cart traffic.

1934. The city may do the following:
(a) Acquire, by gift, purchase, or condemnation, real property, including easements or rights-of-way, to establish golf cart lanes.
(b) Establish golf cart lanes as authorized by this chapter.

1935. The city shall adopt all of the following as part of the golf cart lane plan:
(a) Minimum design criteria for electric golf carts, including, but not limited to, headlights, turn signals, safety belts, locking devices, mirrors, horns, windshields, brakes, brake lights, and other general safety devices.
(b) A permit process for golf carts that requires permitted golf carts to meet the minimum design criteria adopted pursuant to subdivision (a). The permit process shall include, but not be limited to, golf cart inspection prior to the issuance or renewal of a permit, permit posting, permit renewal, operator education, and other related matters.
(c) Minimum safety criteria for golf cart operators, including, but not limited to, requirements relating to financial responsibility, maintenance of golf carts in a safe condition, and the restriction of the operation of golf carts to certain hours.
(d) Restrictions that golf carts may only be operated on those highways identified in the plan, and that only those golf carts that have been retrofitted with the safety equipment specified in the plan may be operated on the approved highways. Any person operating a golf cart in violation of this subdivision is guilty of an infraction.

1936. On January 1, 1994, and on January 1, 1996, the city shall transmit a report to the Legislature concerning any accidents involving, or related to the operation of, golf carts participating in the pilot program, any violations of city ordinances involving golf carts, and a summary of any new actions taken by the city in the previous year concerning the pilot program.

1937. This chapter 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.
SEC. 2. Section 21716 of the Vehicle Code is amended to read:
21716. Except as provided in Section 21115.1 and in Chapter 5 (commencing with Section 1930) of Division 2.5 of the Streets and Highways Code, no person shall operate a golf cart on any highway except in a speed zone of 25 miles per hour or less.
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.
SEC. 3. Section 21716 is added to the Vehicle Code, to read:
21716. Except as provided in Section 21115.1, no person shall operate a golf cart on any highway except in a speed zone of 25 miles...
per hour or less.
This section shall become operative on January 1, 1998.

CHAPTER 45

An act to repeal Section 31460.1 of the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992.]

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

SECTION 1. Section 31460.1 of the Government Code is repealed.
SEC. 2. Nothing in this act is intended to, or shall be construed to, affect the validity of any action taken by a county pursuant to Section 31460.1 of the Government Code, prior to the effective date of this act.
SEC. 3. The Legislature hereby finds and declares that:
(1) The County Employees Retirement Law has, since its original enactment in 1937 by Chapter 677 of the Statutes of 1937, conferred upon the county retirement boards the duty and power to determine which of the items of compensation paid to county employees who are members of the county retirement associations or systems would constitute "compensation earnable," which, in turn, generally determines the amounts of the retirement allowances of retiring members (see Guelfi v. Marin County Employees' Retirement Assn., 145 Cal. App. 3d 297 at pages 303, 305, and 307 fn.).
(2) It was in this setting that Chapter 142 of the Statutes of 1990 (Assembly Bill 3146 of the 1989-90 Regular Session) was enacted. That chapter added to the County Employees Retirement Law of 1937, Section 31460.1 of the Government Code. That section would apply to a county only if and when the board of supervisors elects to make the section applicable to the county. Section 31460.1 excludes from the term "compensation" employer payments made to, or on behalf of, their employees who have elected to participate in a flexible benefits program, where those payments reflect amounts which exceed their employees' salaries.
(3) Section 31460.1 has been erroneously construed as implicitly requiring counties maintaining retirement systems under the 1937 act to include in "compensation" those flexible benefits payments until the board of supervisors elect pursuant to that section to exclude those flexible benefits payments from "compensation."
(4) That interpretation was not intended by the Legislature when it enacted that section. Had that been the intent of the Legislature when it enacted Assembly Bill 3146, it would have been a substantial
departure from the long-standing practice of the Legislature of not intruding into the county decisionmaking process regarding compensation determinations with respect to those county retirement systems (see Sections 31460 and following, Government Code).

(5) Moreover, had that been the intent of the Legislature when it enacted that section, any resulting increased costs to affected counties would have constituted state-reimbursable, state-mandated local program costs and Assembly Bill 3146 would have included in its text the determination of the Legislature of how the state should respond to the resulting state-mandated local program costs. Assembly Bill 3146, however, did not, in its text, contain any such legislative determination.

(6) It was the intent of Assembly Bill 3146 merely to accord to each county board of supervisors, at its option, the power either to preclude its county retirement board from including those flexible benefits payments in “compensation,” if the county retirement board had not previously taken such action, or to supersede any previous decision of their county retirement board to include those flexible benefits payments in “compensation.”

(7) In order that the source of misconstruction of legislative intent regarding the enactment of Section 31460.1 of the Government Code may be eliminated at the earliest possible time, and that any county actions taken on the basis of that misconstruction may be reversed or terminated at the earliest possible time, the Legislature finds that it is necessary to repeal Section 31460.1 of the Government Code.

(8) Any reversal or termination, on or after the effective date of this act, of county actions taken on the basis of misconstruction of the intent and meaning of Section 31460.1 of the Government Code would merely restrict county employees to those gains reasonably to be expected from their county retirement contracts and withhold unforeseen and windfall advantages which bear no relation to the fundamental theory and objective of the county retirement systems maintained pursuant to the County Employees Retirement Law of 1937 and would, therefore, not constitute an unconstitutional impairment of the county retirement contract (see Allen v. Board of Administration, 34 Cal. 3d 114, at pages 119-120, 122, and 124).

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 source of misconstruction of legislative intent regarding the enactment of Section 31460.1 of the Government Code may be eliminated at the earliest possible time through the repeal of that section, it is necessary that this act take effect immediately.
CHAPTER 46

An act to amend the heading of Chapter 2 (commencing with Section 4720) of Title 5 of Part 5 of Division 4 of, to repeal and add Sections 4720, 4721, and 4722 of, and to repeal Sections 246, 4720.1, 4720.2, 4723, 4724, 4725, 4727, 4728, 4728.5, 4729, and 4730 of, the Civil Code, relating to child support, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992]

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

SECTION 1. Section 246 of the Civil Code is repealed.

SEC. 2. The heading of Chapter 2 (commencing with Section 4720) of Title 5 of Part 5 of Division 4 of the Civil Code is amended to read:

CHAPTER 2. STATEWIDE UNIFORM GUIDELINE

SEC. 3. Section 4720 of the Civil Code, as added by Section 10 of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 4. Section 4720 of the Civil Code, as added by Section 11 of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 5. Section 4720 is added to the Civil Code, to read:

4720. (a) (1) It is the intention of the Legislature to ensure that the State of California remains in compliance with federal regulations for child support guidelines. The Legislature therefore adopts the statewide uniform guideline set forth in Section 4721, to take effect on July 1, 1992.

(2) It is the intention of the Legislature that the courts shall adhere to the statewide uniform guideline adopted pursuant to Section 4721 and shall depart from this guideline only in the exceptional circumstances set forth in Section 4721.

(3) In implementing this guideline, the courts shall further adhere to the following principles:

(A) A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.

(B) Both parents are mutually responsible for the support of their children.

(C) This guideline takes into account each parent's actual income and level of responsibility for the children.

(D) Each parent should pay for the support of the children according to his or her ability.

(E) This guideline seeks to place the interests of children as the state's top priority.

(F) Children should share in the standard of living of both
parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.

(G) Child support orders in cases in which both parents have high levels of custody of the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.

(H) The financial needs of the children should be met through private financial resources as much as possible.

(I) It is presumed that a parent having primary physical custody of the children contributes a significant portion of available resources for the support of the children.

(J) This guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.

(K) This guideline is intended to be presumptively correct in all cases, and only under extraordinary circumstances should child support orders fall below the child support mandated by the guideline formula.

(L) Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.

(b) The Judicial Council shall periodically review the guideline established in Section 4721 to recommend to the Legislature appropriate revisions. The review shall include economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date. The review shall also include analysis of guidelines and studies from other states, and other research and studies available to or undertaken by the Judicial Council. Any recommendations for revisions to the guideline established in Section 4721 shall be made to ensure that the guideline results in appropriate child support orders to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law. The Judicial Council may also review and report on other matters, including, but not limited to, the treatment of the income of a subsequent spouse or nonmarital partner; the treatment of children from prior or subsequent relationships; the application of the guideline in a case where a payor parent has extraordinarily low or extraordinarily high income, or where each parent has primary physical custody of one or more of the children of the marriage; the benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline; whether the use of gross or net income in the guideline is preferable; whether the guideline affects child custody litigation or the efficiency of the judicial process; and whether the various assumptions used in computer software used by some courts to
calculate child support comport with state law and should be made available to parties and counsel. The initial review by the Judicial Council shall be submitted to the Legislature and to the State Department of Social Services on or before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.

(c) In developing its recommendations, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following: custodial and noncustodial parents; representatives of established women's rights and fathers' rights groups; representatives of established organizations that advocate for the economic well-being of children; members of the judiciary, district attorney's offices, the Attorney General's office, and the State Department of Social Services; certified family law specialists; academicians specializing in family law; persons representing low-income parents; and persons representing recipients of assistance under the Aid to Families with Dependent Children (AFDC) program seeking child support services.

(d) In developing its recommendations, the Judicial Council shall seek public comment and shall be guided by the legislative intent that children share in the standard of living of both of their parents.

SEC. 6. Section 4720.1 of the Civil Code is repealed.

SEC. 7. Section 4720.2 of the Civil Code is repealed.

SEC. 8. Section 4721 of the Civil Code, as added by Section 14 of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 9. Section 4721 is added to the Civil Code, to read:

4721. (a) The statewide uniform guideline for determining child support orders is as follows:

\[ CS = K [HN - (H\%)(TN)] \]

(b) (1) The components of the formula are as follows:

(A) \( CS \) = child support amount.

(B) \( K \) = amount of income to be allocated for child support as set forth in paragraph (3).

(C) \( HN \) = high earner's net monthly disposable income.

(D) \( H\% \) = percentage of time that high earner has or will have physical custody of the children compared to the other parent.

(E) \( TN \) = total net monthly disposable income of both parties.

(2) To compute net disposable income, see subdivision (g).

(3) \( K \) (amount of income allocated for child support) equals one plus \( H\% \) (if \( H\% \) is less than or equal to 50 percent) or two minus \( H\% \) (if \( H\% \) is greater than 50 percent) times the following fraction:
Total Net Disposable Income Per Month

<table>
<thead>
<tr>
<th>K</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$0–800</td>
<td>.20 + TN/16,000</td>
</tr>
<tr>
<td>$801–7,000</td>
<td>.25</td>
</tr>
<tr>
<td>$7,001–10,000</td>
<td>.20 + 350/TN</td>
</tr>
<tr>
<td>$10,000–20,000</td>
<td>.16 + 400/TN</td>
</tr>
<tr>
<td>Over $20,000</td>
<td>.12 + 800/TN</td>
</tr>
</tbody>
</table>

For example, if H% equals 20% and the total monthly net disposable income of the parents is $1,000, $K = (1 + .20) x .25, or .30. If H% equals 80% and the total monthly net disposable income of the parents is $1,000, $K = (2 - .80) x .25, or .30.

(4) For more than one child, multiply CS by:

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Multiplier</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>1.6</td>
</tr>
<tr>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>2.3</td>
</tr>
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<td>5</td>
<td>2.5</td>
</tr>
<tr>
<td>6</td>
<td>2.625</td>
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<tr>
<td>7</td>
<td>2.75</td>
</tr>
<tr>
<td>8</td>
<td>2.813</td>
</tr>
<tr>
<td>9</td>
<td>2.844</td>
</tr>
<tr>
<td>10</td>
<td>2.86</td>
</tr>
</tbody>
</table>

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) If the children who are the subject of the child support order are receiving assistance under the Aid to Families with Dependent Children program, H% shall be set at zero in the formula.

(7) In any default proceeding where proof is by affidavit pursuant to Section 4511, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula for the noncustodial parent where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has physical custody of the children.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children.

(c) The court shall state in writing or on the record the following information used in determining the guideline amount under this chapter:

(1) The net monthly disposable income of each parent.
(2) The actual federal income tax filing status of each parent (for example, single, married, married filing separately, or head of household and number of exemptions).

(3) Deductions from gross income for each parent.

(4) The percentage of time pursuant to paragraph (1) of subdivision (b) that each parent has primary physical custody of the children compared to the other parent.

(5) The amount of support that would be received under the formula.

(6) If any rebuttal factors are found under subdivision (e), the reasons supporting the deductions, the documentation of the underlying facts and circumstances, the dollar amount of the rebuttal factor, and the duration that the rebuttal factor shall be in effect.

(7) A finding that the revised amount is in the best interests of the children.

(8) Any special circumstances found under paragraph (6) of subdivision (e).

(9) Any other findings required by federal law.

(d) There shall be a rebuttable presumption affecting the burden of proof that the amount of child support established by the formula set forth in subdivision (a) is the correct amount of child support to be ordered.

(e) The presumption of subdivision (d) may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4720, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court finds in writing or on the record pursuant to subdivision (c) that the revised amount is in the best interests of the children:

(1) The parties have stipulated to a different amount of child support under subdivision (m).

(2) The sale of the family residence is deferred pursuant to Section 4700.10 and the rental value of the family residence in which the children 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.

(3) A parent’s subsequent spouse or nonmarital partner has income that helps meet that parent’s basic living expenses, thus increasing the parent’s disposable income available to spend on the children.

(4) 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 children.

(5) A party is not contributing to the needs of the children at a level commensurate with that party’s custodial time.

(6) Application of the formula would be unjust or inappropriate due to extraordinary circumstances in the particular case. These
extraordinary circumstances include, but are not limited to, the following: cases in which the parents have different custody arrangements for different children; cases in which both parents have substantially equal custody of the children and one parent has a much lower or higher percentage of income used for housing than the other parent; and cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

(f) (1) The annual gross income of each parent means income from whatever source derived, except as specified in paragraph (3) 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, social security benefits, and spousal support actually received from a person not a party to this 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 children.

(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. Child support received by a party for children from another relationship shall not be included as part of that party's gross or net income.

(g) 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 under this chapter:

(1) The state and federal income tax liability resulting from the parties' taxable income. 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. Unless the parties stipulate otherwise, the tax effects of spousal support shall not be considered in determining the net disposable income of the parties for determining child support but shall be considered in determining spousal support consistent with Section 4801.

(2) 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.

(3) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(4) Deductions for health insurance or health plan premiums for the parent and for any children the parent has an obligation to support and deductions for state disability insurance premiums.

(5) Any child or spousal support actually being paid by the parent pursuant to a court order, or for the benefit of any person who is not a subject of the order 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 this guideline, for natural or adopted children of the parent not residing in that parent's home, who are not the subject of the order to be established by the court, and of whom the parent has a duty of support. No deduction shall be allowed under this subdivision unless the parent proves payment of the support.

(6) 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.

(7) A deduction for hardship, as defined by Section 4722 and applicable published appellate court decisions. 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 subdivision (b) of Section 4722, the court shall use the formula provided for in that section and shall not use any local formula, in order to provide equity between competing child support orders.

(h) The annual net disposable income shall be divided by 12 to reflect the monthly net disposable income. If the monthly net disposable income figure does not accurately reflect the actual or prospective earnings of the parties at the time the determination of support is made, the court may adjust the amount appropriately.

(i) The amounts in subdivision (j), if ordered to be paid, are considered additional support for the children. If there needs to be an apportionment of expenses pursuant to subdivision (j), the basic child support obligation shall first be computed using the formula set forth in subdivision (a), as adjusted for any appropriate rebuttal factors in subdivision (e). Any additional child support required for expenses pursuant to subdivision (j) shall thereafter be ordered to be paid by the parents in proportion to their adjusted net disposable incomes. In cases where spousal support is required to be paid by one parent to the other, for purposes of allocating additional expenses pursuant to subdivision (j), the gross income of the parent paying spousal support shall be decreased by the amount of the spousal
support paid and the gross income of the parent receiving the spousal support shall be increased by the amount of the spousal support received for so long as the spousal support order is in effect and is paid. For purposes of computing the adjusted net disposable income of the parent paying child support for allocating any additional expenses pursuant to subdivision (j), the net disposable income of the parent paying child support shall be reduced by the amount of any basic child support ordered to be paid under subdivision (a). However, the net disposable income of the parent receiving child support shall not be increased by any amount of child support received.

(j) (1) The court shall order as additional child support:
   (A) Child care costs related to employment or to reasonably necessary education or training for employment skills.
   (B) The reasonable uninsured health care costs for the children. There is a rebuttable presumption that the costs actually paid for the uninsured health care needs of the children are reasonable.

(2) The court may order as additional child support:
   (A) Costs related to the educational or other special needs of the children.
   (B) Travel expenses for visitation.

(k) Unless there is an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, any payment ordered pursuant to subdivision (j) may be ordered paid directly to a provider of services.

(l) The court may adjust the child support order as appropriate to accommodate seasonal or fluctuating income of either parent.

(m) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement unless the parties declare all of the following:

(1) They are fully informed of their rights concerning child support.
(2) The order is being agreed to without coercion or duress.
(3) The agreement is in the best interests of the children involved.
(4) The needs of the children will be adequately met by the stipulated amount.

(n) A stipulated agreement of child support is not valid unless either of the following occurs:

(1) The parties declare 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.

(2) The district attorney has joined in the stipulation by signing it. The district attorney shall not stipulate to a child support order below the guideline amount if the children are receiving assistance under the Aid to Families with Dependent Children (AFDC) program, if an application for public assistance is pending, or if the parent receiving support has not consented to the order.

(o) If the parties to a stipulated agreement stipulate to a child
support order below the amount established by this section, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

(p) 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.

(q) It is the intent of the Legislature that the uniform guideline provided by this chapter shall be reviewed by the Legislature at least every four years and shall be revised by the Legislature as appropriate to ensure that its application results in the determination of appropriate child support amounts. The review shall include consideration of changes required by applicable federal laws and regulations or recommended from time to time by the Judicial Council pursuant to subdivision (b) of Section 4720.

(r) The Judicial Council may develop model worksheets to assist parties in determining the approximate amount of child support due under the formula set forth in subdivision (a) and the approximate percentage of time each parent has custody of the children, and a form to assist the courts in making the findings and orders required by this chapter.

(s) The establishment of this guideline constitutes a change of circumstances for the purpose of any modification of child support order entered prior to this guideline’s operative date.

SEC. 10. Section 4722 of the Civil Code, as added by Section 16 of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 11. Section 4722 is added to the Civil Code, to read:

4722. If a parent is experiencing extreme financial hardship due to justifiable expenses resulting from the circumstances enumerated in this section, upon the request of a party, the court may allow such income deductions under Section 4721 as may be necessary to accommodate those circumstances.

(a) Circumstances evidencing hardship include the extraordinary health expenses for which the parent is financially responsible, and uninsured catastrophic losses.

(b) Circumstances evidencing hardship also include the minimum basic living expenses of either parent’s natural or adopted children for whom the parent has the obligation to support from other marriages or relationships who reside with the parent. The court, upon its own motion or upon the request of a party, may allow such income deductions as necessary to accommodate these expenses after making the deductions allowable under subdivision (a). The maximum hardship deduction for each child who resides with the parent may be equal, but shall not exceed, the support awarded each child subject to the order. For purposes of calculating
this deduction, the amount of support per child established by this
 guideline shall be the total amount ordered divided by the number
 of children and not the amount established under paragraph (8) of
 subdivision (b) of Section 4721. The maximum hardship deduction
 shall be calculated as follows:

\[ D = \frac{F \cdot N}{S + (F \cdot H)} \]

Where:
N = Parent's net disposable income prior to the deduction for
hardship.
F = Factor .18 for one child, .27 for two children, .36 for three
children, plus .04 more for each additional child over three children.
H = Number of children for whom a hardship deduction is being
given.
S = Number of children for whom support is being ordered.
D = Maximum deduction per child.

The Judicial Council may develop tables in accordance with the
above formula to reflect the maximum hardship deduction taking
into consideration the parent's net disposable income before the
hardship deduction, the number of children for whom the deduction
is being given, and the number of children for whom the support
award is being made.

(c) If deductions for hardship expenses are allowed, the court
shall state in writing or on the record the reasons supporting the
deductions, document the underlying facts and circumstances and
the amount of deductions allowed. Whenever possible, the court
shall specify the duration that any deduction shall be in effect.

(d) Upon considering whether to allow a deduction under this
section, and in determining the amount of any such deduction, the
court shall be guided by the goals set forth in the expression of
legislative intent set forth in Section 4720.

SEC. 12. Section 4723 of the Civil Code, as added by Section 18
of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 13. Section 4724 of the Civil Code, as added by Section 20
of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 14. Section 4725 of the Civil Code, as added by Section 22
of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 15. Section 4727 of the Civil Code, as added by Section 23.5
of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 16. Section 4728 of the Civil Code, as added by Section 25
of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 17. Section 4728.5 of the Civil Code, as added by Section 27
of Chapter 1493 of the Statutes of 1990, is repealed.

SEC. 18. Section 4729 of the Civil Code is repealed.

SEC. 19. Section 4730 of the Civil Code is repealed.

SEC. 20. Sections 1 to 19, inclusive, of this act shall become
operative on July 1, 1992.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Statewide Uniform Guideline on child support, as amended, and related changes to existing law may become operative on July 1, 1992, it is necessary that this act take effect immediately.

CHAPTER 47

An act to add Sections 13627.1, 13627.2, and 13627.3 to the Water Code, relating to water.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992]

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

SECTION 1. Section 13627.1 is added to the Water Code, to read:

13627.1. (a) Any person who operates a wastewater treatment plant who does not hold a valid, unexpired certificate of the appropriate grade issued pursuant to this chapter is guilty of a misdemeanor and may be liable civilly in an amount not to exceed one hundred dollars ($100) for each day of violation.

(b) Any person or entity that owns or operates a wastewater treatment plant that employs, or allows the employment of, any person as a wastewater treatment plant operator who does not hold a valid and unexpired certificate of the appropriate grade issued pursuant to this chapter is guilty of a misdemeanor and may be liable civilly in an amount not to exceed one hundred dollars ($100) for each day of violation.

SEC. 2. Section 13627.2 is added to the Water Code, to read:

13627.2. (a) Any person or entity that contracts with the owner of a wastewater treatment plant to operate that plant shall register with the state board, and shall, within a year after the registration or the renewal of the registration, and annually thereafter, prepare and submit to the state board a report with all of the following information:

(1) The name and address of the person or entity.
(2) The name and address of the wastewater treatment plants which the person or entity operates, or has operated during the preceding year, and the name of the applicable regional board which oversees each wastewater treatment plant.
(3) The name and grade of each wastewater treatment plant operator employed at each plant.
(4) Other information which the state board requires.
(b) The state board shall, by regulation, prescribe the procedures, and requirements for, registration pursuant to subdivision (a).

(c) The state board may refuse to grant, and may suspend or revoke, any registration issued by the state board pursuant to this section for good cause, including, but not limited to, any of the following reasons:

1. The submission of false or misleading information on an application for registration.

2. Employment of a person to operate a wastewater treatment plant who does not hold a valid, unexpired certificate of the appropriate grade.

3. Willfully or negligently causing or allowing a violation of waste discharge requirements or permits issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.)

4. Failure to meet the registration requirements prescribed by the state board pursuant to subdivision (b).

5. Failure to use reasonable care in the management or operation of the wastewater treatment plant.

(d) The state board shall conduct all proceedings relating to the refusal to grant, or the suspension or revocation of, registration pursuant to subdivision (c) in accordance with the rules adopted pursuant to Section 185.

(e) The state board shall establish a fee schedule to pay for its costs to implement this section.

(f) Any person or entity that fails to comply with subdivision (a) is guilty of a misdemeanor and may be civilly liable in an amount not to exceed one thousand dollars ($1,000) for each day of the violation.

SEC. 3. Section 13627.3 is added to the Water Code, to read:

13627.3. The civil liability described in Section 13627.1 or 13627.2 may be administratively imposed in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5, except that the executive director shall issue the complaint with review by the state board.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime 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.
An act to amend Sections 8150.8 and 8754 of, to add and repeal Section 8305.8 of, and to repeal Section 8753 of, the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992]

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

SECTION 1. Section 8150.8 of the Fish and Game Code is amended to read:

8150.8. Any sardine quota established by the department under Section 8150.7 shall be allocated in the following manner into two quotas, one for southern California and one for northern California, with the boundary division at San Simeon Point in San Luis Obispo County. The allocation shall be as follows:

(a) One-third of the quota shall be reserved for fishermen landing their catches north of San Simeon Point.

(b) Two-thirds of the quota shall be reserved for fishermen landing their catches south of San Simeon Point.

SEC. 2. Section 8305.8 is added to the Fish and Game Code, to read:

8305.8. Notwithstanding any other provision of law, in the mainland coastal waters from Palos Verdes Point in Los Angeles County to Dana Point in Orange County, it is unlawful to take abalone for commercial purposes.

This section shall remain in effect only until January 1, 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. 3. Section 8753 of the Fish and Game Code is repealed.

SEC. 4. Section 8754 of the Fish and Game Code is amended to read:

8754. In Districts 16, 17, 18, and 19, purse and round haul nets may be used, except that purse seines or ring nets may not be used in that portion of District 19 lying within three miles offshore from the line of the high-water mark along the coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to September 10, inclusive.

Purse seine or ring nets may not be used from May 1 to September 10, inclusive, in the following portions of District 19:

(a) Within a two-mile radius of Dana Point.

(b) Within a two-mile radius of San Mateo Point.

(c) Within two miles offshore from the line of the high-water mark along that portion of the coast of Orange County lying between the northernmost bank of the mouth of the Santa Ana River and a point on that coast six miles south therefrom.
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.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the changes to the sardine and squid fisheries in this act to be effective during the 1992 fishing season, it is necessary that this act take effect immediately.

CHAPTER 49

An act to amend Section 11383 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992.]

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

SECTION 1. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who, with the intent to manufacture methamphetamine, possesses both methamphetamine and phenyl-2-propanone (phenylacetone) at the same time or who, with the intent to manufacture N-ethylamphetamine, possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(b) Any person who, with the intent to manufacture phencycladine (PCP) or any of its analogs specified in paragraph (22) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055, possesses at the same time any of the following combinations, or a combination product thereof, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

(1) Piperidine and cyclohexanone.
(2) Pyrrolidine and cyclohexanone.
(3) Morpholine and cyclohexanone.
(c) Any person who, with the intent to manufacture
methamphetamine or any of its analogs specified in subdivision (d) of Section 11055, possesses ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses a substance containing ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses at the same time any of the following, or a combination product thereof, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

(1) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethyllephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, plus hydriodic acid.

(2) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethyllephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, thionyl chloride and hydrogen gas.

(3) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethyllephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, plus phosphorus pentachloride and hydrogen gas.

(4) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethyllephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, chloroephedrine and chloropseudoephedrine, or phenylpropanolamine, plus any “reducing” agent.

(d) For purposes of this section, “reducing” means a chemical reaction in which hydrogen combines with another substance or in which oxygen is removed from a substance.

(e) For purposes of this section, possession of the optical, positional, or geometric isomer of any of the compounds listed in this section shall be deemed to be possession of the derivative substance.

(f) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, piperidine, cyclohexanone, pyrrolidine, morpholine, ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethyllephedrine, phenylpropanolamine, hydriodic acid, thionyl chloride, or phosphorus pentachloride shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine, cyclohexanone, pyrrolidine, or morpholine ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethyllephedrine, phenylpropanolamine, hydriodic acid, thionyl chloride, or phosphorus pentachloride shall be deemed to be possession of the substance.

(g) Subdivisions (a), (b), (c), (e), and (f) do not apply to drug manufacturers licensed by this state or person authorized by regulation of the Board of Pharmacy to possess those substances or combinations of substances.
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 50

An act to add Section 6143.5 to the Business and Professions Code, to amend Section 4700.11 of the Civil Code, to amend Section 903 of, and to repeal, add, and repeal Section 11350.6 of, the Welfare and Institutions Code, relating to family law, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992.]

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

SECTION 1. Section 6143.5 is added to the Business and Professions Code, to read:

6143.5. Any member, active or inactive, failing to pay any child support after it becomes due shall be subject to Section 11350.6 of the Welfare and Institutions Code.

SEC. 2. Section 4700.11 of the Civil Code is amended to read:

4700.11. (a) Any person with a court order for child support, the payments on which are more than 30 days in arrears, may file and then serve a notice of delinquency, as described in this section. Except as provided in subdivision (d), any amount of child support specified in a notice of delinquency that remains unpaid for more than 30 days after the notice of delinquency has been filed and served shall incur a penalty of 6 percent of the delinquent payment for each month that it remains unpaid, up to a maximum of 72 percent of the unpaid balance due.

(b) The notice of delinquency shall be signed under penalty of perjury by the support obligee; shall state the amount that the child support obligor is in arrears; shall set forth the installments of support due, the amounts, if any, that have been paid, and the balance due; and shall state that any unpaid installment of child support shall incur a penalty of 6 percent of the unpaid support per month until paid, to a maximum of 72 percent of the original amount of the unpaid support, unless the support arrearage is paid within 30 days of the
date of service of the notice of delinquency.

(c) The notice of delinquency may be served personally or by
certified mail or in any manner provided for service of summons.

(d) No penalties may be imposed pursuant to this section if, in the
discretion of the court, each of the following conditions are met:
(1) Within a timely fashion after service of the notice of
delinquency the support obligor files and serves a motion to
determine arrearages and to show cause why the penalties provided
in this section should not be imposed.
(2) At the hearing on the motion filed by the support obligor, the
court finds that the support obligor has proved any of the following:
(A) The child support payments were not 30 days in arrears as of
the date of service of the notice of delinquency and are not in arrears
as of the date of the hearing.
(B) The support obligor suffered serious illness, disability, or
unemployment which substantially impaired the ability of the
support obligor to comply fully with the support order and the
support obligor has made every possible effort to comply with the
support order.
(C) The support obligor is a public employee and for reasons
relating to fiscal difficulties of the employing entity the obligor has
not received a paycheck for 30 or more days.
(D) It would not be in the interests of justice to impose a penalty.
(e) If the child support owed, or any arrearages, interest, or
penalty remains unpaid more than 30 days after serving the notice
of delinquency, the support obligee may file a motion to obtain a
judgment on the amount owed, which shall be enforceable in any
manner provided by law for the enforcement of judgments.
(f) At any hearing to set or modify the amount payable for the
support of a minor child, the court shall not consider any penalties
imposed under this section in determining the amount of current
support to be paid.
(g) In the absence of a protective order prohibiting the support
obligor from knowing the whereabouts of the child or children for
whom support is payable, or otherwise excusing the requirements of
this subdivision, the notice of delinquency shall include a current
address and telephone number of all of the children for whom
support is due, and if different from that of the support obligee, the
address at which court papers may be served upon the support
obligee.
(h) A subsequent notice of delinquency may be served and filed
at any time. Child support arrearages and ongoing installments listed
on subsequent notices shall state that they have been listed on a
previous notice. Any penalty due under this section shall not be
greater than 6 percent per month of the original amount of support
arrearages or support installment, nor may the penalties on any
arrearage amount or support installment exceed 72 percent of the
original amount due, regardless of whether or not the installments
have been listed on more than one notice.
(i) Penalties due pursuant to this section may be enforced by the issuance of a writ of execution in the same manner as a writ of execution may be issued for unpaid installments of child support, as described in Section 4383, except that payment of penalties under this section may not take priority over payment of arrearages or current support.

(j) The Judicial Council shall adopt forms or notices for the use of the procedures provided by this section.

(k) This section shall apply only to installments of child support that are due on or after January 1, 1992.

(l) The district attorney or any other agency providing support enforcement services pursuant to Title IV-D of the federal Social Security Act shall enforce child support obligations utilizing the penalties provided for by this section to the extent permitted by federal law upon implementation of the Statewide Automated Child Support System (SACSS) prescribed in Section 10815 of the Welfare and Institutions Code and certification of the SACSS by the United States Department of Health and Human Services.

(m) "Support" for the purposes of this section means support as defined in subdivision (h) of Section 4390.

(n) Penalties collected pursuant to this section shall be paid to the custodian of the child or children who are the subject of the child support judgment, order, or decree, whether or not the child or children are the recipients of public assistance.

SEC. 3. Section 903 of the Welfare and Institutions Code is amended to read:

903. (a) A parent of a minor, the estate of a parent, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to Section 625 or pursuant to an order of the juvenile court. However, a county shall not levy charges for the costs of support of a minor detained pursuant to Section 625 unless, at the detention hearing, the juvenile court determines that detention of the minor should be continued, the petition for the offense for which the minor is detained is subsequently sustained, or the minor agrees to a program of supervision pursuant to Section 654. The liability of these persons and estates shall be a joint and several liability.

(b) It shall be the responsibility of a county to demonstrate to any person against whom it seeks to enforce the liability established by this section, that the charges it seeks to impose are limited to the reasonable costs of support of the minor and that these charges exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. Nothing in this section shall preclude the district attorney from seeking reimbursement of those costs pursuant to Section 11350 or Chapter 2 (commencing with Section 4720) of Title 5 of Part 5 of the Civil Code.

(c) It is the intent of the Legislature in enacting this subdivision
to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income. Except as provided in paragraphs (1), (2), and (3), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be adjusted every third year beginning January 1, 1988, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

(2) No cost for medical expenses shall be imposed by the county until the county has first exhausted any eligibility the minor may have under private insurance coverage, standard or medically indigent Medi-Cal coverage, and the Robert W. Crown California Children's Services Act (Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

(3) In calculating the cost of medical expenses, the county shall not charge in excess of 100 percent of the AFDC fee for service average Medi-Cal payment for that county for that fiscal year as calculated by the State Department of Health Services; however, if a minor has extraordinary medical or dental costs that are not met under any of the coverages listed in paragraph (2), the county may impose these additional costs.

SEC. 4. Section 11350.6 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 11350.6 is added to the Welfare and Institutions Code, 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, 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 person holding a license, certificate, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code.

(3) "License" includes membership in the State Bar, and a certificate, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or
profession, or to operate a commercial motor vehicle.

(4) "Applicant" means any person applying for issuance or renewal of a license.

(5) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar 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, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order.

(6) "Certified list" means a list provided by the district attorney to the State Department of Social Services in which the district attorney verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(b) The district attorney shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act for whom a child support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The district attorney shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the district attorney who certified the list to the State Department of Social Services. The district attorney shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The district attorney shall submit to the State Department of Social Services an updated certified list on a monthly basis.

(c) The State Department of Social Services shall consolidate the certified lists received from the district attorneys and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board which is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the State Department of Social Services, all boards subject to this section shall implement procedures to accept and process the list provided by the State Department of Social Services, in accordance with this section.

(e) Promptly after receiving the certified consolidated list from the State Department of Social Services, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the State Department of Social Services. If the applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board’s intent to withhold issuance or renewal of the license. The notice shall be made
personally or by mail to the applicant's last known mailing address on file with the board.

(1) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(2) The temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(3) In the event that a license or application is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(f) Notices shall be developed by each board in accordance with guidelines provided by the State Department of Social Services and subject to approval by the State Department of Social Services. The notice shall include the address and telephone number of the district attorney who submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that district attorney's office as a condition for the issuance or renewal of a license. The notice shall inform the applicant that the board shall issue a temporary license, as provided in paragraph (1) of subdivision (e) for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the district attorney who submitted the name on the certified list. The notice shall also inform the applicant that if a license or application is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The State Department of Social Services shall also develop a form that the applicant shall use to request a review by the district attorney. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) Each district attorney shall establish review procedures by November 1, 1992, consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the district attorney who certified the applicant's name. The district attorney shall inform the applicant in writing of his or her findings upon completion of the review. The district attorney shall immediately send a release to the appropriate board and the
applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the district attorney for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the district attorney will be unable to complete the review and send notice of his or her findings to the applicant in sufficient time for the applicant to file a timely petition for judicial review within the 150-day period during which the applicant’s temporary license is valid. This paragraph applies only if the delay in completing the review process is not the result of the applicant’s failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within the 150-day period of the temporary license. This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant’s failure to act in a reasonable, timely, and diligent manner upon receiving the district attorney’s notice of his or her findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the district attorney with the recognition that the temporary license will lapse after 150 days and that the district attorney and, where appropriate, the court must have time to act within that period. An applicant’s delay in acting, without good cause, which directly results in the inability of the district attorney to complete a review of the applicant’s request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the district attorney shall not issue a release if the applicant is not in compliance with the judgment or order for support. The district attorney shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the district attorney’s decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from
filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the district attorney's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the district attorney's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.
(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 judgment or order of support.

The request for judicial review shall be served by the applicant upon the district attorney who submitted the applicant's name on the certified list within seven calendar days of the filing of the petition.

If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the district attorney shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant.

(l) The State Department of Social Services shall prescribe release forms for use by district attorneys. When the obligor is in compliance, the district attorney shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support, unless a district attorney, pursuant to subdivision (b), certifies subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support.

(m) The State Department of Social Services may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred by the department in implementing this section. The
boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants for licenses.

(n) Notwithstanding any other provision of law, the boards and departments subject to this section may levy a surcharge on any fee or fees collected pursuant to law, with the approval of the appropriate department director, to cover the costs of implementing and administering this section. Such a surcharge may be adopted without the necessity of adopting or amending regulations pursuant to the Administrative Procedures Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance to the applicant of a temporary license or the denial of a license under this section. 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) shall not apply to the denial or failure to issue or renew a license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

1. The number of delinquent obligors certified by district attorneys under this section.

2. The number of support obligors who also were applicants or 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 new licenses and renewals granted following board receipt of releases as provided by subdivision (h) by May 1, 1995.

4. The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant who has had a license denied under this section or has been granted a temporary license under this section shall respond only that the license was denied or the temporary license was issued pursuant to this section. Information collected pursuant to this section shall be subject to the Information Practices Act (Section 1798.76 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the
public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The State Department of Social Services and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (o).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) 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.

(w) If any provision of this section or the application thereof to any person or circumstance 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. 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 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.

SEC. 7. This act is an emergency statute necessary for the immediate preservation of the public peace, health, or 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 necessary changes in the law regarding the licensing of persons who fail to comply with support orders, which requires the licensing boards affected to implement its provisions on or before November 1, 1992, and in order to make needed, related changes for the enforcement of support orders as soon as possible, it is necessary that this act take effect immediately.
An act to amend Section 5110.740 of the Civil Code, and to amend Section 141 of, to add Sections 5002 and 5003 to, to add Chapter 2 (commencing with Section 5010) to Part 1 of Division 5 of, and to add a chapter heading immediately preceding Section 5000 of, the Probate Code, relating to community property.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992.]

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

SECTION 1. Section 5110.740 of the Civil Code is amended to read:

5110.740. (a) A statement in a will of the character of property is not admissible as evidence of a transmutation of the property in any proceeding commenced before the death of the person who made the will.

(b) A waiver of a right to a joint and survivor annuity or survivor's benefits under the federal Retirement Equity Act of 1984 (Public Law 98-397) is not a transmutation of the community property rights of the person executing the waiver.

(c) A written joinder or written consent to a nonprobate transfer of community property on death that satisfies Section 5110.730 is a transmutation and is governed by the law applicable to transmutations and not by Chapter 2 (commencing with Section 5010) of Part 1 of Division 5 of the Probate Code.

SEC. 2. Section 141 of the Probate Code is amended to read:

141. (a) The right of a surviving spouse to any of the following may be waived in whole or in part by a waiver under this chapter:

(1) Property that would pass from the decedent by intestate succession.

(2) Property that would pass from the decedent by testamentary disposition in a will executed before the waiver.

(3) A probate homestead.

(4) The right to have exempt property set aside.

(5) Family allowance.

(6) The right to have an estate set aside under Chapter 6 (commencing with Section 6600) of Part 3 of Division 6.

(7) The right to elect to take community or quasi-community property against the decedent's will.

(8) The right to take the statutory share of an omitted spouse.

(9) The right to be appointed as the personal representative of the decedent's estate.

(10) An interest in property that is the subject of a nonprobate transfer on death under Part 1 (commencing with Section 5000) of Division 5.

(b) Nothing in this chapter affects or limits the waiver or manner
of waiver of rights other than those referred to in subdivision (a),
including, but not limited to, the right to property that would pass
from the decedent to the surviving spouse by nonprobate transfer
upon the death of the decedent, such as the survivorship interest
under a joint tenancy, a Totten trust account, or a pay-on-death
account.
SEC. 3. A chapter heading is added immediately preceding
Section 5000 as Chapter 1 (commencing with Section 5000) of Part
1 of Division 5 of the Probate Code, to read:

CHAPTER 1. GENERAL PROVISIONS

SEC. 4. Section 5002 is added to the Probate Code, to read:
5002. Notwithstanding any other provision of this part, a holder
of property under an instrument of a type described in Section 5000
is not required to receive, hold, or transfer the property in
compliance with a provision for a nonprobate transfer on death
executed by a person who has an interest in the property if either (1)
the person is not authorized by the terms of the instrument to
execute a provision for transfer of the property, or (2) the provision
for transfer of the property does not otherwise satisfy the terms of
the instrument.
SEC. 5. Section 5003 is added to the Probate Code, to read:
5003. (a) A holder of property under an instrument of a type
dericted in Section 5000 may transfer the property in compliance
with a provision for a nonprobate transfer on death that satisfies the
terms of the instrument, whether or not the transfer is consistent
with the beneficial ownership of the property as between the person
who executed the provision for transfer of the property and other
persons having an interest in the property or their successors.
(b) Except as provided in this subdivision, no notice or other
information shown to have been available to the holder of the
property affects the right of the holder to the protection provided by
subdivision (a). The protection provided by subdivision (a) does not
extend to a transfer made after either of the following events:
(1) The holder of the property has been served with a contrary
court order.
(2) The holder of the property has been served with a written
notice of a person claiming an adverse interest in the property.
However, this paragraph does not apply to a pension plan to the
extent the transfer is a periodic payment pursuant to the plan.
(c) The protection provided by this section does not affect the
rights of the person who executed the provision for transfer of the
property and other persons having an interest in the property or
their successors in disputes among themselves concerning the
beneficial ownership of the property.
(d) The protection provided by this section is not exclusive of any
protection provided the holder of the property by any other
provision of law.
SEC. 6. Chapter 2 (commencing with Section 5010) is added to Part 1 of Division 5 of the Probate Code, to read:

CHAPTER 2. NONPROBATE TRANSFERS OF COMMUNITY PROPERTY


5010. As used in this chapter, "written consent" to a provision for a nonprobate transfer of community property on death includes a written joinder in such a provision.

5011. Notwithstanding any other provision of this part, the rights of the parties in a nonprobate transfer of community property on death are subject to all of the following:

(a) The terms of the instrument under which the nonprobate transfer is made.

(b) A contrary state statute specifically applicable to the instrument under which the nonprobate transfer is made.

(c) A written expression of intent of a party in the provision for transfer of the property or in a written consent to the provision.

5012. A provision of this chapter concerning rights between a married person and the person’s spouse in community property is relevant only to controversies between the person and spouse and their successors and does not affect the obligation of a holder of community property under an instrument of a type described in Section 5000 to hold, receive, or transfer the property in compliance with a provision for a nonprobate transfer on death, or the protection provided the holder by Section 5003.

5013. Nothing in this chapter limits the effect of a surviving spouse’s waiver of rights in community property under Chapter 1 (commencing with Section 140) of Part 3 of Division 2 or other instrument or agreement that affects a married person’s interest in community property.

5014. (a) Except as provided in subdivision (b), this chapter applies to a provision for a nonprobate transfer of community property on the death of a married person, regardless of whether the provision for transfer of the property was executed by the person, or written consent to the provision for transfer of the property was given by the person’s spouse, before, on, or after January 1, 1993.

(b) Subdivision (c) of Section 5030 does not apply, and the applicable law in effect on the date of death does apply, to revocation of a written consent given by a spouse who died before January 1, 1993.

5015. Nothing in this chapter limits the application of principles of fraud, undue influence, duress, mistake, or other invalidating cause to a written consent to a provision for a nonprobate transfer of community property on death.
Article 2. Consent to Nonprobate Transfer

5020. A provision for a nonprobate transfer of community property on death executed by a married person without the written consent of the person's spouse (1) is not effective as to the nonconsenting spouse's interest in the property and (2) does not affect the nonconsenting spouse's disposition on death of the nonconsenting spouse's interest in the community property by will, intestate succession, or nonprobate transfer.

5021. (a) In a proceeding to set aside a nonprobate transfer of community property on death made pursuant to a provision for transfer of the property executed by a married person without the written consent of the person's spouse, the court shall set aside the transfer as to the nonconsenting spouse's interest in the property, subject to terms and conditions or other remedies that appear equitable under the circumstances of the case, taking into account the rights of all interested persons.

(b) Nothing in subdivision (a) affects any additional remedy the nonconsenting spouse may have against the person's estate for a nonprobate transfer of community property on death without the spouse's written consent.

5022. (a) Except as provided in subdivision (b), a spouse's written consent to a provision for a nonprobate transfer of community property on death is not a transmutation of the consenting spouse's interest in the property.

(b) This chapter does not apply to a spouse's written consent to a provision for a nonprobate transfer of community property on death that satisfies Section 5110.730 of the Civil Code. Such a consent is a transmutation and is governed by the law applicable to transmutations.

5023. (a) As used in this section "modification" means revocation of a provision for a nonprobate transfer on death in whole or part, designation of a different beneficiary, or election of a different benefit or payment option.

(b) If a married person executes a provision for a nonprobate transfer of community property on death with the written consent of the person's spouse and thereafter executes a modification of the provision for transfer of the property without written consent of the spouse, the modification is effective as to the person's interest in the community property and has the following effect on the spouse's interest in the community property:

(1) If the person executes the modification during the spouse's lifetime, the modification revokes the spouse's previous written consent to the provision for transfer of the property.

(2) If the person executes the modification after the spouse's death, the modification does not affect the spouse's previous written consent to the provision for transfer of the property, and the spouse's interest in the community property is subject to the nonprobate transfer on death as consented to by the spouse.
(3) If a written expression of intent of a party in the provision for transfer of the property or in the written consent to the provision for transfer of the property authorizes the person to execute a modification after the spouse's death, the spouse's interest in the community property is deemed transferred to the married person on the spouse's death, and the modification is effective as to both the person's and the spouse's interests in the community property.

Article 3. Revocation of Consent

5030. (a) A spouse's written consent to a provision for a nonprobate transfer of community property on death is revocable during the marriage.

(b) On termination of the marriage by dissolution or on legal separation, the written consent is revocable and the community property is subject to division under Section 4800 of the Civil Code or other disposition on order within the jurisdiction of the court.

(c) On the death of either spouse, the written consent is irrevocable.

5031. (a) If a married person executes a provision for a nonprobate transfer of community property on death with the written consent of the person's spouse, the consenting spouse may revoke the consent by a writing, including a will, that identifies the provision for transfer of the property being revoked, and that is served on the married person before the married person's death.

(b) Revocation of a spouse's written consent to a provision for a nonprobate transfer of community property on death does not affect the authority of the holder of the property to transfer the property in compliance with the provision for transfer of the property to the extent provided in Section 5003.

5032. On revocation of a spouse's written consent to a nonprobate transfer of community property on death, the property passes in the same manner as if the consent had not been given.

CHAPTER 52

An act to amend Sections 17276.3 and 24416.3 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor May 8, 1992. Filed with Secretary of State May 11, 1992.]

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

SECTION 1. Section 17276.3 of the Revenue and Taxation Code is amended to read:

17276.3. (a) Notwithstanding Section 17276 of this code 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.

(c) Notwithstanding any other provision of this section, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1 and 17276.2 for taxable years beginning in the 1991 and 1992 calendar years.

SEC. 2. Section 24416.3 of the Revenue and Taxation Code is amended to read:

24416.3. (a) Notwithstanding Section 24416 of this code 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 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.

(c) Notwithstanding any other provision of this section, a deduction shall be allowed to a “qualified taxpayer” as provided in Sections 24416.1 and 24416.2 for income years beginning in the 1991 and 1992 calendar years.

SEC. 3. The Legislature finds and declares that this act serves a public purpose because the net operating loss deduction is a major incentive for businesses to create and maintain jobs in enterprise zones and program areas which are places of great economic distress.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.
An act relating to emergencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 12, 1992. Filed with Secretary of State May 12, 1992.]

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

SECTION 1. The municipal courts of the County of Los Angeles shall take judicial notice that a state of emergency existed in the County of Los Angeles beginning April 30, 1992, which interfered with the operation of the judicial system and the delivery of public services. The municipal courts of the County of Los Angeles shall not count the dates of April 30, 1992 to May 4, 1992, inclusive, for purposes of determining any time period to respond to an unlawful detainer complaint filed in those courts. Any default judgment entered in an unlawful detainer proceeding in Los Angeles County municipal courts during that time period as a result of a defendant’s nonappearance shall be set aside on the court’s own motion. These courts shall also liberally construe the provisions of Section 473 of the Code of Civil Procedure to vacate any default judgment entered in an unlawful detainer action where the state of emergency interfered with the tenant’s ability to make a timely response to the proceeding.

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

In order to prevent a denial of due process of law for defendants in unlawful detainer actions prejudiced by the recent state of emergency in Los Angeles County, it is necessary that this act go into effect immediately.

CHAPTER 54

An act to amend Sections 25016, 25020.5, 25020.8, 25023.2, 25023.8, 25024, 25025.8, 25027.5, 25062, 25072, 25081, 25086, 25091, and 25095 of the Health and Safety Code, to amend Section 40191 of the Public Resources Code, and to amend Section 2401.1 of the Vehicle Code, relating to medical waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1992. Filed with Secretary of State May 14, 1992 ]
The people of the State of California do enact as follows:

SECTION 1. Section 25016 of the Health and Safety Code is amended to read:

25016. This chapter does not preempt any local ordinance regulating infectious waste, as that term was defined by Section 25117.5 as it read on December 31, 1990, if the ordinance was in effect on January 1, 1990, and regulated both large and small quantity generators. Any such ordinance may be amended in a manner which is consistent with this chapter.

SEC. 2. Section 25020.5 of the Health and Safety Code is amended to read:

25020.5. "Biohazardous waste" means any of the following:
(a) Laboratory waste, including, but not limited to, all of the following:
1. Human or animal specimen cultures from medical and pathological laboratories.
2. Cultures and stocks of infectious agents from research and industrial laboratories.
3. Wastes from the production of bacteria, viruses, or the use of spores, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.
(b) Waste containing any microbiologic specimens sent to a laboratory for analysis.
(c) Human surgery specimens or tissues removed at surgery or autopsy, which are suspected by the attending physician and surgeon or dentist of being contaminated with infectious agents known to be contagious to humans. Human surgery specimens or tissues which have been fixed with formaldehyde or other fixatives are not biohazardous waste.
(d) Animal parts, tissues, fluids, or carcasses suspected by the attending veterinarian of being contaminated with infectious agents known to be contagious to humans.
(e) Waste, which at the point of transport from the generator's site, at the point of disposal, or thereafter, contains recognizable fluid blood, fluid blood products, containers, or equipment containing blood that is fluid or blood from animals known to be infected with diseases which are highly communicable to humans.
(f) Waste containing discarded materials contaminated with excretion, exudate, or secretions from humans who are required to be isolated by the infection control staff, the attending physician and surgeon, the attending veterinarian, or the local health officer, to protect others from highly communicable diseases or isolated animals known to be infected with diseases which are highly communicable to humans.

SEC. 3. Section 25020.8 of the Health and Safety Code is amended to read:

25020.8. "Common storage facility" means any onsite designated accumulation area maintained in accordance with this chapter, used
by small quantity generators otherwise operating independently, for
the storage of medical waste for collection by a registered hazardous
waste hauler.

SEC. 4. Section 25023.2 of the Health and Safety Code is amended
to read:

25023.2. (a) "Medical waste" means waste which meets both of
the following requirements:

1. The waste is composed of waste which is generated or
produced as a result of any of the following:

   A. Diagnosis, treatment, or immunization of human beings or
      animals.
   B. Research pertaining to the activities specified in
      subparagraph (A).
   C. The production or testing of biologicals.

2. The waste is any of the following:

   A. Biohazardous waste.
   B. Sharps waste.
   b. Medical waste may contain infectious agents.
   c. For purposes of this section, "biologicals" means medicinal
      preparation made from living organisms and their products,
      including, but not limited to, serums, vaccines, antigens, and
      antitoxins.

SEC. 5. Section 25023.8 of the Health and Safety Code is amended
to read:

25023.8. Medical waste does not include any of the following:

(a) Waste containing microbiological cultures used in food
processing and biotechnology and any containers or devices used in
the preparation and handling of these cultures, that is not considered
to be an infectious agent pursuant to Section 25022.5.

(b) Urine, feces, saliva, sputum, nasal secretions, sweat, tears, and
vomitus, unless they contain fluid blood, except as defined in
subdivision (f) of Section 25020.5.

(c) Waste which is not biohazardous, such as paper towels, paper
products, articles containing nonfluid blood, and other medical solid
waste products commonly found in the facilities of medical waste
generators.

(d) Hazardous waste, radioactive waste, or household waste.

(e) Waste generated from normal and legal veterinarian,
agricultural, and animal livestock management practices on a farm
or ranch.

SEC. 6. Section 25024 of the Health and Safety Code is amended
to read:

25024: "Medical waste generator" means any person, whose act
or process produces medical waste and includes, but is not limited to,
a provider of health care as defined in subdivision (a) of Section 56.05
of the Civil Code. All of the following are examples of businesses
which generate medical waste:

(a) Medical and dental offices, clinics, hospitals, surgery centers,
laboratories, research laboratories, other health facilities required to
be licensed pursuant to Division 2 (commencing with Section 1200),
chronic dialysis clinics, as defined in Article 1 (commencing with
Section 12000) of Chapter 1 of Division 2, education and research
facilities, and unlicensed facilities.

(b) Veterinary offices, clinics, and hospitals.

(c) Pet shops.

SEC. 7. Section 25025.8 of the Health and Safety Code is amended
to read:

25025.8. (a) "Onsite" means a medical waste treatment facility
on the same or adjacent property as the generator of the medical
waste being treated.

(b) "Adjacent," for purposes of subdivision (a), means real
property within 400 yards from the property boundary of the existing
medical waste treatment facility.

SEC. 8. Section 25027.5 of the Health and Safety Code is amended
to read:

25027.5. "Transfer station" means any offsite location where
medical waste is loaded, unloaded, or stored during the normal
course of transportation of the medical waste. "Transfer station" does
not include common storage facilities, large quantity generators used
for the purpose of consolidation, or onsite treatment facilities.

SEC. 9. Section 25062 of the Health and Safety Code is amended
to read:

25062. (a) Except as otherwise exempted pursuant to Section
25061, all medical waste transported to an offsite medical waste
treatment facility shall be transported in accordance with this article
by a registered hazardous waste hauler issued a registration
certificate and in vehicles and containers certified pursuant to
Article 6 (commencing with Section 25160) and Article 6.5
(commencing with Section 25167.1) of Chapter 6.5.

(b) Except for small quantity generators hauling medical waste
pursuant to Section 25061, medical waste shall be transported to a
medical waste offsite treatment facility or transfer station in
leak-resistant and fully enclosed rigid containers in vehicle
compartments.

(c) A person shall not transport medical waste in the same vehicle
with other waste unless the medical waste is separately contained in
rigid containers or kept separate by barriers from other waste, or
unless all of the waste is to be handled as medical waste in accordance
with the requirements of this chapter.

(d) Medical waste shall only be transported to a permitted
medical waste treatment facility, or to a transfer station or another
facility for the purpose of consolidation before treatment and
disposal, pursuant to this chapter.

(e) Facilities for the transfer of medical waste shall be annually
inspected and issued permits in accordance with the regulations
adopted pursuant to this chapter.

(f) Any persons manually loading or unloading containers of
medical waste shall be provided by their employer at the beginning
of each shift with, and shall be required to wear, clean and protective
gloves and coveralls, changeable lab coats, or other protective
clothing. The department may require, by regulation, other
protective devices appropriate to the type of medical waste being
handled.

SEC. 10. Section 25072 of the Health and Safety Code is amended
to read:

25072. Any person required to obtain a permit pursuant to this
chapter shall file with the enforcement agency an application, on
forms prescribed by the department, containing, but not limited to,
all of the following:

(a) The name of the applicant.
(b) The business address of the applicant.
(c) The type of treatment provided, the treatment capacity of the
facility, a characterization of the waste treated at this facility, and the
estimated average monthly quantity of waste treated at the facility.
(d) A disclosure statement, as provided in Section 25112.5.
(e) Evidence satisfactory to the enforcement agency that the
operator of the medical waste treatment facility has the ability to
comply with this chapter and the regulations adopted pursuant to
this chapter.
(f) Any other information required by the enforcement agency
for the administration or enforcement of this chapter or the
regulations adopted pursuant to this chapter.
(g) The permits and verification required by Section 25072.1.

SEC. 11. Section 25081 of the Health and Safety Code is amended
to read:

25081. To containerize biohazardous waste in a biohazard bag, a
person shall do all of the following:

(a) The bags shall be tied to prevent leakage or expulsion of
contents during all future storage, handling, or transport.
(b) Biohazardous waste shall be bagged in accordance with
subdivisions (b) and (c) of Section 25080 and placed for storage,
handling, or transport in a rigid or disposable container. The
container shall be leak resistant, have tight-fitting covers, and be
kept clean and in good repair. The container may be of any color and
shall be labeled with the words “Biohazardous Waste,” or with the
international biohazard symbol and the word “BIOHAZARD,” on
the lid and on the sides so as to be visible from any lateral direction.
Containers meeting the requirements specified in Section 66840 of
Title 22 of the California Code of Regulations may also be used until
the replacement of the containers is necessary or existing stock has
been depleted.

(c) All bagged biohazardous waste shall not be removed from the
bag until treatment as prescribed in Article 9 (commencing with
Section 25090) is completed. Biohazardous waste shall not be
disposed of before being treated as prescribed in that Article 9.

(d) (1) Except as provided in paragraph (5), a person shall not
contain or store biohazardous or sharps waste above 0° Centigrade
(32° Fahrenheit) at any onsite location for more than seven days unless the enforcement agency approves the containment or storage in writing.

(2) A person may store biohazardous or sharps waste at or below 0° Centigrade (32° Fahrenheit) at an onsite location for not more than 90 days without obtaining the written approval of the enforcement agency.

(3) A person may store biohazardous or sharps waste at a permitted transfer station at or below 0° Centigrade (32° Fahrenheit) for not more than 30 days without obtaining the approval of the enforcement agency.

(4) A person shall not store biohazardous or sharps waste above 0° Centigrade (32° Fahrenheit) for more than seven days before treatment at any location or facility which is offsite from the generator.

(5) Notwithstanding paragraphs (1) to (4), inclusive, if the facility is unable to control the odor from its stored waste and the odor poses a public nuisance, the enforcement agency may require more frequent removal.

SEC. 12. Section 25086 of the Health and Safety Code is amended to read:

25086. Any enclosure or designated accumulation area used for the storage of medical waste containers shall be secured so as to deny access to unauthorized persons and shall be marked with warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. The storage area may be secured by use of locks on entry doors, gates, or receptacle lids.

The wording of warning signs shall be in English, "CAUTION—BIOHAZARDOUS WASTE STORAGE AREA—UNAUTHORIZED PERSONS KEEP OUT," and in Spanish, "CUIDADO—ZONA DE RESIDUOS—BIOLOGICOS PELIGROSOS—PROHIBIDA LA ENTRADA A PERSONAS NO AUTORIZADAS," or in another language, in addition to English, determined to be appropriate by the infection control staff or enforcement agency. A warning sign concerning infectious waste, as that term was defined by Section 25117.5 as it read on December 31, 1990, which sign was installed before April 1, 1991, meets the requirements of this section, until the sign is changed and as long as the sign is not moved. Warning signs shall be readily legible during daylight from a distance of at least 25 feet.

Any enclosure or designated accumulation area shall provide medical waste protection from animals and natural elements and shall not provide a breeding place or a food source for insects or rodents.

SEC. 13. Section 25091 of the Health and Safety Code is amended to read:

25091. (a) Sharps waste shall be rendered noninfectious prior to disposal by one of the following methods:

(1) Incineration.
(2) Steam sterilization.
(3) Disinfection and encasement using an alternative treatment method approved by the department. Sharps waste which is encased in a sharps container prior to treatment which complies with Section 25062.2 meets the encasement requirements of this subdivision.
(b) Sharps waste rendered noninfectious pursuant to this section may be disposed of as solid waste if the waste is not otherwise hazardous.

SEC. 14. Section 25095 of the Health and Safety Code is amended to read:

25095. (a) In order to carry out the purpose of this chapter, any authorized representative of the enforcement agency may do any of the following:
(1) Enter and inspect a facility for which a medical waste permit or registration has been issued, for which a medical waste permit or registration application has been filed, or which is subject to registration or permitting requirements pursuant to this chapter. Enter and inspect a vehicle for which a hazardous waste hauler registration has been issued or a limited-quantity exemption granted, for which an application has been filed for a hazardous waste hauler registration or a limited-quantity exemption, or which is subject to registration requirements pursuant to this chapter.
(2) Inspect and copy any records, reports, test results, or other information related to the requirements of this chapter or the regulations adopted pursuant to this chapter.
(b) The inspection shall be made with the consent of the owner or possessor of the facilities or, if consent is refused, with a warrant duly issued pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be made without consent or the issuance of a warrant.
(c) Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, may enforce Article 6 (commencing with Section 25060) and this article, and for purposes of enforcing these articles, traffic officers and these peace officers are authorized representatives of the department.

SEC. 15. Section 40191 of the Public Resources Code is amended to read:

40191. (a) Except as provided in subdivision (b), "solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.
(b) "Solid waste" does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with
Section 25800) of Division 20 of the Health and Safety Code.

(c) "Solid waste" does not include medical waste which is regulated pursuant to the Medical Waste Management Act (Chapter 6.1 (commencing with Section 25015) of Division 20 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in Section 46027. Medical waste which has been treated and which is deemed to be solid waste shall be regulated pursuant to this division.

SEC. 16. Section 2401.1 of the Vehicle Code is amended to read:

2401.1. The commissioner may enforce those provisions relating to the transportation of hazardous waste found in Article 6 (commencing with Section 25160), Article 6.5 (commencing with Section 25167.1), and Article 8 (commencing with Section 25180), of Chapter 6.5 of Division 20 of the Health and Safety Code, pursuant to subdivision (d) of Section 25180 of the Health and Safety Code and the provisions relating to the transportation of medical waste found in Article 6 (commencing with Section 25060) and Article 10 (commencing with Section 25095) of Chapter 6.1 of the Health and Safety Code.

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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 provisions regulating the management of medical waste, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.
CHAPTER 55

An act to amend Section 76230 of the Government Code, relating to criminal justice facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1992. Filed with Secretary of State May 14, 1992]

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

SECTION 1. Section 76230 of the Government Code is amended to read:

76230. To assist Orange County in the operation of the county jail, the board of supervisors may establish by resolution a County Jail Fund to be funded with a transfer of any funds remaining in the Orange County Transition Planning Fund collected prior to July 1, 1990. The fund moneys, together with any interest earned thereon, shall be held by the county treasurer, separate from any other funds and shall be expended through any public agency funding mechanism which reduces an obligation incurred in the operation of the county jail, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase 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 timely provide for funding to assist Orange County in the operation of the county jail through the use of any funds remaining in the Orange County Transition Planning Trust Fund collected prior to July 1, 1990, it is necessary that this act take effect immediately.

CHAPTER 56

An act to amend Section 1022 of, to amend the heading of Chapter 7 (commencing with Section 22980) of Part 5 of Division 11 of, to amend and renumber Sections 22980 and 22981 of, and to add Sections 22980 and 35565.8 to, the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1992. Filed with Secretary of State May 14, 1992]

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

SECTION 1. Section 1022 of the Water Code is amended to read:
1022. If the water subject to the lease is held by a water district, a water company, or a mutual 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 forego the use of district water to participate in the water lease.

(c) Participation in a water lease administered by the district pursuant to this section is deemed to be a public service generally provided by the public body or board for purposes of paragraph (3) of subdivision (a) of Section 1091.5 of the Government Code.

SEC. 2. The heading of Chapter 7 (commencing with Section 22980) of Part 5 of Division 11 of the Water Code is amended to read:

CHAPTER 7. PROVISIONS PERTAINING ONLY TO THE MERCEDE IRRIGATION DISTRICT AND THE EAST CONTRA COSTA IRRIGATION DISTRICT

SEC. 3. Section 22980 of the Water Code is amended and renumbered to read:

22981. Notwithstanding any other provision of this division, the district, or an improvement district formed within the district pursuant to this division, may do any of the following:

(a) Construct, operate, and maintain facilities for the collection, transmission, treatment, and disposal of sewage water, including all works, structures, plants, equipment, and lines necessary and convenient for the collection, transmission, treatment, and disposal of sewage waters within the district.

(b) Construct, operate, and maintain works and facilities for the use, storage, control, regulation, and distribution of any drainage water within the district.
(c) Authorize, issue, and sell 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) for any purpose specified in this division.

(d) Authorize, issue, and sell general obligation bonds pursuant to Article 10 (commencing with Section 25211.1) of Chapter 2.2 of Part 2 of Division 2 of Title 3 of the Government Code for any purpose specified in this division.

(e) (1) Use the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), and the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) for the construction of any facilities authorized to be constructed under this division.

(2) In the application of the acts specified in this subdivision to proceedings under this subdivision, the terms used in those acts have the following meanings:
   (A) "City council" and "council" means the board of directors of the district.
   (B) "City" and "municipality" means the district.
   (C) "Clerk" and "city clerk" means the secretary.
   (D) "Superintendent of streets" and "street superintendent" and "city engineer" means the general manager of the district or any other person appointed to perform those duties.
   (E) "Tax collector" means the county assessor.
   (F) "Treasurer" and "city treasurer" means the person or officer who has charge of and makes payment of the funds of the district.
   (G) "Right-of-way" means any parcel of land through which a right-of-way has been granted to the district for the purpose of constructing or maintaining any work or improvements which the district is authorized to do.

(3) The powers and duties conferred by those acts upon boards, officers, and agents of cities shall be exercised by the board, officers, and agents of the district, respectively.

SEC. 4. Section 22980 is added to the Water Code, to read:

22980. For purposes of this chapter, "district" means the Merced Irrigation District or the East Contra Costa Irrigation District.

SEC. 5. Section 22981 of the Water Code is amended and renumbered to read:

22982. This section provides an alternative procedure for forming an improvement district within the district as follows:

(a) The district may exercise all of the powers specified in Article 2 (commencing with Section 25210.10), Article 2.5 (commencing with Section 25210.21), Article 3 (commencing with Section 25210.30), Article 8 (commencing with Section 25210.80), and Article 9 (commencing with Section 25210.90) of, Chapter 2.2 of Part 2 of Division 2 of Title 3 of the Government Code for forming
improvement districts within the district for any of the purposes allowed the district, except that the reference in Section 25210.31 of the Government Code to Section 25210.14 means services that the district, or an improvement district therein, may perform.

(b) The application of, and the terms used in, those provisions have the following meanings:

1. “Board of supervisors” means the board of directors of the district.

2. “County service area” means an improvement district.

3. “County services” means district services.

4. “County Services Area No. _______” means “Improvement District No. _______.”

5. “Chapter” means section.

6. “Section 25210.4” means services the district may perform.

7. “County taxes” means district assessments.

8. “County treasurer” means the district treasurer.

SEC. 6. Section 35565.8 is added to the Water Code, to read:

35565.8. (a) The district has the authority granted to a water replenishment district by Sections 60224, 60225, and 60226.

(b) The authority granted to this district pursuant to this section is in addition to the authority granted to the district by this division.

SEC. 7. (a) The Paradise Irrigation District may enter into a contract for a loan from the Department of Water Resources under the California Safe Drinking Water Bond Law of 1988 (Chapter 16 (commencing with Section 14000) of Division 7 of the Water Code) if authorized by a measure at an election and all of the following conditions are met:

1. A majority of the votes cast on the proposal are in the affirmative.

2. The principal of, and the interest on, the loan are payable solely from revenue and not directly or indirectly from assessments.

3. The district board determines that the proposed revenue each year, after deducting a reasonable allowance for the cost of operation and maintenance, if any, which is to be paid from the revenue, will equal at least one and one-tenth times the debt requirements for that year for principal, interest, sinking funds, and reserve funds of all the district bonds and contracts payable from revenues, including the contract which is the subject matter of the election.

(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. 8. The Legislature finds and declares that Sections 3 and 5 of this act, which are applicable only to the Merced Irrigation District and the East Contra Costa Irrigation District, are necessary due to problems in the area included in those districts relating to drainage water. It is, therefore, hereby declared that a general law cannot be made applicable to those districts and that the enactment of this special law is necessary for the conservation, development, control, and use of that water for the public good.
SEC. 9. The Legislature finds and declares that Section 6 of this act, which is applicable only to the Borrego Water District, is necessary because of the unique and special groundwater management 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 for the public good.

SEC. 10. The Legislature finds and declares that Section 7 of this act, which is applicable only to the Paradise Irrigation District, is necessary because of the unique and special domestic water system 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 water by the district for the public good.

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 urgently needed water projects, facilities, and programs, thereby protecting the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 57

An act to add Section 14670.67 to the Government Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1992 Filed with Secretary of State May 14, 1992.]

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

SECTION 1. Section 14670.67 is added to the Government Code, to read:

14670.67. (a) Notwithstanding any other provision of law, the Director of General Services, with the approval of the Director of Parks and Recreation and the State Public Works Board, may convey at no financial consideration to the City of Lake Elsinore, subject to an easement for flood and water storage together with any water rights the state may have in the property, and an easement to the Elsinore Valley Municipal Water District for flood and water storage together with any water rights the state may have in the property, upon those terms, conditions, and with the reservations and exceptions that the Director of General Services determines are in the best interests of the state, all the right, title, and interest of the
state in that property known as the Lake Elsinore State Recreation Area upon the condition that the property be used for public park and recreation purposes in perpetuity and that park and recreation improvements conform to the Lake Elsinore State Recreation Area General Plan adopted pursuant to Section 5002.2 of the Public Resources Code and current at the time it is conveyed, except that the plan may be amended in accordance with the procedures for amendment of specific plans set forth in Article 8 (commencing with Section 65450) of Chapter 3 of Division 1 of Title 7 if duly noticed public hearings are conducted by the local public agency or agencies prior to adoption. In reviewing any amendment of that plan, the local legislative body shall consider the development criteria of Section 5019.56 of the Public Resources Code.

Upon any breach of the conditions of the conveyance, the state may reenter the property, and upon that reentry, the ownership of the property conveyed shall revert to the state.

(b) The Department of General Services shall be reimbursed by the Department of Parks and Recreation for any cost or expense incurred in the conveyance of any property pursuant to this section.

(c) The City of Lake Elsinore shall make no decisions or take any actions with respect to the use of the property conveyed pursuant to this section unless the city has consulted with affected landowners and considered their concerns.

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

In order that the state may save up to three hundred thousand dollars ($300,000) in this year’s budget and so that the City of Lake Elsinore, the Elsinore Valley Water District, and the Department of Parks and Recreation may begin work on the transfer as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 58

An act to add and repeal Section 60004 of the Education Code, relating to the State Board of Education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1992. Filed with Secretary of State May 14, 1992.]

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

SECTION 1. Section 60004 is added to the Education Code, to read:

60004. (a) Notwithstanding any other provision of law, the selection and adoption of instructional materials pursuant to this
part, including related activities such as the approval of curriculum frameworks and instructional materials criteria, 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. Any standards and criteria adopted by the State Board of Education shall be filed as regulations by the Secretary of State upon affidavit of the Superintendent of Public Instruction.

(b) Notwithstanding any other provision of law, any instructional materials, curriculum frameworks, and related standards and criteria adopted by the state board pursuant to this part prior to the effective date of this section are hereby deemed in compliance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any such standards and criteria shall be filed with the Secretary of State as regulations in the California Code of Regulations upon affidavit of the Superintendent of Public Instruction.

(c) On or before January 30, 1993, the state board shall report to the Governor and the Legislature regarding the costs and benefits of fully conforming the selection and adoption process specified in this part with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The report shall also include alternative proposals that generate the same or greater benefits at less cost and that ensure adequate public involvement and conformity to statutory authority.

(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 enacted before January 1, 1995, deletes or extends that date.

SEC. 2. (a) The Legislature finds and declares that the State Board of Education has had a constitutional duty to adopt elementary school instructional materials for more than 100 years. The Legislature has established rules governing the adoption process and the state board has established procedures that ensure timely public input and review as well as adherence to statutory requirements.

(b) It is the intent of the Legislature in enacting this statute to allow the state board the time necessary to conform, where appropriate, its procedures with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code without disrupting local education programs and services.

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 avoid unacceptable disruption in the education of pupils enrolled in kindergarten and grades one to eight, inclusive, which might be caused by invalidating or obstructing the orderly adoption of instructional materials for use in those grades, it is necessary that this act take effect immediately.
CHAPTER 59

An act relating to the Coachella Valley Unified School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1992. Filed with Secretary of State May 14, 1992.]

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

SECTION 1. (a) The sum of seven million three hundred thousand dollars ($7,300,000) is hereby appropriated from the General Fund to Section A of the State School Fund without regard to fiscal year for apportionment by the Superintendent of Public Instruction to the Coachella Valley Unified School District for the purpose of an emergency loan. In order to qualify for that loan, the district shall comply with Article 2.5 (commencing with Section 41325) of Chapter 3 of Part 24 of the Education Code and the conditions stipulated in this act.

(b) With the exception of funds that may be needed by the district to meet its cash obligations, as described in subdivision (c), no funds shall be disbursed from the proceeds of the loan until the conditions set forth in Section 41327 have been met.

(c) Based on the needs of the district to meet its cash obligations, the Superintendent of Public Instruction may direct the Controller to disburse, on a monthly basis, specific amounts of the emergency loan prior to the approval of all the conditions established by this act. The emergency loan shall be repaid to the state, pursuant to a repayment schedule established by the Superintendent of Public Instruction consistent with subparagraph (A) of paragraph (2) of subdivision (a) of Section 41327 of the Education Code, together with interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district.

(d) Because of the fiscal emergency in which the district finds itself, the Legislature finds and declares that it is necessary for the Superintendent of Public Instruction to appoint an administrator immediately. In addition, the Superintendent of Public Instruction may contract for the services of one or more persons having legal, accounting, labor negotiation, or other expertise as necessary to assist the administrator. In order to facilitate the appointment process, the State Department of Education is exempt from Part 2 (commencing with Section 10100) of the Public Contract Code and Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code when contracting for the services of an administrator and other persons as described in this subdivision.

(e) The Legislature finds and declares that it is impossible to solve all of the district's fiscal problems immediately. During the two years
immediately following the district’s initial receipt of proceeds from this emergency loan, the Superintendent of Public Instruction, after consultation with the Riverside County Superintendent of Schools, may approve the use of timelines and criteria and standards for the submission and review of the district’s budget, interim reports, and other financial reports required of the district, that vary from the timelines, criteria, and standards required pursuant to Sections 33127, 41020, and 42127 to 42130, inclusive, of the Education Code as necessary to accomplish the full fiscal recovery of the district.

SEC. 2. Due to unique circumstances relating to the fiscal emergency in the Coachella Valley Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. 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 make certain revisions in a timely manner to the accounting of a designated appropriation of General Fund moneys, it is necessary that this act take effect immediately.

CHAPTER 60

An act to amend Sections 99285 and 130108 of, to add Sections 130050.2, 130051.9, 130051.10, 130051.11, 130051.12, 130051.13, 130051.14, 130051.15, 130051.16, 130051.17, 130051.18, and 130051.19 to, to repeal Section 30251 of, to repeal Chapter 6 (commencing with Section 30800) of Part 3 of Division 10 of, and to repeal and add Sections 130051, 130051.5, and 130051.6 of, the Public Utilities Code, relating to transportation.

[Approved by Governor May 19, 1992. Filed with Secretary of State May 19, 1992.]

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

SECTION 1. This act shall be known and may be cited as the Los Angeles County Metropolitan Transportation Authority Reform Act of 1992.
SEC. 2. (a) It is the intent of the Legislature that the Los Angeles County Metropolitan Transportation Authority be a unified comprehensive institutional structure that ensures maximum accountability to the people and that the authority succeed to the powers, duties, obligations, liabilities, immunities, and exemptions of both the Los Angeles County Transportation Commission and the Southern California Rapid Transit District as provided in this act.

(b) It is the intent of the Legislature that nothing in this act shall enlarge or diminish the statutory rights, duties, obligations, or privileges of any labor organization. Further, it is the intent of the Legislature that nothing in this act shall enlarge or diminish the statutory rights, duties, obligations, or privileges of the Los Angeles County Metropolitan Transportation Authority with respect to any affected labor organization as a result of the authority’s succession to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission by virtue of this act.

SEC. 2.8. Section 30251 of the Public Utilities Code is repealed.

SEC. 2.9. Chapter 6 (commencing with Section 30800) of Part 3 of Division 10 of the Public Utilities Code is repealed.

SEC. 3. Section 99285 of the Public Utilities Code is amended to read:

99285. (a) The county transportation commissions created pursuant to Division 12 (commencing with Section 130000) shall submit to the transportation planning agency those claims to be funded, and the transportation planning agency shall approve only those claims submitted.

(b) Each commission shall adopt appropriate criteria by which claims shall be analyzed and evaluated, and shall approve only those claims which will provide for a coordinated public transportation system consistent with the adopted transportation improvement program and adopted regional transportation plan and which will not result in undesirable duplication of public transportation services.

(c) In considering proposals, the Los Angeles County Metropolitan Transportation Authority shall consider, among other things, the fare revenue to operating cost ratio and the public transit service mileage of each operator in the authority operating area, but under no circumstances shall the included municipal operators in existence and receiving formula allocation program funding on July 1, 1990, receive less than 15 percent of the funds allocated under that program from state and federal funding sources.

(d) Subdivision (c) shall only remain in effect until the Los Angeles County Metropolitan Transportation Authority has, following a public hearing, adopted a formula for the allocation of funds available in the authority operating area to the authority operator and eligible "included municipal operators" as defined in subdivisions (a) and (d) of Section 99207.

The formula adopted by the Los Angeles County Metropolitan Transportation Authority shall be the same as the formula in
existence on July 1, 1990, and shall remain in effect for at least five full fiscal years, commencing with the 1993–94 fiscal year. The authority shall not reduce the total percentage share of revenues allocated during the 1990–91 fiscal year to the included municipal operators, as a whole, in existence on July 1, 1990, for at least five full fiscal years, commencing with the 1993–94 fiscal year. If a municipal operator significantly reduces service, a proportional share of that operator's funds allocated pursuant to this section may be reallocated.

(e) For a period of at least five full fiscal years, commencing with the 1993–94 fiscal year, in the interest of promoting efficiency, any included municipal operator having operating costs less than the regional bus system operated by the Los Angeles County Metropolitan Transportation Authority shall be allocated not less than the same proportion of available funds allocated to that operator on July 1, 1990.

(f) (1) For the 1998–99 and subsequent fiscal years, a two-thirds vote of the members of the Los Angeles County Metropolitan Transportation Authority shall be required in order to adopt or modify the formula for allocation of funds available in the authority operating area to the authority operator and included municipal operators as defined in subdivisions (a) and (d) of Section 99207. Subdivision (c) shall be applicable if the authority fails to adopt a formula.

(2) A two-thirds vote of the members shall be required in order to establish or change the criteria for admitting new included municipal operators for eligibility for funds allocated under Article 4 (commencing with Section 99260).

(3) A two-thirds vote of the members shall be required, based on the criteria in effect under paragraph (2), to allocate funds under Article 4 (commencing with Section 99260) to any "included municipal operator," as defined in subdivision (d) of Section 99207, which has not previously received funds under this article.

(g) The Los Angeles County Metropolitan Transportation Authority shall give equal consideration to the capital projects of all operators in the county, and shall allocate available regional bus transit capital funds based on objective criteria adopted by a two-thirds vote of the members.

SEC. 4. Section 130050.2 is added to the Public Utilities Code, to read:

130050.2. There is hereby created the Los Angeles County Metropolitan Transportation Authority. The authority shall be the single successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission as provided by the act that enacted this section.

SEC. 5. Section 130051 of the Public Utilities Code is repealed.

SEC. 6. Section 130051 is added to the Public Utilities Code, to read:

130051. The Los Angeles County Metropolitan Transportation
Authority consists of 14 members, as follows:

(a) Five members of the Los Angeles County Board of Supervisors.

The board of supervisors may appoint, as an alternate member to a supervisor, a mayor or member of a city council of any city, other than the City of Los Angeles, within Los Angeles County, or a member of the public. If the number of members of the Los Angeles County Board of Supervisors is increased, the authority shall, within 60 days of the increase, submit a plan to the Legislature for revising the composition of the authority.

(b) The Mayor of the City of Los Angeles or an alternate appointed by the mayor.

(c) Two public members and one member of the City Council of the City of Los Angeles appointed by the Mayor of the City of Los Angeles.

(d) Four members, each of whom shall be a mayor or a member of a city council, appointed by the Los Angeles County City Selection Committee. For purposes of the selection of these four members, the County of Los Angeles, excluding the City of Los Angeles, shall be divided into the following four sectors:

1. The North County/San Fernando Valley sector.
2. The Southwest Corridor sector.
3. The San Gabriel Valley sector.
4. The Southeast Long Beach sector.

The League of California Cities, Los Angeles County Division, shall define the sectors. Every city within a sector shall be entitled to vote to nominate one or more candidates from that sector for consideration for appointment by the Los Angeles County City Selection Committee. A city's vote shall be weighted in the same proportion that its population bears to the total population of all cities within the sector.

The members appointed pursuant to this subdivision, and their alternates, shall be appointed by the Los Angeles County City Selection Committee upon an affirmative vote of its members which represent a majority of the population of all cities within the county, excluding the City of Los Angeles.

The members selected by the city selection committee shall serve four-year terms with no limitation on the number of terms that may be served by any individual. The city selection committee may, in its discretion, shorten the initial four-year term for one or more of the members for the purpose of ensuring that the members will serve staggered terms.

(e) If the population of the City of Los Angeles, at any time, becomes less than 35 percent of the combined population of all cities in the county, the position of one of the two public members appointed pursuant to subdivision (c), as determined by the Mayor of the City of Los Angeles by lot, shall be vacated, and the vacant position shall be filled by appointment by the city selection committee pursuant to subdivision (d) from a city not represented

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by any other member appointed pursuant to subdivision (d).

(f) One nonvoting member appointed by the Governor.

SEC. 7. Section 130051.5 of the Public Utilities Code is repealed.

SEC. 8. Section 130051.5 is added to the Public Utilities Code, to read:

130051.5. (a) The appointing authorities specified in subdivisions (c) and (d) of Section 130051 may each appoint alternate members to the Los Angeles County Metropolitan Transportation Authority to represent, at a meeting of the authority, a regular member it has appointed, but only if the regular member cannot attend the meeting.

(b) For purposes of this section, an alternate member shall be:

(1) In the case of the member of the City Council of the City of Los Angeles appointed by the Mayor of the City of Los Angeles, any person appointed by the mayor with the consent of the city council. If the alternate member is a member of the city council, consent of the city council is not necessary. In the case of the two public members appointed by the mayor, any persons appointed by the mayor.

(2) In the case of a member appointed by the Los Angeles County City Selection Committee, the mayor or city council member of a city within the county, other than the City of Los Angeles or a city represented by a regular member.

(c) Any alternate member appointed to the Los Angeles County Metropolitan Transportation Authority, including any appointed pursuant to Section 130051, shall act for, and in the interests of, his or her appointing authority.

(d) Except for alternate members appointed pursuant to subdivision (d) of Section 130051, alternate members appointed to the Los Angeles County Metropolitan Transportation Authority shall not vote on any matter reserved to the authority exclusively pursuant to Section 130051.12.

SEC. 9. Section 130051.6 of the Public Utilities Code is repealed.

SEC. 10. Section 130051.6 is added to the Public Utilities Code, to read:

130051.6. (a) Except as provided in subdivision (b), each member of the Los Angeles County Metropolitan Transportation Authority shall serve a term of four years or until his or her successor is appointed and qualified. A member may be removed at the pleasure of the appointing authority. A member may be reappointed for additional terms without limitation on the number of reappointments. Other than the member initially appointed by the Governor, and members appointed to staggered terms pursuant to subdivision (e) of Section 130051, the members initially appointed shall serve until January 1, 1997.

(b) The membership of any member serving on the authority as a result of holding another public office shall terminate when the member ceases holding the other public office.

SEC. 11. Section 130051.9 is added to the Public Utilities Code, to
read:

130051.9. (a) The Los Angeles County Metropolitan Transportation Authority shall appoint a full-time chief executive officer who shall act for the authority under its direction and perform those duties delegated by the authority.

(b) The Los Angeles County Metropolitan Transportation Authority shall appoint a general counsel, inspector general, and board secretary.

(c) The inspector general shall, at a noticed public hearing of the authority, report quarterly on the expenditures of the authority for travel, meals and refreshments, private club dues, membership fees and other charges, and any other expenditures which are specified by the authority.

SEC. 12. Section 130051.10 is added to the Public Utilities Code, to read:

130051.10. (a) The members of the Los Angeles County Metropolitan Transportation Authority shall be appointed no later than February 1, 1993. The authority shall have no powers, duties, or responsibilities until February 1, 1993.

(b) From February 1, 1993, until April 1, 1993, the Los Angeles Metropolitan Transportation Authority, exclusively, may exercise any of the powers of the board of directors of the Southern California Rapid Transit District and the governing body of the Los Angeles County Transportation Commission, except those powers that the authority has expressly delegated to the district or to the commission.

SEC. 13. Section 130051.11 is added to the Public Utilities Code, to read:

130051.11. (a) The Los Angeles County Metropolitan Transportation Authority may determine its organizational structure, which may include, but is not limited to, the establishment of departments, divisions, subsidiary units, or similar entities. Any department, division, subsidiary unit, or similar entity established by the authority shall be referred to in this chapter as an "organizational unit." The authority shall, at a minimum, establish the following organizational units:

(1) A transit construction organizational unit to assume the construction responsibilities for all exclusive public mass transit guideway construction projects in Los Angeles County.

(2) An operating organizational unit with the following responsibilities:

(A) The operating responsibilities of the Southern California Rapid Transit District on all exclusive public mass transit guideway projects in the County of Los Angeles.

(B) The operation of bus routes operated by the Southern California Rapid Transit District, and all the duties, obligations, and liabilities of the district relating to those bus routes.

(3) A transportation planning and programming organizational unit with all planning responsibilities previously performed by the Southern California Rapid Transit District and the Los Angeles
County Transportation Commission.

(b) Nothing in this section shall be construed to require specific bus routes to be operated. The authority or the operating organizational unit may make any adjustment with respect to bus routes, bus services, or both, which is within the power of the Los Angeles County Transportation Commission, or the Southern California Rapid Transit District.

(c) Any obligations of the Southern California Rapid Transit District arising out of a collective bargaining agreement entered into by the district shall be the exclusive obligations of the Los Angeles County Metropolitan Transportation Authority. It is the intent of the Legislature that the rights or obligations under any collective bargaining agreement in existence on January 1, 1993, not be enlarged or diminished by this section or any other provision of the act which added this section.

(d) No collective bargaining agreement entered into by the Southern California Rapid Transit District on or after January 1, 1993, shall be effective unless approved by the Los Angeles County Metropolitan Transportation Authority. The authority’s approval of an agreement shall cause the agreement to be binding upon the authority.

(e) On and after April 1, 1993, any reference to the Southern California Rapid Transit District in Article 10 (commencing with Section 30750) of Chapter 5 of Part 3 of Division 10 is deemed to refer to the Los Angeles County Metropolitan Transportation Authority.

(f) The Los Angeles County Metropolitan Transportation Authority may administratively delegate to an organizational unit or to its chief executive officer any powers and duties it deems appropriate. Powers and duties which may be delegated to an organizational unit include, but are not limited to, the following:

1. The power of eminent domain.
2. Approval of contracts, except the final approval of labor contracts.
3. Hearing and resolving bid protests.
4. The Los Angeles County Metropolitan Transportation Authority shall establish a citizens’ advisory council pursuant to subdivision (d) of Section 130105.

SEC. 14. Section 130051.12 is added to the Public Utilities Code, to read:

130051.12. The Los Angeles County Metropolitan Transportation Authority shall, at a minimum, reserve to itself exclusively, all of the following powers and responsibilities:

(a) Establishment of overall goals and objectives.

(b) Adoption of the aggregate budget for all organizational units of the authority.

(c) Designation of additional included municipal operators pursuant to subdivision (f) of Section 99285.

(d) Approval of final rail corridor selections.

(e) Final approval of labor contracts covering employees of the
authority and organizational units of the authority.

(f) Establishment of the authority's organizational structure.

(g) Conducting hearings and the setting of fares for the operating organizational unit established pursuant to paragraph (2) of subdivision (a) of Section 130051.11.

(h) Approval of transportation zones.

(i) Approval of the issuance of any debt instrument with a maturity date that exceeds the end of the fiscal year in which it is issued.

(j) Approval of benefit assessment districts and assessment rates.

(k) Approval of contracts for construction and transit equipment acquisition which exceed five million dollars ($5,000,000), and making the findings required by subdivision (c) of Section 130238.

SEC. 15. Section 130051.13 is added to the Public Utilities Code, to read:

130051.13. On April 1, 1993, the Southern California Rapid Transit District and the Los Angeles County Transportation Commission are abolished. Upon the abolishment of the district and the commission, the Los Angeles County Metropolitan Transportation Authority shall succeed to any or all of the powers, duties, rights, obligations, liabilities, indebtedness, bonded and otherwise, immunities, and exemptions of the district and its board of directors and the commission and its governing body.

SEC. 16. Section 130051.14 is added to the Public Utilities Code, to read:

130051.14. On and after April 1, 1993, any reference in this part, or in any other provision of law or regulation, to the Southern California Rapid Transit District or to the Los Angeles County Transportation Commission or to the county transportation commission in general shall be deemed to refer to the Los Angeles County Metropolitan Transportation Authority.

SEC. 17. Section 130051.15 is added to the Public Utilities Code, to read:

130051.15. (a) Upon the abolishment of the Southern California Rapid Transit District and the Los Angeles County Transportation Commission, the Los Angeles County Metropolitan Transportation Authority shall assume the rights and obligations of the district and the commission under any contract to which the district or the commission is a party and which is to be performed, in whole or in part, on or after January 1, 1993. All real and personal property owned by the district or the commission shall be transferred to the authority by operation of law.

(b) The Los Angeles County Metropolitan Transportation Authority shall assume, without any condition whatsoever, all responsibilities and obligations previously assumed by the Southern California Rapid Transit District or the Los Angeles County Transportation Commission with regard to the full funding agreement, including all agreements pursuant to Section 13 (c) of the Urban Mass Transportation Act of 1964 which relate to the full
funding agreement, with the Federal Transit Administration for the funding of the Los Angeles County Metro Rail Project. It is the intent of the Legislature that nothing in this act shall enlarge or diminish the projects covered or any rights or obligations under any existing agreements pursuant to Section 13(c).

(c) The Los Angeles County Metropolitan Transportation Authority shall not, until April 1, 1993, renew or extend any personal services contract entered into between either the Los Angeles County Transportation Commission or the Southern California Rapid Transit District and an employee or former employee of either agency prior to January 1, 1993.

SEC. 18. Section 130051.16 is added to the Public Utilities Code, to read:

130051.16. Notwithstanding any other provision of law, the Los Angeles County Metropolitan Transportation Authority shall assume the duties, obligations, and liabilities of the Southern California Rapid Transit District, including those duties, obligations, and liabilities arising from or relating to collective bargaining agreements or labor obligations imposed by state or federal law, only to the extent that the authority is acting pursuant to specific duties, obligations, liabilities, rights, or powers to which it succeeded as a result of the abolishment of the district pursuant to Section 130051.13.

SEC. 19. Section 130051.17 is added to the Public Utilities Code, to read:

130051.17. (a) Prior to the approval of any contract by the Los Angeles County Metropolitan Transportation Authority, or by any organizational unit of the authority, the authority shall adopt an ordinance comparable to Article 2 (commencing with Section 89504) of Chapter 9.5 of Title 9 of the Government Code, which regulates the acceptance of gifts by members of the authority, alternate members, members of the board of an organizational unit, and designated employees of the authority. The ordinance shall prohibit any employee of the authority from accepting gifts with a total value of more than two hundred fifty dollars ($250) in a calendar year from any single source.

(b) The ordinance shall require the limitations on receiving gifts by members of the authority, alternate members, and members of the board of an organizational unit who are not elected local officials to be substantially comparable to those specified by Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code.

(c) For the purposes of this section, "gift" shall have the same meaning as in Section 82028 of the Government Code.

(d) (1) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a governmental purpose, or to an issue of local, state, national or international public policy, is not prohibited or limited by this section if either of the following apply:

(A) The travel is in connection with a speech given by a member,
alternate member, member of the board of an organizational unit, or designated employee, 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.

(B) 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, or 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.

(2) Gifts of travel not described in paragraph (1) are subject to the limits in this section.

(3) Paragraph (1) applies only to travel which is reported on the recipient's statement of economic interest.

(4) For purposes of this section, a gift does not include travel which is provided by the Los Angeles County Metropolitan Transportation Authority.

(5) (A) The policy shall specify appropriate penalties for violations by employees including, but not limited to, personnel action.

(B) The policy shall specify appropriate penalties for violations by members of the authority, alternate members, and the members of the board of an organizational unit who are not subject to Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code, which shall include, but not be limited to, removal from office by the appointing authority.

SEC. 20. Section 130051.18 is added to the Public Utilities Code, to read:

130051.18. (a) For purposes of this section, the following terms are defined as follows:

(1) "Activity expense" means any expense incurred or payment made by a lobbyist, lobbying firm, or lobbyist employer, or arranged by a lobbyist, lobbying firm, or lobbyist employer, which benefits in whole or in part any authority official, or a member of the immediate family of an authority official.

(2) "Authority" means the Los Angeles County Metropolitan Transportation Authority and all of its organizational units as defined by Section 130051.11.

(3) "Authority action" means the drafting, introduction, consideration, modification, enactment, or defeat of an ordinance, resolution, contract, or report by the governing board of an organizational unit of the authority, or by an agency official, including any action taken, or required to be taken, by a vote of the members of the authority or by the members of the governing board of an organizational unit of the authority, except those actions
relating to Article 10 (commencing with Section 30750) of Chapter 5 of Part 3 of Division 10.

(4) "Authority official" means any member of the authority, alternate member, member of an organizational unit of the authority, and employee of the authority.

(5) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee, or elected officer is a contribution to the candidate, committee, or elected officer unless full and adequate consideration is received for making the expenditure.

"Contribution" also includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of his or her candidacy; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

"Contribution" also includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

"Contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.

"Contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars ($500) or less.

"Contribution" does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(6) "Employee of the authority" means anyone who receives compensation from the authority for full- or part-time employment, and any contractor, subcontractor, consultant, expert, or adviser acting on behalf of, or providing advice to, the authority.

(7) "Filing officer" means the individual designated by the authority with whom statements and reports required by this section shall be filed.
(8) "Lobbying" means influencing or attempting to influence authority action through direct or indirect communication with an authority official.

(9) "Lobbyist" means any individual who receives any economic consideration, other than reimbursement for reasonable travel expenses, for lobbying, including consultants and officers or employees of any business entity seeking to enter into a contract with the authority.

(10) "Lobbyist employer" means any person, other than a lobbying firm, who does either of the following:

(A) Employs one or more lobbyists for the purpose of influencing authority action.

(B) Contracts for the services of a lobbying firm for economic consideration for the purpose of influencing authority action.

(b) (1) Lobbyists and lobbyist employers shall register with the filing officer within 10 days after qualifying as a lobbyist or lobbyist employer. Registration shall be completed prior to the commencement of lobbying by the lobbyist. Registration shall include the filing of a registration statement, and the payment of any fees authorized by this section. Registration shall be renewed annually by the filing of a new registration statement and the payment of a fee.

(2) Each lobbyist and lobbyist employer required to register under this section may be charged a fee by the authority that shall be in an amount necessary to pay the direct costs of implementing this section.

(3) The lobbyist registration statement shall include all of the following:

(A) The name, address, and telephone number of the lobbyist.

(B) For each person from whom the lobbyist receives compensation to provide lobbying services, all of the following:

(i) The full name, business address, and telephone number of the person.

(ii) A written authorization signed by the person.

(iii) The time period of the contract or employment agreement.

(iv) The lobbying interests of the person.

(C) A statement signed by the lobbyist certifying that he or she has read and understands the prohibitions contained in subdivisions (f) and (g).

(4) The registration statement of a lobbyist employer shall include all of the following:

(A) The full name, business address, and telephone number of the lobbyist employer.

(B) A list of the lobbyists who are employed by the lobbyist employer.

(C) The lobbying interests of the lobbyist employer, including identification of specific contracts or authority actions.

(D) A statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in
subdivisions (f) and (g).

(5) (A) The registration statement may be amended within 10 days of a change in the information included in the statement. However, if the change includes the name of a person by whom a lobbyist is retained, the registration statement shall be amended to show that change prior to the commencement of lobbying by the lobbying firm or the lobbyist.

(B) Lobbying firms and lobbyist employers upon ceasing all lobbying activity which required registration shall file a notice of termination within 30 days after the cessation.

(C) Lobbyists and lobbyist firms shall remain subject to subdivisions (f) and (g) for 12 months after filing a notice of termination.

(c) Lobbyists and lobbyist employers which receive payments, make payments, or incur expenses or expect to receive payments, make payments, or incur expenses in connection with activities which are reportable pursuant to this section shall keep detailed accounts, records, bills, and receipts, and make them reasonably available for inspection.

(d) When a person is required to report activity expenses pursuant to this section, all of the following information shall be provided:

(1) The date and amount of each activity expense.

(2) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of the benefit.

(3) The full name of the payee of each expense if other than the beneficiary.

(e) (1) A lobbyist shall complete and verify a periodic report, and file the original of his or her report with the filing officer within one week following the end of each calendar quarter. The periodic report shall contain all of the following:

(A) A report of all activity expenses by the lobbyist during the reporting period.

(B) A report of all contributions of one hundred dollars ($100) or more made or delivered by the lobbyist to any agency official during the reporting period.

(2) A lobbyist employer shall file a periodic report containing all of the following:

(A) The name, business address, and telephone number of the lobbyist employer.

(B) The total amount of payments to each lobbying firm.

(C) The total amount of all payments to lobbyists employed by the filer.

(D) A description of the specific lobbying interests of the filer.

(E) A periodic report, completed and verified by each lobbyist employed by a lobbyist employer pursuant to paragraph (1) of subdivision (e).

(F) Each activity expense of the filer and a total of all activity
expenses of the filer.

(G) The date, amount, and the name of the recipient of any contribution of one hundred dollars ($100) or more made by the filer to an authority official.

(H) The total of all other payments to influence authority action.

(3) (A) The periodic reports required by subdivision (e) shall be filed during the month following each calendar quarter. The period covered shall be from the beginning of the calendar year through the last day of the calendar quarter prior to the month during which the report is filed, except that the period covered by the first report a person is required to file shall begin with the first day of the calendar quarter in which the filer first registered or qualified.

(B) The original and one copy of each report shall be filed with the filing officer, shall be retained by the authority for a minimum of four years, and shall be available for inspection by the public during regular working hours.

(f) (1) It is unlawful for a lobbyist to make gifts to an authority official aggregating more than ten dollars ($10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

(2) It is unlawful for any authority official knowingly to receive any gift which is made unlawful by this section. For the purposes of this subdivision, “gift” has the same meaning as defined in Section 130051.17.

(g) No lobbyist shall do any of the following:

1. Do anything with the purpose of placing an authority official under personal obligation to the lobbyist, the lobbying firm, or the lobbyist’s or the firm’s employer.

2. Deceive or attempt to deceive any authority official with regard to any material fact pertinent to any authority action.

3. Cause or influence any authority action for the purpose of thereafter being employed to secure its passage or defeat.

4. Attempt to create a fictitious appearance of public favor or disfavor of any authority action, or cause any communications to be sent to any authority official in the name of any fictitious person or in the name of any real person, except with the consent of that real person.

5. Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control any authority official.

6. Accept or agree to accept any payment that is contingent upon the outcome of any authority action.

(h) Any person who knowingly or willfully violates any provision of this section is guilty of a misdemeanor.

(i) The District Attorney of the County of Los Angeles is responsible for the prosecution of violations of this section.

(j) Any person who violates any provision of this section is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction of the authority for an amount up to five hundred dollars ($500), or three times the amount of an unlawful
gift or expenditure, whichever is greater.

(k) The provisions of this section are not applicable to any of the following:

(1) An elected public official who is acting in his or her official capacity to influence authority action.

(2) Any newspaper or other periodical of general circulation, book publisher, radio or television station which, in the ordinary course of business, publishes or broadcasts news items, editorials, or other documents, or paid advertisement, that directly or indirectly urges authority action, if the newspaper, periodical, book publisher, radio or television station engages in no further or other activities in connection with urging authority action other than to appear before the authority in support of, or in opposition to the authority action.

(l) No former authority official shall become a lobbyist for a period of one year after leaving the authority.

SEC. 21. Section 130051.19 is added to the Public Utilities Code, to read:

130051.19. (a) The Los Angeles County Metropolitan Transportation Authority shall adopt an affirmative action plan for its management positions which reflects the ethnic demographics of the county, taking into consideration the availability of the work force in the various ethnic groups.

(b) The authority shall, prior to the approval of any contract by the authority or by its organization units, adopt and implement a disadvantaged business enterprise program which establishes participation goals of not less than 15 percent of the dollar value of all contracts by minority business enterprises and not less than 5 percent by women business enterprises.

(c) The authority shall establish a Transportation Business Advisory Council to advise it on matters regarding the disadvantaged business enterprise program to enable the authority to meet or exceed women and minority business enterprise participation goals. Members of the council shall be selected by the authority, and shall include representatives of professional organizations and other groups which advocate on behalf of greater participation of women and minority business enterprises in public contracts. The chairperson of the authority or his or her designee shall meet with the council, and the authority shall provide adequate staff support for the council, and shall consider all recommendations made by the council.

SEC. 22. Section 130108 of the Public Utilities Code is amended to read:

130108. (a) Each member of a commission may be compensated at a rate not exceeding one hundred dollars ($100) for any day attending to the business of the commission, but not to exceed four hundred dollars ($400) in any month, and the necessary traveling and personal expenses incurred in the performance of his duties as authorized by the commission. Members of the Los Angeles County Metropolitan Transportation Authority shall be compensated
pursuant to subdivision (b).

(b) Each member of the Los Angeles County Metropolitan Transportation Authority shall be compensated at a rate not exceeding one hundred and fifty dollars ($150) for any day attending to the business of the authority, but not to exceed six hundred dollars ($600) per month, and other expenses which are directly related to the performance of duties as authorized by the authority.

SEC. 23. Sections 5 and 9 of this act shall become operative on April 1, 1993.

SEC. 24. 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. 25. Notwithstanding any other provision of law, the Controller shall deduct, from any state funds allocated to the Los Angeles County Metropolitan Transportation Authority for transportation purposes, the amount the authority was reimbursed by the state for costs resulting from state mandates resulting from this act. The deducted state funds shall be transferred to the unappropriated balance of the fund from which they were appropriated.

SEC. 26. 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 61

An act to amend Section 14075 of, and to add Sections 14030.1, 14037.6, and 14037.7 to, the Corporations Code, and to add Section 8684.2 to the Government Code, relating to disaster assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 19, 1992. Filed with Secretary of State May 19, 1992.]

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

SECTION 1. This act shall be known and may be cited as the Beverly-Murray Small Business Bridge Loan Program of 1992.

SEC. 2. Section 14030.1 is added to the Corporations Code, to read:
14030.1. (a) There is hereby created in the State Treasury the Small Business Disaster Recovery Loan Loss Reserve Account, as part of the expansion fund. This account shall be used to pay for unrecovered losses resulting from loan guarantees issued pursuant to subdivision (a) of Section 14075 and subdivision (b) of this section and disaster loan guarantees issued prior to the effective date of this section that are in default. Any lending institution that issues a low-interest loan that is guaranteed by resources in this account shall be fully reimbursed for the guaranteed portion of principal and interest that result from a loan or loans that are in default. In the event that there are insufficient funds in this account to fully satisfy all claimants, then the full faith of the resources in the General Fund are pledged to satisfy the obligations of this account. This account may only guarantee as much loan dollar value as is specifically authorized by the Director of Finance with the concurrence of the Governor. This account shall receive all moneys transferred pursuant to Section 14037.6, and any unencumbered balances transferred to the Small Business Expansion Fund pursuant to Chapters 11 and 12 of the Statutes of 1989, First Extraordinary Session, and Chapter 1525 of the Statutes of 1990, as of July 1, 1992.

(b) The Governor should utilize this authority to prevent business insolvencies and loss of employment in an area affected by a state of emergency that began in the Los Angeles area on April 29, 1992, and incidents subsequent thereto, and resulting therefrom, throughout the state and declared a disaster by the President of the United States, or by the Administrator of the United States' Small Business Administration, or by the Governor of California.

SEC. 3. Section 14037.6 is added to the Corporations Code, to read:

14037.6. (a) The Director of Finance, with the approval of the Governor, may transfer moneys in the Special Fund for Economic Uncertainties to the Small Business Expansion Fund for use by the Office of Small Business in the Department of Commerce, in an amount necessary to make loan guarantees pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code.

(b) The Governor should utilize this authority to prevent business insolvencies and loss of employment in an area affected by a state of emergency that began in the Los Angeles area on April 29, 1992, and incidents subsequent thereto, and resulting therefrom, throughout the state and declared a disaster by the President of the United States, or by the Administrator of the United States' Small Business Administration, or by the Governor of California.

SEC. 4. Section 14037.7 is added to the Corporations Code, to read:

14037.7. Within 60 days of the conclusion of the period for guaranteeing loans under any small business disaster loan guarantee program conducted for a disaster as authorized by Section 8684.2 of the Government Code or Section 14075, the department shall
provide a report to the Legislature on loan guarantees approved and rejected by gender, ethnic group, type of business and location, and each participating loan institution.

SEC. 5. Section 14075 of the Corporations Code is amended to read:

14075. (a) A corporation may, in an area designated as a disaster area by the Governor, provide loan guarantees from funds allocated in Section 14037.5 to small businesses, small farms, nurseries, and agriculture-related enterprises which have suffered actual physical damage or significant economic injury as a result of the disaster.

(b) The Department of Commerce may adopt regulations to implement the loan guarantee program authorized by this section. The department may adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, 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 of the Government Code, the regulations shall be repealed within 180 days after their effective date unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) Allocations pursuant to subdivision (a) shall be deemed to be for extraordinary emergency or disaster response operations costs incurred by the Office of Small Business.

SEC. 6. Section 8684.2 is added to the Government Code, to read:

8684.2. (a) It is the intent of the Legislature:

1. To provide the Governor with appropriate emergency powers in order to enable utilization of available emergency funding to provide guarantees for interim loans to be made by lending institutions, in connection with relief provided for those persons affected by natural disasters or a state of emergency in affected areas during periods of disaster relief assistance, for the purpose of supplying interim financing to enable small businesses to continue operations pending receipt of federal disaster assistance.

2. That the Governor should utilize this authority to prevent business insolvencies and loss of employment in areas affected by these disasters.

(b) In addition to the allocations authorized by Section 8683 and the loan guarantee provisions of Section 14030.1 of the Corporations Code, the Governor may allocate funds made available for the purposes of this chapter, in connection with relief provided, in affected areas during the period of federal disaster relief, to the Small Business Expansion Fund for use by the Office of Small Business, pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, to provide guarantees
for low-interest interim loans to be made by lending institutions for the purpose of providing interim financing to enable small businesses that have suffered actual physical damage or significant economic losses, as a result of the natural disaster or state of emergency for which funding under this section is made available, to continue or resume operations pending receipt of loans made or guaranteed by the federal Small Business Administration. The maximum amount of any loan guarantee funded under this paragraph shall not exceed two hundred thousand dollars ($200,000). Each loan guarantee shall not exceed 95 percent of the loan amount, except that a loan guarantee may be for 100 percent of the loan amount if the applicant can demonstrate that access to business records pertinent to the loan application has been precluded by official action prohibiting necessary reentry into the affected business premises or that those business records pertinent to the loan application have been destroyed. The term of the loan shall be determined by the lending institution providing the loan or shall be made payable on the date the proceeds of a loan made or guaranteed by the federal Small Business Administration with respect to the same damage or loss are made available to the borrower, whichever event first occurs.

(c) Loan guarantees for which the initial 12-month term has expired and for which an application for disaster assistance funding from the federal Small Business Administration is still pending may be extended until the Small Business Administration has reached a final decision on the application. Applications for interim loans shall be processed in an expeditious manner. Wherever possible, lending institutions shall fund nonconstruction loans within 60 calendar days of application. Loan guarantees for loans which have been denied funding by the federal Small Business Administration, may be extended by the financial institution provided that the loan is for no longer than a maximum of seven years, if the business demonstrates the ability to repay the loan with an extended loan term, and a new credit analysis is provided. All loans extended under this provision shall be repaid in installments of principal and interest, and be fully amortized over the term of the loan. Nothing in this section shall preclude the lender from charging reasonable administrative fees in connection with the loan.

(d) Allocations pursuant to this section shall, for purposes of all provisions of law, be deemed to be for extraordinary emergency or disaster response operation costs, as provided in Section 8690.6, incurred by the Office of Small Business.

(e) The Department of Commerce may adopt regulations to implement the loan guarantee program authorized by this section. The department may adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, 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 of the Government Code, the regulations shall be repealed within 180 days after their effective date unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(f) Within 60 days of the conclusion of the period for guaranteeing loans under any small business disaster loan guarantee program conducted for a disaster as authorized by Section 8684.2 of the Government Code or Section 14075, the department shall provide a report to the Legislature on loan guarantees approved and rejected by gender, ethnic group, type of business and location, and each participating loan institution.

SEC. 7. Section 14037.7 of the Corporations Code and subdivision (f) of Section 8684.2 of the Government Code shall apply to all small business disaster loan guarantee programs implemented on or after April 28, 1992.

SEC. 8. This act is an urgency statute necessary for the immediate reservation of the public peace, health, or 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 disaster assistance to those areas affected by the state of emergency that occurred subsequent to the April 29, 1992, verdict in the Rodney King trial, it is necessary that this act take effect immediately.

CHAPTER 62

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 May 19, 1992 Filed with Secretary of State May 19, 1992 ]

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

SECTION 1. This act may be cited as the First Validating Act of 1992.

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.
Infrastructure financing districts.
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 63

An act to amend Section 12024.12 of the Business and Professions Code, relating to kosher food.

[Approved by Governor May 19, 1992 Filed with Secretary of State May 19, 1992]

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

SECTION 1. Section 12024.12 of the Business and Professions Code is amended to read:

12024.12. (a) Any person who sells fresh meat or poultry advertised or represented to be kosher shall retain, on the premises, for one year, a true and legible copy of all invoices and records of cash or charge transactions from the packer or producer of the kosher
meat or poultry and shall make these documents, and other evidence of the source of the meat being housed or sold by that person, available for inspection by the Department of Food and Agriculture or its representatives, upon request.

(b) Notwithstanding any other provision of law, the Director of Food and Agriculture shall enforce this section, as a pilot program in the Counties of Alameda, Los Angeles, Orange, San Diego, and Santa Clara and the City and County of San Francisco if adequate funding, as determined by the director, is made available.

(c) Upon finding a violation of this section, the Department of Food and Agriculture may remove from the premises the meat or poultry that is the subject of the violation.

(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.

CHAPTER 64

An act to add Sections 44018 and 87018 to the Education Code, relating to school employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 19, 1992. Filed with Secretary of State May 19, 1992.]

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

SECTION 1. Section 44018 is added to the Education Code, to read:

44018. (a) In addition to the benefits provided pursuant to Sections 395.01 and 395.02 of the Military and Veterans Code, any certificated employee of a school district who, as a member of the California National Guard or a United States Military Reserve organization, is called into active military duty as a result of the Iraq-Kuwait crisis, may receive, on approval of the governing board of the school district, the benefits provided for in subdivision (b).

(b) Any certificated employee to which subdivision (a) applies, while on active duty, may, 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 certificated 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) This section shall not apply to any active military duty served voluntarily after the close of the Iraq-Kuwait crisis.

SEC. 2. Section 87018 is added to the Education Code, to read:

87018. (a) In addition to the benefits provided pursuant to Sections 395.01 and 395.02 of the Military and Veterans Code, any certificated employee of a community college district who, as a member of the California National Guard or a United States Military Reserve organization, is called into active military duty as a result of the Iraq-Kuwait crisis, may receive, on approval of the governing board of the community college district, the benefits provided for in subdivision (b).

(b) Any certificated employee to which subdivision (a) applies, while on active duty, may, 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 certificated 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) 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 persons employed by school and community college districts as certificated employees who are called to active military duty as a result of the Iraq-Kuwait crisis may be provided with compensation for time served prior to January 1, 1991, it is necessary that his act take effect immediately.

8770
An act to amend Section 14670.2 of the Government Code, relating to state hospital property.

[Approved by Governor May 19, 1992. Filed with Secretary of State May 19, 1992]

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

SECTION 1. Section 14670.2 of the Government Code is amended to read:

14670.2. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Mental Health, may, in the best interests of the state, let to a public governmental agency, for the purpose of locating and conducting its trainable mentally retarded program, and for locating and conducting a child-care facility, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital. For the additional purpose of establishing an educational park, the director may, with the consent of the department, renegotiate the lease, for a period not to exceed 50 years, which period shall commence January 1, 1993. For the purposes of this section, "educational park" means a conglomerate of educational services, including, but not limited to, a children’s center, a preschool for severely disabled children, adult educational services, administrative offices, a community school, and a media services building.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. That review shall be made by the Director of General Services, who shall do both of the following:

(a) Assure the state the purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for the establishment of a school building facility by the lessee prior to July 1, 1977. That facility shall not be established until after the effective date of the act amending this section.
CHAPTER 66

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

[Approved by Governor May 26, 1992. Filed with Secretary of State May 27, 1992]

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

SECTION 1. (a) The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the sources and in the amounts specified in paragraphs (1), (2), and (3) to the State Energy Resources Conservation and Development Commission to provide funds to match federal funds for the development of advanced transportation systems and electric vehicles by consortia in the state that apply and meet the standards of eligibility for federal grants under Part C of Title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240):

(1) Notwithstanding Sections 13340 and 15361 of the Government Code, and to the extent permitted by federal law, the sum of one million dollars ($1,000,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and from federal oil overcharge funds available pursuant to court judgments or federal agency orders, for the purposes of this section. The money appropriated by this paragraph 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.

(2) Three hundred thousand dollars ($300,000) from the California Competitive Technology Fund, created by Section 15379.11 of the Government Code, for the purposes of this section.

(3) Two hundred thousand dollars ($200,000) from the State Highway Account in the State Transportation Fund for the purposes of this section.

(b) If no California consortia are selected, the money appropriated by subdivision (a) shall revert to the funding sources specified in paragraphs (1), (2), and (3), respectively, of subdivision (a).

(c) The State Energy Resources Conservation and Development Commission, in cooperation with the Department of Commerce and the Department of Transportation, shall allocate the matching funds appropriated by subdivision (a) to eligible consortia. Prior to allocating the funds, the commission shall ensure that each consortium receiving funds meets all of the following requirements:
(1) Is organized for the purpose of designing, developing, and commercializing electric vehicles that are projected to meet ultra-low or zero emission standards according to standards of the State Air Resources Board, or other advanced mass transportation systems.

(2) Is focused on significant technology areas that are important to the commercialization of electric vehicles.

(3) Has developed a plan that has stated goals, a schedule, a budget, and specified personnel.

(4) Will facilitate small and medium size businesses in conjunction with established manufacturers.

(5) Will promote the use of California firms.

(d) The consortia selection process is exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The money appropriated by this section 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.

SEC. 2. Money in the Federal Trust Fund, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, which is available for appropriation during the 1992–93 fiscal year, shall be used, upon appropriation, in accordance with subdivision (b) of Section 4 of Chapter 1426 of the Statutes of 1988, which declared the intent of the Legislature to appropriate one-half of each future disbursement received by the state from the account to complete the implementation of the one hundred million dollar ($100,000,000) Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program (Part 10.7 (commencing with Section 17910) of the Education Code).

SEC. 3. This act shall become operative only if Senate Bill 1211 of the 1991–92 Regular Session is enacted and becomes 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 be eligible for federal matching funds available for the development of advanced transportation systems and electric vehicles by consortia that can help improve air quality and energy diversity, thereby protecting the public health and safety, it is necessary that this act take effect immediately.
An act to add Section 25310.4 to the Public Resources Code, relating to air pollution, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 26, 1992. Filed with Secretary of State May 27, 1992.]

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

SECTION 1. Section 25310.4 is added to the Public Resources Code, to read:

25310.4. (a) Commencing September 1, 1993, the commission, in consultation with the State Air Resources Board and the Public Utilities Commission, may direct fuel producers, suppliers, distributors, and the owners and lessors of retail fueling outlets, that are selling fuels used by low-emission vehicles, to provide the commission, on a periodic basis as scheduled by the commission, with data and information, not otherwise supplied under Chapter 4.5 (commencing with Section 25350), concerning fuel availability, posted or average wholesale or rack prices, and prices charged for those fuels. The commission may request other low-emission vehicle fuel information needed to fulfill its reporting obligations under Sections 25310.1, 25310.2, and 25310.3, and subdivision (c). The information shall be provided to the commission in the form and to the extent that the commission prescribes. To the maximum extent practicable, the commission shall use existing reporting forms and procedures to implement this section.

(b) The information and data provided to the commission pursuant to this section shall be subject to the confidentiality provisions of Section 25364.

(c) Commencing in 1995, the biennial report prepared pursuant to Section 25310 shall include a report on whether fuels used for low-emission vehicles are being effectively marketed and effectively made available to customers, and shall include recommendations for ensuring the availability of those fuels to customers.

SEC. 2. (a) Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of two million four hundred six thousand dollars ($2,406,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from 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 consisting of federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby appropriated to the State Energy Resources Conservation and Development Commission, to be allocated as follows:

(1) Five hundred thousand dollars ($500,000) to provide funds to
match federal funds for advanced transportation system and electric vehicle development consortia in the state which apply and meet the standards of eligibility for federal grants under Part C of Title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240). If no California consortia are selected, this appropriation shall revert to the Federal Trust Fund.

(2) Two hundred forty-four thousand dollars ($244,000) to support the commission's development of an electric vehicle infrastructure plan which is consistent with Section 25618 of the Public Resources Code, including one personnel year, that takes into consideration the relationship between electric vehicles and new construction and parking facilities, and to develop a consumer recharging and refueling master plan for alternative fuel vehicles, including electric vehicles.

(3) One million forty-six thousand dollars ($1,046,000) to support the commission's fuel flexible vehicle demonstration program, including one personnel year.

(4) Five hundred fifty-eight thousand dollars ($558,000) to carry out a compressed natural gas medium-duty vehicle demonstration program, including one personnel year.

(5) Fifty-eight thousand dollars ($58,000), for one personnel year, to support the commission's alternative fuels infrastructure program.

(b) Money in the Federal Trust Fund, received by the state from the Petroleum Violation Escrow Account, and consisting of federal oil overcharge funds available pursuant to court judgments or federal agency orders, and which is available for appropriation during the 1992–93 fiscal year, shall be expended, upon appropriation, in accordance with the intent of subdivision (b) of Section 4 of Chapter 1426 of the Statutes of 1988, which declared the intent of the Legislature to appropriate one-half of each future disbursement received by the state from the account to complete the implementation of a one hundred million dollar ($100,000,000) Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program (Part 10.7 (commencing with Section 17910) of the Education Code).

(c) It is the further intent of the Legislature that the fuel flexible vehicle demonstration program appropriation in paragraph (3) of subdivision (a), along with the Governor's proposed fiscal year 1992–93 budget request for the commercialization of light duty methanol fueled vehicles, shall be the final appropriation for this purpose to the commission.

(d) The money 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.

(e) The commission, in cooperation with the Department of Commerce and the Department of Transportation, shall allocate the matching funds appropriated by paragraph (1) of subdivision (a) to eligible consortia. The consortia selection process is exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of
Part 1 of Division 3 of Title 2 of the Government Code. Prior to allocating the funds, the commission shall ensure that each consortium receiving funds meets all of the following requirements:

(1) Is organized for the purpose of (A) designing, developing, and commercializing electric vehicles that are projected to meet ultra-low or zero emission standards according to standards of the State Air Resources Board, or (B) developing other advanced transportation systems.

(2) Is focused on significant technology areas that are important to the commercialization of electric vehicles.

(3) Has developed a plan that has stated goals, a schedule, a budget, and specified personnel.

(4) Will facilitate small and medium size businesses in conjunction with established manufacturers.

(5) Will promote the use of California firms.

SEC. 3. This act shall become operative only if Assembly Bill 1049 of the 1991-92 Regular Session of the Legislature is enacted.

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 be eligible for matching federal funds available for advanced transportation system and electric vehicle development that can help improve air quality and energy diversity, thereby protecting public health and safety, it is necessary that this act take effect immediately.

CHAPTER 68

An act to amend Section 51025.5 of the Government Code, relating to the State Fire Marshal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 26, 1992. Filed with Secretary of State May 27, 1992.]

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

SECTION 1. Section 51025.5 of the Government Code is amended to read:

51025.5. (a) There is hereby created the California Oil Refinery and Chemical Plant Safety Fund.

(b) All fees collected pursuant to Sections 51025 and 51025.2 shall be deposited in the fund. These funds shall be available, upon appropriation, in the annual Budget Act, by the Legislature, to the State Fire Marshal for the purposes of carrying out this chapter, including administrative costs incurred by the State Fire Marshal, the Department of Industrial Relations, the Office of Emergency
Services, and the California Environmental Protection Agency, in providing staff and other services authorized pursuant to Section 51023.

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

In order to authorize the State Fire Marshal to expend funds for the purpose of carrying out the California Oil Refinery and Chemical Plant Safety Preparedness Act of 1991, it is necessary that this act take effect immediately.

CHAPTER 69

An act relating to the Victim-Witness Assistance Fund, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 26, 1992. Filed with Secretary of State May 27, 1992]

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

SECTION 1. The Legislature finds and declares that the demonstrated decline in revenues available in the 1991-92 fiscal year for allocation to the State Penalty Fund has seriously jeopardized the solvency of that fund, and therefore the ability to provide critical services to victims of crime. It is the intent of the Legislature that victim and related services be continued without interruption at acceptable levels during this fiscal year and further that an appropriation from the General Fund for this purpose is urgently needed.

SEC. 2. The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund to the Victim-Witness Assistance Fund for the 1991-92 fiscal year, to be used in accordance with the requirements of Section 13835.7 of the Penal Code.

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

In order to ensure the continued solvency of the Victim-Witness Assistance Fund through the end of the current fiscal year, it is necessary that this act take effect immediately.
CHAPTER 70

An act to amend Section 35401.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor May 26, 1992. Filed with Secretary of State May 27, 1992.]

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

SECTION 1. Section 35401.3 of the Vehicle Code is amended to read:

35401.3. (a) Notwithstanding subdivisions (a) and (b) of Section 35401, a combination of vehicles designed and used to transport motor vehicles, which consist of a motortruck and stinger-steered semitrailer, shall be allowed a length of up to 70 feet if the kingpin is at least three feet behind the rear drive axle of the motortruck. This combination shall not be subject to subdivision (a) of Section 35411, but the load upon the rear vehicle of the combination shall not extend more than six feet six inches beyond the allowable length of the vehicle.

(b) A combination of vehicles designed and used to transport motor vehicles, which consists of a motortruck and stinger-steered semitrailer, shall be allowed a length of up to 75 feet if all of the following conditions are maintained:

(1) The distance from the steering axle to the rear drive axle of the motortruck does not exceed 24 feet.

(2) The kingpin is at least five feet behind the rear drive axle of the motortruck.

(3) The distance from the kingpin to the rear axle of the semitrailer does not exceed 34 feet except that the distance from the kingpin to the rear axle of a triple axle semitrailer does not exceed 36 feet.

This combination shall not be subject to subdivision (a) of Section 35411, but the load upon the rear vehicle of the combination shall not extend more than six feet six inches beyond the allowable length of the vehicle.
CHAPTER 71

An act relating to school funding, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor May 28, 1992. Filed with Secretary of State May 28, 1992.]

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

SECTION 1. (a) The sum of two million nine hundred eighty-four thousand dollars ($2,984,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction, in augmentation of Schedule (d) of Item 6110-101-001 of Section 2.00 of the Budget Act of 1991, as set forth in Chapter 118 of the Statutes of 1991, for allocation in the 1991-92 fiscal year to fund apprenticeship education programs pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code.

(b) Pursuant to the joint certification performed under Section 41206 of the Education Code for the 1988-89 fiscal year, the appropriation made in subdivision (a) fully satisfies the minimum funding guarantee under subdivision (b) of Section 8 of Article XVI of the California Constitution for that fiscal year, and is deemed to be an appropriation in the 1988-89 fiscal year, in accordance with paragraph (2) of subdivision (b) of Section 41206 of the Education Code.

(c) The funds appropriated under subdivision (a) shall be deemed to be a one-time supplemental appropriation for the funding of apprenticeship education programs. The funding level for those programs for the 1992-93 fiscal year, and each subsequent fiscal year, shall be established in the annual Budget Act.

SEC. 2. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 72

An act to amend Section 1094.5 of the Code of Civil Procedure, and to amend Sections 6254, 37604, 37605, and 37656 of, to add Sections 37604.1, 37604.2, 37609.1, 37612.1, 37612.2, 37612.3, 37614.1, 37615.1, 37615.2, 37615.3, 37615.4, 37615.5, 37615.6, 37615.7, 37615.8, 37618.1, 37618.2, 37618.3, 37618.4, 37624, 37624.2, 37624.3, 37650.1, and 37650.2 to, and to repeal and add Sections 37606 and 37614 of, the Government Code, relating to municipal hospitals, and declaring the urgency thereof, to take effect immediately.
The people of the State of California do enact as follows:

SECTION 1. Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent’s points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Section 68511.3 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to The Local Hospital District Law, Division 23 (commencing with Section 32000) of the Health and Safety Code or governing bodies of
municipal hospitals formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of the Government Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. However, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of that allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court’s opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law, but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest; provided that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the
petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a hearing required by statute to be conducted under the provisions of the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or an administrative law judge on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, the stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits; and provided further that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency which issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the administrative law judge in its entirety or has adopted the proposed decision but reduced the proposed penalty pursuant to subdivision (b) of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with

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during the pendency of the proceedings.

(i) Any administrative record received for filing by the clerk of the court may be disposed of as provided in Sections 1952, 1952.2, and 1952.3.

SEC. 2. Section 6254 of the Government Code 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, or the records of a municipal hospital, formed pursuant to Article 7
(commencing with Section 37600) or Article 8 (commencing with
Section 37650) of Chapter 5 of Division 3 of Title 4 of this 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 10132 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. 3. Section 37604 of the Government Code is amended to read:

37604. The trustees shall hold office for three years. The members of the first board shall classify themselves by lot so that the terms of two trustees expire at the end of the current fiscal year, two at the end of the next year, and three at the end of the second year. Vacancies shall be filled by appointment for the unexpired term.

SEC. 4. Section 37604.1 is added to the Government Code, to read:

37604.1. The board of trustees shall serve without compensation except that the city council, by resolution adopted by a majority vote of the members of the city council, may authorize the payment of not to exceed one hundred dollars ($100) per meeting not to exceed five meetings per month as compensation to each member of the board of trustees.

Each member of the board of trustees shall be allowed his or her actual necessary traveling and incidental expenses incurred in the performance of official business of the hospital as approved by the board.

SEC. 5. Section 37604.2 is added to the Government Code, to read:

37604.2. Notwithstanding any other provision of law, the term of any member of the board of trustees shall expire if he or she is absent from three consecutive regular meetings, or from three of any five consecutive meetings of the board and the city council by resolution declares that a vacancy exists on the board.

SEC. 6. Section 37605 of the Government Code is amended to read:

37605. The board of hospital trustees shall meet at least once a month at the time and place it fixes by resolution. The president, or in the absence of the president, the president pro tempore, or a majority of the trustees may call a special meeting by serving written notice upon the other members by following the procedures prescribed in Section 54956 or 54956.5.

SEC. 7. Section 37606 of the Government Code is repealed.

SEC. 8. Section 37606 is added to the Government Code, to read:

37606. (a) Except as provided in this section or Section 37624.3, all of the sessions of the board of trustees, whether regular or special, shall be open to the public, and a majority of the members of the board shall constitute a quorum for the transaction of business.

(b) The board of trustees may order a meeting held solely for the purpose of discussion or deliberation, or both, of reports involving hospital trade secrets to be held in closed session. Except as provided in this subdivision, the closed session shall meet all applicable
requirements of Chapter 9 (commencing with Section 54950) of Division 2 of Title 5.

(c) "Hospital trade secrets," as used in this section, means a "trade secret," as defined in subdivision (d) of Section 3426.1 of the Civil Code, and which meets all of the following:

1. Is necessary to initiate a new hospital service or program or add a hospital facility.
2. Would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

(d) The exception provided in subdivision (b) to the general open meeting requirements for a meeting of the board of trustees, shall not apply to a meeting where there is action taken, as defined in Section 54952.6.

(e) Nothing in this section shall be construed to permit the board of trustees to order a closed meeting for the purposes of discussing or deliberating, or to permit the discussion or deliberation in any closed meeting of, any proposals regarding:

1. The sale, conversion, contract for management, or leasing of any municipal hospital or the assets thereof, to any for-profit or nonprofit entity, agency, association, organization, governmental body, person, partnership, corporation, or hospital district.
2. The conversion of any municipal hospital to any other form of ownership by the city.
3. The dissolution of the municipal hospital.

SEC. 9. Section 37609.1 is added to the Government Code, to read:

37609.1. (a) The rules of the hospital, established by the board of trustees 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 consistent with 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 consistent 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 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.

(b) The rules of the hospital, insofar as consistent with this article, shall 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 trustees may adopt other rules which could be lawfully adopted by private or voluntary hospitals.

SEC. 10. Section 37612.1 is added to the Government Code, to read:

37612.1. Except as provided in this section, by resolution, the board of trustees of a municipal hospital may authorize the disposition of any surplus property of the municipal hospital at fair market value by any method determined appropriate by the board.

The board of trustees of a municipal hospital may donate or sell, at less than fair market value, any surplus property to any local hospital district in California.

SEC. 11. Section 37612.2 is added to the Government Code, to read:

37612.2. (a) Notwithstanding any other provision of law, a municipal hospital, or any affiliated nonprofit corporation upon a finding by the board of trustees of the municipal hospital that it will be in the best interest of the public health of the communities served by the municipal hospital and in order to obtain a licensed physician and surgeon to practice in the communities served by the municipal hospital, may upon a four-fifths vote of the board of trustees do any of the following:

1. Guarantee to a physician and surgeon a minimum income for a period of no more than three years from the opening of the physician and surgeon’s practice.

2. Guarantee purchases of necessary equipment by the physician and surgeon.

3. Provide reduced rental rates of office space in any building owned or leased by the municipal hospital or any of its affiliated entities, or subsidize rental payments for office space in any other buildings, for a term of not more than three years.

4. Provide other incentives to a physician and surgeon in exchange for consideration and upon terms and conditions the hospital board of trustees deems reasonable and appropriate.

(b) Any provision in a contract between a physician and surgeon and a municipal hospital or affiliated nonprofit corporation is void which does any of the following:

1. Imposes as a condition any requirement that the patients of the physician and surgeon, or a quota of the patients of the physician and surgeon, only be admitted to a specified hospital.

2. Restricts the physician and surgeon from establishing staff privileges at, referring patients to, or generating business for another entity.

3. Provides payment or other consideration to the physician and.
surgeon for the physician and surgeon's referral of patients to the municipal hospital or an affiliated nonprofit corporation.

(c) Contracts between a physician and surgeon and a municipal hospital or affiliated nonprofit corporation that provide an inducement for the physician and surgeon to practice in the community served by the municipal hospital shall contain both of the following:

(1) A provision which requires the inducement to be repaid with interest if the inducement is repayable.

(2) A provision which states that no payment or other consideration shall be made for the referral of patients to the municipal hospital or an affiliated nonprofit corporation.

(d) To the extent that this section conflicts with Section 650 of the Business and Professions Code, Section 650 of the Business and Professions Code shall supersede this section.

(e) The Legislature finds that this section is necessary to assist municipal hospitals to attract qualified physicians and surgeons to practice in the communities served by these hospitals, and that the health and welfare of the residents in these communities require these provisions.

SEC. 12. Section 37612.3 is added to the Government Code, to read:

37612.3. Notwithstanding any other provision of law, upon a recommendation by the board of trustees and upon a finding by the city council that it will be in the best interests of the municipal hospital to provide additional diversification of facilities, the board of trustees may lease and operate the realty facilities, and business of a hospital district in California, or create a leasehold interest in its own realty, improvements, and business in favor of a hospital district, if the following apply:

(a) That the lease when taken together with any extensions of the lease shall not exceed a total of 10 years.

(b) That the lessor district or lessor city shall not finance any capital improvements through the use of the lessor district’s or lessor city’s credit.

(c) That the lessor district or lessor city shall have successfully completed any feasibility studies required by the board of directors of the district or the board of trustees or the city council of the municipal hospital as will reasonably ensure that the lessor hospital’s financial stability will not be endangered by the lease transaction.

(d) Nothing in this section shall be construed to impair or limit the authority of the California Medical Assistance Commission to contract for the provision of inpatient hospital services under the Medi-Cal program with local hospital district hospitals or municipal hospitals as sole distinct entities, even though one or more hospital districts or municipal hospitals may have entered into leasehold or joint-venture arrangements.

SEC. 13. Section 37614 of the Government Code is repealed.

SEC. 14. Section 37614 is added to the Government Code, to read:
37614. The board may prescribe the duties and powers of the hospital administrator, secretary, and other officers and employees of the hospital. The officers and employees shall hold their offices at the pleasure of the board of trustees.

SEC. 15. Section 37614.1 is added to the Government Code, to read:

37614.1. Notwithstanding any other provision of this division, a municipal hospital may enter into a contract of employment with a hospital administrator, the duration of which shall not exceed four years, but which may periodically be renewed upon expiration for not more than four years.

SEC. 16. Section 37615.1 is added to the Government Code, to read:

37615.1. Each local municipal hospital shall have and may exercise the following powers:

(a) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the municipality, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the hospital.

(b) To establish one or more trusts for the benefit of the municipal hospital, to administer any trusts declared or created for the benefit of the municipal hospital, to designate one or more trustees for trusts created by the municipality, to receive by gift, devise, or bequest, and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the municipal hospital.

(c) To employ any officers and employees, including architects and consultants, the board of trustees deems necessary to carry on properly the business of the municipal hospital.

(d) To do any and all things which an individual might do which are necessary for, and to the advantage of, a hospital and a nurses' training school, or a child-care facility for the benefit of employees of the hospital or residents of the municipality.

(e) To establish, maintain and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to, outpatient programs, services and facilities, retirement programs, services and facilities, chemical dependency programs, services and facilities, or other health care programs, services and facilities and activities at any location within or without the municipality for the benefit of the hospital and the people served by the municipal hospital.

"Health facilities," as used in this subdivision, means those facilities defined in either Section 15432 of this code or Section 1250 of the Health and Safety Code and specifically includes freestanding chemical dependency recovery units.

(f) To do any and all other acts and things necessary to carry out this division.
(g) To acquire, maintain, and operate ambulances or ambulance services within and without the municipality.

(h) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs, wellness and prevention programs, rehabilitation, aftercare, and any other health care services provider, groups, and organizations which are necessary for the maintenance of good physical and mental health in the communities served by the municipal hospital.

(i) To establish and operate in cooperation with its medical staff a coinsurance plan between the municipal hospital and the members of its attending medical staff.

(j) With the approval of the city council, to establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the municipal hospital.

(k) With the consent of the city council, to contract for bond insurance, letters of credit, remarketing services, and other forms of credit enhancement and liquidity support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

(l) To establish, maintain, operate, participate in, or manage capitated health care plans, health maintenance organizations, preferred provider organizations, and other managed health care systems and programs properly licensed by the Department of Insurance or the Department of Corporations, at any location within or without the municipality for the benefit of residents of communities served by the hospital. However, no such activity shall be deemed to result in or constitute the giving or lending of the municipality’s credit, assets, surpluses, cash, or tangible goods to, or in aid of, any person, association, or corporation in violation of Section 6 of Article XVI of the California Constitution.

Nothing in this section shall authorize activities which corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

Any agreement to provide health care coverage which is a health care service plan, as defined in subdivision (f) of Section 1345 of the Health and Safety Code, shall be subject to the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, unless exempted pursuant to Section 1343 or 1349.2 of the Health and Safety Code.

A municipal hospital shall not provide health care coverage for any employee of an employer operating within the service area of the municipal hospital, unless the Legislature specifically authorizes, or has authorized the coverage.

This section shall not authorize any municipal hospital to contribute its facilities to any joint venture that could result in transfer of the facilities from city ownership.

(m) To provide health care coverage to members of the hospital’s
medical staff, employees of the medical staff members, and the dependents of both groups, on a self-pay basis.

(n) With the consent of the city council, to establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the municipal hospital.

(o) With the consent of the city council, to transfer, with or without consideration, any part of its assets to one or more nonprofit corporations to operate and maintain the assets for the benefits of the area served by the hospital. The initial members of the board of directors of the nonprofit corporation or corporations shall be approved by the city council and shall be residents of the city.

(p) Nothing in this section, including, but not limited to, subdivision (e), shall be construed to permit a municipal hospital to operate or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility which is not located within the boundaries of the municipality.

SEC. 17. Section 37615.2 is added to the Government Code, to read:

37615.2. The board of trustees may purchase real property, and erect or rent and equip those buildings or building, room or rooms as may be necessary for the hospital.

SEC. 18. Section 37615.3 is added to the Government Code, to read:

37615.3. The board of trustees shall be responsible for the operation of all hospitals owned or leased by the city, according to the best interests of the public health and shall make and enforce all rules, regulations and bylaws necessary for the administration, government, protection, and maintenance of hospitals under their management and all property belonging thereto and may prescribe the terms upon which patients may be admitted thereto. However, these hospitals shall not contract to care for indigent county patients at below the cost for care. In setting the rates, the board shall, insofar as possible, establish such rates as will permit the hospital to be operated upon a self-supporting basis.

SEC. 19. Section 37615.4 is added to the Government Code, to read:

37615.4. The board of trustees, with the consent of the city council, may provide for the operation and maintenance through tenants of the whole or any part of any municipal hospital acquired or constructed by it pursuant to this article, and for that purpose may enter into any lease agreement which it believes will best serve the interest of the municipal hospital; provided, that any lease entered into for the operation of any municipal hospital shall require the tenant or lessee to conform to and abide by each and all of the provisions of Section 37609.1. No lease for the operation of an entire hospital shall run for a term in excess of 30 years. No lease for the operation of less than an entire hospital shall run for a term in excess of 10 years.
SEC. 20. Section 37615.5 is added to the Government Code, to read:

37615.5. (a) The board of trustees may do any of the following when it determines that the action is necessary for the provision of adequate health services to the communities served by the municipal hospital:

(1) Enter into contracts with health provider groups, community service groups, and independent physicians and surgeons for the provision of health services.

(2) Provide assistance or make grants to nonprofit provider groups and clinics already functioning in the community.

(b) Nothing in this section shall authorize activities which corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

SEC. 21. Section 37615.6 is added to the Government Code, to read:

37615.6. Notwithstanding the provisions of the Medical Practice Act, the board of trustees may contract with physicians and surgeons, health care provider groups, and nonprofit corporations for the rendering of professional health services on a basis that does not result in any profit or gain to the municipal hospital from the services so rendered and that allows the board of trustees to ensure that fees and charges, if any, are reasonable, fair, and consistent with the basic commitment of the municipal hospital to provide adequate health care to all residents within its service area. However, nothing in this section shall authorize activities that corporations and other legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

SEC. 22. Section 37615.7 is added to the Government Code, to read:

37615.7. The municipal hospital may maintain membership in any local, state, or national group or association organized and operated for the promotion of the public health and welfare or the advancement of the efficiency of hospital administration, and in connection therewith pay dues and fees thereto.

SEC. 23. Section 37615.8 is added to the Government Code, to read:

37615.8. The board of trustees may, by resolution, change the name of the municipal hospital. The change in the name of the municipal hospital shall be effective upon the filing of a verified copy of the resolution with the Secretary of State.

SEC. 24. Section 37618.1 is added to the Government Code, to read:

37618.1. Exclusively for the purpose of securing state insurance of financing for the construction of new health facilities, the expansion, modernization, renovation, remodeling and alteration of existing health facilities, and the initial equipping of any health facilities under Chapter 4 (commencing with Section 436) of Part 1 of Division 1 of the Health and Safety Code which is hereby made
applicable to municipal hospitals, and notwithstanding any provision
of this division or any other provision or holding of law, the board of
trustees of any municipal hospital may recommend and the city
council may (a) borrow money or credit, or issue bonds, as well as
by the financing methods specified in this division, and (b) execute
in favor of the state first mortgages, first deeds of trust, and other
necessary security interests as the Office of Statewide Health
Planning and Development may reasonably require in respect to a
health facility project property as security for the insurance. No
payments of principal, interest, insurance premium and inspection
fees, and all other costs of state-insured loans obtained under the
authorization of this section shall be made from funds derived from
the municipality's power to tax. It is hereby declared that the
authorizations for the executing of mortgages, deeds of trust and
other necessary security agreements by the board and city council
and for the enforcement of the state's rights thereunder is in the
public interest in order to preserve and promote the health, welfare,
and safety of the people of this state by providing, without cost to the
state, a state-insurance program for health facility construction loans
in order to stimulate the flow of private capital into health facilities
construction to enable the rational meeting of the critical need for
new, expanded, and modernized public health facilities.

SEC. 25. Section 37618.2 is added to the Government Code, to
read:

37618.2. A municipal hospital may borrow money and incur
indebtedness in an amount not to exceed 85 percent of all estimated
income and revenue for the current fiscal year, including, but not
limited to, tax revenues, operating income, and any other
miscellaneous income received by the municipal hospital, from
whatever source derived. The money borrowed and indebtedness
incurred under this section shall be repaid within the same fiscal
year.

SEC. 26. Section 37618.3 is added to the Government Code, to
read:

37618.3. All certificates of indebtedness or other evidence of
indebtedness shall be issued after the recommendation by a
three-fifths vote of the board of trustees of the hospital and the
adoption by a three-fifths vote of the city council of a resolution
setting forth the necessity for the borrowing and the amount of the
assessed valuation of the municipality and the amount of funds to be
borrowed thereon. All certificates of indebtedness or other evidence
of indebtedness shall be offered at public sale by the board of trustees
or city council after not less than 10 days advertising in a newspaper
of general circulation within the municipality and if no newspaper
of general circulation is printed within the municipality, then in a
newspaper of general circulation within the county in which the
municipality is located. Each sale shall be made to the bidder offering
the lowest rate of interest or whose bid represents the lowest net cost
to the municipality. However, the rate of interest shall not exceed
the rate prescribed in Section 53531.

The certificates of indebtedness or other evidences of indebtedness shall be signed on behalf of the municipal hospital by the mayor of the city and attested by the city clerk of the city.

SEC. 27. Section 37618.4 is added to the Government Code, to read:

37618.4. (a) A municipal hospital may, by resolution adopted by a majority of the board of trustees, issue negotiable promissory notes to acquire funds for any municipal hospital purposes subject to the restrictions and requirements imposed by this section. The maturity of the promissory notes shall not be later than 10 years from the date thereof. The total aggregate amount of the notes outstanding at any one time shall not exceed 85 percent of all estimated income and revenue for the current fiscal year, including, but not limited to, tax revenues, operating income, and any other miscellaneous income of the district. Indebtedness incurred pursuant to any other provision of law shall be disregarded in computing the aggregate amount of notes that may be issued pursuant to this section.

(b) Negotiable promissory notes may be issued pursuant to this section for any capital outlay facility, equipment, or item which has a useful life equal to, or longer than, the term of the notes, as determined by the board of trustees.

(c) The maximum annual interest rate which may be paid on negotiable promissory notes shall at no time exceed the amount authorized under Section 53531.

SEC. 28. Section 37624 is added to the Government Code, to read:

37624. The board of trustees shall adopt reasonable rules and regulations, or bylaws, providing for appellate review of any action, decision, or recommendation of the medical staff affecting the professional privileges of any member of, or applicant for membership on, the medical staff. The appellate review may be conducted by the board or by a hearing officer designated by the board. The board’s decision rendered after the appellate review shall be final.

SEC. 29. Section 37624.2 is added to the Government Code, to read:

37624.2. The governing body or the hearing officer, if one is appointed, shall have the same power with respect to the issuance of subpoenas and subpoenas duces tecum as that granted to any agency or hearing officer pursuant to Section 11510. Any subpoena or subpoena duces tecum issued pursuant to this section shall have the same force and effect and impose the same obligations upon witnesses as that provided in Section 11510.

SEC. 30. Section 37624.3 is added to the Government Code, to read:

37624.3. The governing body of the hospital may order that the hearing pursuant to this article, and hearing on the reports on the hospital medical audit or quality assurance committees, be held in private or executive session, provided, that an applicant or medical
staff member whose staff privileges are the direct subject of a hearing may request a public hearing. Deliberations of the governing body in connection with matters pertaining to this article may be held in executive session.

SEC. 31. Section 37650.1 is added to the Government Code, to read:

37650.1. Except as provided in this article, any hospital managed by a city legislative body and organized under this article shall have and may exercise any of the powers granted to hospitals managed by a board of hospital trustees and organized under Article 7 (commencing with Section 37600) of Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code. It is the intent of the Legislature in enacting this section that any powers granted to a hospital board of trustees under Article 7 (commencing with Section 37600) of Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code, including, but not limited to, (1) the power to collect compensation pursuant to Section 37604.1, and (2) the power to meet in closed session pursuant to Section 37624.3, shall also be granted to a city legislative body.

SEC. 32. Section 37650.2 is added to the Government Code, to read:

37650.2. (a) A city legislative body which operates a municipal hospital pursuant to this article shall meet as the hospital governing body at least once a month at the time and place it fixes by resolution.

(b) A city legislative body which operates a municipal hospital pursuant to this article shall have and may exercise the following powers in addition to those powers described in this article and Article 7 (commencing with Section 37600) of Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code:

(1) To have and use a corporate seal and alter it at its pleasure.

(2) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(3) To exercise the right of eminent domain for the purposes of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the municipal hospital.

SEC. 33. Section 37656 of the Government Code is amended to read:

37656. (a) The legislative body may appoint and fix the compensation of physicians, surgeons, and necessary officers and employees of the hospital. Officers and employees hold office at the pleasure of the legislative body.

(b) The legislative body may prescribe the duties and powers of the hospital administrator, secretary, and other officers and employees of the hospital. The officers and employees shall hold their offices at the pleasure of the legislative body.

SEC. 34. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:
In order to immediately correct the inequities in state law between municipal hospital law and local district hospital law, it is necessary that this act take effect immediately.

CHAPTER 73

An act to amend Section 51201.5 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 28, 1992. Filed with Secretary of State May 28, 1992]

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

SECTION 1. Section 51201.5 of the Education Code is amended 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 51553.
(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. 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 no confusion exists with regards to the legitimate role abstinence education must play in any statutorily mandated AIDS education for all pupils in grades 7 to 12, inclusive, pursuant to Section 51201.5 of the Education Code and because state law requires this education to be implemented in the 1992–93 school year, it is necessary that this act take effect immediately.
CHAPTER 74

An act to add Sections 5506.4, 5538.4, and 5539.4 to the Public Resources Code, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 3, 1992. Filed with Secretary of State June 3, 1992.]

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

SECTION 1. Section 5506.4 is added to the Public Resources Code, to read:

5506.4. (a) Proceedings for the formation of a district with boundaries coterminous with those of Napa County may be initiated by resolution of the Board of Supervisors of Napa County adopted after a hearing noticed in accordance with Section 5511, in lieu of a petition.

(b) The resolution shall do all of the following:

(1) Name the proposed district and state the reasons for forming it.

(2) Specify that the proposed district shall be governed by a board of five directors who shall be elected in accordance with this article and that no member of the board of supervisors shall be a director.

(3) State that the territory of the proposed district shall include all of the territory within Napa County, including incorporated cities.

(4) Specify the boundaries of the five wards or subdistricts drawn pursuant to Section 5515.

(5) Specify that the district shall not have, and may not exercise, the power of eminent domain pursuant to Section 5542 or any other provision of law.

(6) Describe the methods by which the proposed district will be financed.

(7) Call an election pursuant to Section 5514.

(8) Include any other matters necessary to the formation of the proposed district.

SEC. 2. Section 5538.4 is added to the Public Resources Code, to read:

5538.4. If a district is created and established in Napa County, the district may contract with Napa County to furnish the services of the officers and employees of the county to discharge the authority and responsibility specified in this article.

SEC. 3. Section 5539.4 is added to the Public Resources Code, to read:

5539.4. The formation of a district with boundaries coterminous with those of Napa County is not subject to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

SEC. 4. The Legislature finds and declares that a special act is
necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution for the following reasons:

There are unique problems involved in meeting the open-space needs of the people of Napa County, taking into consideration such factors as the county's topography, wildlife, and natural resources, and the expanding population into open-space lands and other lands of high scenic value. Therefore, the enactment of Sections 5506.4 and 5538.9 of the Public Resources Code as a special law is necessary.

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:

To meet the extraordinary need to preserve open-space in Napa County, it is urgent that special authority be given for the formation of an open-space district with boundaries coterminous with those of the county. In order to expedite that formation, it is necessary to be able to place a measure to form the district on the November 1992 ballot. Thus, it is necessary that this act take effect immediately.

CHAPTER 75

An act to amend Section 31680.5 of the Government Code, relating to county retirement.

[Approved by Governor June 3, 1992. Filed with Secretary of State June 3, 1992.]

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

SECTION 1. Section 31680.5 of the Government Code is amended to read:

31680.5. (a) Upon reinstatement, pursuant to Section 31680.4, the member's rate of contributions and retirement allowance upon subsequent retirement shall be determined as if the member were first entering the system.

Solely for the purpose of determining the member's eligibility for service retirement under this section, service shall include the member's credited service prior to reinstatement.

(b) The member's allowance upon his or her service or disability retirement or other termination subsequent to the reinstatement shall be the sum of (1) his or her retirement allowance calculated on the basis of credited service rendered after reinstatement in accordance with the formula applicable to him or her plus (2) his or her retirement allowance as it was prior to reinstatement, adjusted by any change after reinstatement in the provisions governing the calculation of his or her allowance which would have applied to him or her had he or she continued in retirement.
The retirement allowance otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his or her election under Section 31810 shall be reduced as provided in Section 31810. However, for a member reinstated pursuant to Section 31680.4 prior to attaining age 62, the reduction required by Section 31810 shall be the amount which is the actuarial value of the increase in the allowance from date of retirement to date of reinstatement.

Notwithstanding any other provision of this chapter, the retirement allowance payable to any member subject to this section for any credited service for which a retirement allowance was paid prior to reinstatement shall not be less than the retirement allowance which would have been payable on the date of the subsequent retirement had the member not been reinstated, adjusted, however, by any reduction under this section because of an election under Section 31810.

(c) Notwithstanding Article 10 (commencing with Section 31720), upon retirement for disability subsequent to reinstatement, a member shall receive a disability retirement allowance as follows:

(1) A service-connected disability allowance shall be equal to one-half of his or her final compensation or an allowance computed as prescribed by subdivision (b), whichever is greater.

(2) A nonservice-connected disability allowance shall be computed using the method prescribed by subdivision (b).

(d) This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section and Section 31680.4 operative in that county.

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CHAPTER 76

An act to add and repeal Article 6.5 (commencing with Section 42801) of Chapter 2 of Division 17 of the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 3, 1992. Filed with Secretary of State June 3, 1992.]

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

SECTION 1. Article 6.5 (commencing with Section 42801) is added to Chapter 2 of Division 17 of the Food and Agricultural Code, to read:

Article 6.5. Standardization Program

42801. Notwithstanding any other provision of this division, the director shall create an industry-funded standardization program for
the purposes of implementing and enforcing this division.

42802. The director shall adopt regulations he or she determines are reasonably necessary to carry out this article, including, but not limited to, establishing assessment rates and procedures for payment of assessments. The director shall consult with the committee created pursuant to Section 42809 prior to the adoption, amendment, or repeal of any regulations under this article.

42803. (a) Commencing upon the effective date of the chapter that enacted this article at the 1991–92 Regular Session of the Legislature, and for 90 days thereafter, producers of commodities subject to this article may file a petition with the director requesting that the commodity be exempted from this article.

(b) Upon a finding by the director that the petition represents not less than 51 percent of the producers of the commodity who produce not less than 51 percent of the total quantity of the commodity marketed in the preceding marketing season, the director shall do all of the following:

1. Declare the commodity exempt from this article.
2. Immediately repeal all regulations pertaining to the commodity adopted by the director pursuant to this division.
3. Make a determination concerning a refund of any assessments collected pursuant to this article.

(c) Commodity exemptions granted pursuant to this section shall be effective immediately on the date of the finding specified in subdivision (b).

42804. (a) On and after the 90th day following the effective date of the chapter that enacted this article at the 1991–92 Regular Session of the Legislature, the director shall exempt any commodity subject to this article and repeal all regulations pertaining to the commodity adopted by the director pursuant to this division if:

1. A written petition requesting exemption is filed with the director during the period commencing July 1 and ending December 31 of any year.
2. The director finds that the petition represents not less than 51 percent of the producers directly affected who have produced not less than 51 percent of the total quantity of the commodity marketed in the preceding marketing season.
3. The petition, prior to being submitted to the director, was circulated among the producers directly affected for a period not exceeding 90 days and was on a form approved by the director.

4. Exemptions granted under this section shall be effective on July 1 following the year in which the petition is filed with the director.

(b) Exemptions granted under this section shall be effective on July 1 following the year in which the petition is filed with the director.

(c) Any costs incurred by the department in processing any petition for exemption filed pursuant to this section shall be borne by the producers representing the commodity for which the petition is filed.

(d) This section also applies to producers of any commodity who request the director to rescind a previously granted exemption.
(e) All producers directly affected by this section shall provide the following information to the director upon filing of the written petition requesting exemption:

(1) The correct name and address of each producer or handler.
(2) The quantity of each commodity produced by the producer during the previous marketing season.

(f) The director may also require handlers of commodities subject to this article to report quantities received from each producer in the previous season.

(g) Any determination of compliance with this section may be based upon information provided by producers or handlers of commodities subject to this article. Failure or refusal to provide that information within the specified time does not invalidate the director's findings.

42805. A commodity producer or handler subject to Article 1 (commencing with Section 44971) of Chapter 9, or any other similar provision in this division that provides for collection of assessments and reimbursement to the director for inspection and certification activities related to the commodity may seek an exemption for that commodity pursuant to Section 42803 or 42804 and remain subject to all regulations pertaining to the commodity in effect at the time the petition for exemption is filed with the director, and thereafter until the regulations are amended or repealed.

Any producers of commodities who elect to request an exemption pursuant to this section shall pay any charges mutually agreed upon by the producer and the department for administrative services relating to the regulation of the commodity, including, but not limited to, the adoption, amendment, or repeal of regulations.

42806. (a) The director shall adopt regulations establishing assessment rates set by the committee established pursuant to Section 42809. The committee shall set the rates on or before March 1. The rates shall become effective the following July 1.

(b) The establishment, alteration, rescission, or elimination of assessment rates or the repeal of regulations of exempt commodities 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. An order to repeal the regulations of exempt commodities pursuant to this section shall be transmitted within 30 days by the director to the Office of Administrative Law. The Office of Administrative Law shall file the order promptly with the Secretary of State without further review pursuant to Article 6 (commencing with Section 11349) of Chapter 3.5 of Division 1 of Title 2 of the Government Code. The order shall do all of the following:

(1) Indicate that the regulations are being repealed pursuant to this article.
(2) State that the order is being transmitted for filing.
(3) Request that the Office of Administrative Law publish a notice of the filing of the order and print an appropriate reference
in Title 3 of the California Code of Regulations.

(c) All assessments collected pursuant to this article shall be deposited in the Department of Food and Agriculture Fund and shall be used only for implementing and enforcing this division.

(d) Those commodities that are otherwise subject to a mandatory inspection fee shall pay a lower rate of assessment than those commodities that are not otherwise subject to a mandatory inspection fee.

(e) Assessment rates for commodities that are not otherwise subject to a mandatory inspection fee shall not exceed six mills ($0.006) per container.

(f) Assessment rates for commodities that are otherwise subject to a mandatory inspection fee shall not exceed three mills ($0.003) per container.

42807. Notwithstanding Section 42806, on and after the effective date of the chapter that enacted this section at the 1991–92 Regular Session of the Legislature, and thereafter until altered, rescinded, or eliminated, the assessment rate for those commodities that are not otherwise subject to a mandatory inspection fee shall be three mills ($0.003) per container and the assessment rate for those commodities that are otherwise subject to a mandatory inspection fee shall be one mill ($0.001) per container.

42808. (a) Every person acting as a handler of commodities subject to this division shall do all of the following:

(1) Register with the director and submit reports and assessments required pursuant to this article and the regulations adopted thereunder.

(2) Keep a complete and accurate record of commodities shipped by him or her. The records shall be in simple form and contain information as prescribed by the director.

(3) Maintain records for a period of two years that shall be offered and submitted for inspection and audit at any reasonable time upon written demand of the director.

(b) Every person acting as a handler of commodities subject to this division, shall be personally liable for the payment of assessments. Any handler who fails to file the required reports or pay any assessment or inspection fee by the last day of the month immediately following the month in which the commodities were shipped shall pay to the director a penalty of 10 percent of the assessment or fee determined to be due, and in addition, 1½ percent interest per month on the unpaid balance.

(c) Handlers shall maintain and file the records required pursuant to this article even if no assessments are due for a reporting period.

(d) Any person that violates this article or the regulations adopted thereunder may be prosecuted criminally pursuant to Article 12 (commencing with Section 42971), and, in addition, shall be subject to the civil penalties and remedies set forth in Article 13 (commencing with Section 43001).

(e) For the purposes of this article, "handler" means any person
engaged in marketing commodities subject to this article that the person has purchased or acquired from a producer and who first prepares the commodities for market on behalf of the producer, whether as owner, agent, broker, processor, or otherwise. A producer engaged in marketing commodities subject to this article directly to a person who purchases the commodity solely for retail sale is deemed to be the handler and is subject to this section.

42809. (a) The director shall, within 45 days of the effective date of the chapter that enacted this article at the 1991-92 Regular Session of the Legislature, appoint a committee pursuant to subdivision (b) to provide recommendations and advice on all matters pertaining to the implementation and enforcement of this division.

(b) The committee shall be composed of 13 voting members who have a financial interest, either personal or through their employment, in a commodity represented. The director shall appoint the members of the committee from a list of nominees provided by the commodity groups subject to this article. Four members shall be appointed from the fresh fruit commodity group consisting of oranges, other citrus fruits, strawberries, and table grapes, and two members shall be appointed to represent other fresh fruit commodities. Four members shall be appointed from the fresh vegetable commodity group consisting of broccoli, tomatoes, and lettuce and two members shall be appointed to represent other vegetable commodity groups. One member shall be appointed from other commodities subject to this article. A county agricultural commissioner may be appointed by the director as a nonvoting member.

(c) The committee shall meet at the request of the director, the committee chairperson, or upon the request of four committee members.

(d) Any committee member who represents a commodity that has been exempted from the application of this article shall be replaced with a member chosen to maintain the balance between the commodity groups.

(e) The committee shall appoint its own officers, including a chairperson, one or more vice chairpersons, and any other officers it deems necessary.

42810. (a) Except as provided in subdivisions (b) and (c), the term of office of any member of the committee shall be two years.

(b) With respect to the initial voting members of the committee, six members shall serve for one year and six members shall serve for two years, with the determinations of the term of each voting member to be made by lot. No member of the committee shall serve more than four full consecutive two-year terms. The term of the initial nonvoting member shall be two years.

(c) Any vacancy which occurs during an unexpired term shall be filled for the unexpired term following the same procedures for initially nominating and appointing committee members.

42811. The members of the committee shall serve without
compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties as determined by the committee and approved by the director.

42812. The director shall adopt regulations establishing assessment rates set by the committee as required by Section 42806. In addition, the director shall seek the advice of the committee on all matters pertaining to the implementation and enforcement of this division, including, but not limited to, the annual budget, fees necessary to provide adequate inspection services, inspection procedures, work load standards, performance measures, training and supervision of inspectors, enforcement actions, and subvention of funds to counties necessary to provide uniformity in inspections throughout the state.

42813. Except as otherwise provided in Section 42807 with respect to assessments, in adopting, amending, or repealing regulations pursuant to this article, the director shall accept the recommendations of the committee if the director determines that the recommendations are practicable and in the interests of the industry and the public. The director shall, within 30 days, provide the committee with a written statement of reasons if the director does not accept a recommendation of the committee.

42814. This article shall remain in effect until January 1, 1996, and as of that date 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. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime 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 maintain the Standardization-Fruit and Vegetable Quality Control Program throughout the 1992 growing and marketing season for agricultural products, it is necessary that this act take effect immediately.
An act to amend Section 1183.5 of the Civil Code, relating to notaries public.

[Approved by Governor June 3, 1992. Filed with Secretary of State June 3, 1992]

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

SECTION 1. Section 1183.5 of the Civil Code is amended to read:
1183.5. Any officer on active duty or performing inactive-duty training in the armed forces having the general powers of a notary public pursuant to Section 936 or 1044a of Title 10 of the United States Code (Public Law 90-632 and 101-510) and any successor statutes may perform all notarial acts for any person serving in the armed forces of the United States, wherever he or she may be, or for any spouse of a person serving in the armed forces, wherever he or she may be, or for any person eligible for legal assistance under laws and regulations of the United States, wherever he or she may be, for any person serving with, employed by, or accompanying such armed forces outside the United States and outside the Canal Zone, Puerto Rico, Guam and the Virgin Islands, and any person subject to the Uniform Code of Military Justice outside of the United States.

Any instrument acknowledged by any such officer or any oath or affirmation made before such officer shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No seal or authentication of the officer's certificate of acknowledgment or of any jurat signed by him or her shall be required but the officer taking the acknowledgment shall endorse thereon or attach thereto a certificate substantially in a form authorized by the laws of this state or in the following form:

On this the _____ day of _____, 19____, before me ________________, the undersigned officer, personally appeared ___________ known to me (or satisfactorily proven) to be (a) serving in the armed forces of the United States, (b) a spouse of a person serving in the armed forces of the United States, or (c) a person serving with, employed by, or accompanying the armed forces of the United States outside the United States and outside the Canal Zone, Puerto Rico, Guam, and the Virgin Islands, and to be the person whose name is subscribed to the within instrument and acknowledged that he or she executed the same. And the undersigned does further certify that he or she is at the date of this certificate a commissioned officer of the armed forces of the United States having the general powers of a notary public under the provisions of Section 936 or 1044a of Title 10 of the United States Code (Public Law 90-632 and 101-510).
To any affidavit subscribed and sworn to before such officer there shall be attached a jurat substantially in the following form:

Subscribed and sworn to before me on this ______ day of ______, 19__.

The recitals contained in any such certificate or jurat shall be prima facie evidence of the truth thereof, and any certificate of acknowledgment, oath or affirmation purporting to have been made by any commissioned officer of the Army, Air Force, Navy, Marine Corps or Coast Guard shall, notwithstanding the omission of any specific recitals therein, constitute presumptive evidence of the existence of the facts necessary to authorize such acknowledgment, oath or affirmation to be taken by the certifying officer pursuant to this section.

CHAPTER 78

An act to amend Sections 859a and 1466 of the Penal Code, relating to criminal procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 3, 1992 Filed with Secretary of State June 3, 1992.]

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

SECTION 1. 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. Upon accepting the plea of guilty or nolo contendere the magistrate shall 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 court in which judgment is to be pronounced at the time specified under subdivision (b), 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. 2. Section 1466 of the Penal Code is amended to read:

1466. (a) An appeal may be taken from a judgment or order of an inferior court, in an infraction or misdemeanor case, to the superior court of the county in which the inferior court is located, in the following cases:

(1) By the people:

(A) From an order recusing the district attorney pursuant to Section 1424.

(B) From an order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(C) From a judgment for the defendant upon the sustaining of a demurrer.

(D) From an order granting a new trial.

(E) From an order arresting judgment.

(F) From any order made after judgment affecting the substantial rights of the people.

(2) By the defendant:

(A) From a final judgment of conviction. A sentence, an order granting probation, a conviction in a case in which before final judgment the defendant is committed for insanity or is given an indeterminate commitment as a mentally disordered sex offender, or the conviction of a defendant committed for controlled substance addiction shall be deemed to be a final judgment within the meaning of this section. Upon appeal from a final judgment or an order
granting probation the court may review any order denying a motion for a new trial.

(B) From any order made after judgment affecting his or her substantial rights.

(b) An appeal from the judgment or appealable order of an inferior court in a felony case is to the court of appeal for the district in which the court is located.

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 avoid inconsistent appellate practices, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 79

An act to amend Section 5091 of the Education Code, relating to school districts and community college districts.

[Approved by Governor June 3, 1992. Filed with Secretary of State June 3, 1992]

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

SECTION 1. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next regular election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) (1) If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a
sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1½ percent of the number of registered voters of the district at the time of the last regular election for governing board members, or 25 registered voters, whichever is greater. However, in districts with registered voters of less than 2,000 persons, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.

(2) The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination. However, if a regular election date, as defined in Section 2500 of the Elections Code, occurs between the 120th day and the 150th day following the determination, the county superintendent of schools may call the special election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) (1) Whenever a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

(A) The petition shall contain the clerk’s estimate of the cost of conducting the special election.

(B) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.

(C) None of the text or other language of the petition shall appear in less than six-point type.

(D) The petition shall be prepared and circulated in conformity with the requirements of Sections 41 and 44 of the Elections Code.

(2) If any of the requirements of this subdivision are not met as to any petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

(3) No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.
(4) The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

CHAPTER 80

An act to add Section 21101.4 to the Vehicle Code, relating to vehicles.

[Approved by Governor June 3, 1992. Filed with Secretary of State June 3, 1992.]

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

SECTION 1. Section 21101.4 is added to the Vehicle Code, to read:

21101.4. (a) A local authority may, by ordinance or resolution, adopt rules and regulations for temporarily closing to through traffic a highway under its jurisdiction when all of the following conditions are, after a public hearing, found to exist:

(1) The local authority finds and determines that there is serious and continual criminal activity in the portion of the highway recommended for temporary closure. This finding and determination shall be based upon the recommendation of the police department or, in the case of a highway in an unincorporated area, on the joint recommendation of the sheriff's department and the Department of the California Highway Patrol.

(2) The highway has not been designated as a through highway or arterial street.

(3) Vehicular or pedestrian traffic on the highway contributes to the criminal activity.

(4) The closure will not substantially adversely affect the operation of emergency vehicles, the performance of municipal or public utility services, or the delivery of freight by commercial vehicles in the area of the highway proposed to be temporarily closed.

(b) A highway may be temporarily closed pursuant to subdivision (a) for not more than 18 months, except that period may, pursuant to subdivision (a), be extended for one additional period of not more than 18 months.
An act to amend Section 1317.3 of the Health and Safety Code, relating to hospitals.

[Approved by Governor June 3, 1992. Filed with Secretary of State June 3, 1992.]

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

SECTION 1. The Legislature finds and declares that there is a need to ensure that hospitals are able to assess the treatment needs of a patient and make appropriate decisions to arrange for the care of the patient without fear of liability due to discrimination, including, but not limited to, when the patient is more appropriately served by transferring the patient to a hospital that has agreed to accept the patient for evaluation for possible civil commitment under the appropriate laws of the state. In no way is a transfer of such a patient intended to allow for or encourage the dumping of patients who are for whatever reasons undesirable patients. The intent of this section is rather to acknowledge the need for appropriate referral to specialized treatment services when all parties are in agreement that this is the appropriate course of action in the best interests of the patient involved.

SEC. 2. Section 1317.3 of the Health and Safety Code is amended to read:

1317.3. (a) As a condition of licensure, each hospital shall adopt, in consultation with the medical staff, policies and transfer protocols consistent with this article and regulations adopted hereunder.

(b) As a condition of licensure, each hospital shall adopt a policy prohibiting discrimination in the provision of emergency services and care based on race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to the patient. Transfer by a hospital of a patient who requires evaluation for involuntary psychiatric treatment, as determined by the receiving hospital or other receiving health facility, based upon the decision of a professional person duly authorized by law to make such a decision, shall not constitute discrimination for the purposes of this section, if the transferring hospital has not been designated as an evaluation facility by a county pursuant to Section 5150 of the Welfare and Institutions Code, and if the transfer is in compliance with Section 1317.2.

(c) As a condition of licensure, each hospital shall require that physicians and surgeons who serve on an “on-call” basis to the hospital’s emergency room cannot refuse to respond to a call on the
basis of the patient’s race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to the patient. If a contract between a physician and surgeon and hospital for the provision of emergency room coverage presently prevents the hospital from imposing those conditions, the conditions shall be included in the contract as soon as is legally permissible. Nothing in this section shall be construed as requiring that any physician serve on an “on-call” basis.

(d) As a condition of licensure, all hospitals shall inform all persons presented to an emergency room or their representatives if any are present and the person is unable to understand verbal or written communication, both orally and in writing, of the reasons for the transfer or refusal to provide emergency services and care and of the person’s right to emergency services and care prior to transfer or discharge without regard to ability to pay. Nothing in this subdivision requires notification of the reasons for the transfer in advance of the transfer where a person is unaccompanied and the hospital has made a reasonable effort to locate a representative, and because of the person’s physical or mental condition, notification is not possible. All hospitals shall prominently post a sign in their emergency rooms informing the public of their rights. Both the posted sign and written communication concerning the transfer or refusal to provide emergency services and care shall give the address of the department as the government agency to contact in the event the person wishes to complain about the hospital’s conduct.

(e) If a hospital does not timely adopt the policies and protocols required in this article, the hospital, in addition to denial or revocation of any of its licenses, shall be subject to a fine not to exceed one thousand dollars ($1,000) each day after expiration of 60 days’ written notice from the state department that the hospital’s policies or protocols required by this article are inadequate unless the delay is excused by the state department upon a showing of good and sufficient cause by the hospital. The notice shall include a detailed statement of the state department’s reasons for its determination and suggested changes to the hospital’s protocols which would be acceptable to the state department.

(f) Each hospital’s policies and protocols required in or under this article shall be submitted for approval to the state department by December 31, 1988.
CHAPTER 82

An act to amend Section 3075 of, and to repeal Section 3075.3 of, the Penal Code, relating to parole.

[Approved by Governor June 3, 1992 Filed with Secretary of State June 3, 1992]

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

SECTION 1. Section 3075 of the Penal Code is amended to read: 3075. (a) There is in each county a board of parole commissioners, consisting of each of the following:
   (1) The sheriff or, in a county with a department of corrections, the director of that department.
   (2) The probation officer.
   (3) A member, not a public official, to be selected from the public by the presiding judge, if any, or, if none, by the senior judge in point of service, of the superior court.
   (b) The public member of the county board of parole commissioners or his or her alternate shall be entitled to his or her actual traveling and other necessary expenses incurred in the discharge of his or her duties. In addition, the public member or his or her alternate shall be entitled to per diem at any rate that may be provided by the board of supervisors. The public member or his or her alternate shall hold office for a term of one year and in no event for a period exceeding three consecutive years. The term shall commence on the date of appointment.

SEC. 2. Section 3075.3 of the Penal Code is repealed.

CHAPTER 83

An act to amend Sections 58906 and 84810.5 of, and to add Chapter 8.3 (commencing with Section 52240) to Part 28 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 4, 1992 Filed with Secretary of State June 4, 1992]

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

SECTION 1. Chapter 8.3 (commencing with Section 52240) is added to Part 28 of the Education Code, to read:
52240. (a) The Legislature hereby finds and declares all of the following:

(1) Advanced placement courses, for which school credit is awarded, provide rigorous academic coursework opportunities for high school pupils and help to improve the overall curriculum at schools where they are provided.

(2) The successful completion of advanced placement courses and subsequent advanced placement examinations, which are conducted by the College Entrance Examination Board and for which college credit is awarded, provide a cost-effective means for high school pupils to obtain college-level coursework experience.

(3) To the extent that economically disadvantaged pupils are provided financial assistance to take advanced placement examinations, they will be provided with successful college-level experience and be encouraged to pursue postsecondary education opportunities.

(b) It is the intent of the Legislature, therefore, that certain state funding that currently is provided to school districts be made available to provide financial assistance to economically disadvantaged pupils in the payment of advanced placement examination fees.

52241. For purposes of this chapter, the following terms have the following meanings:

(a) "Advanced placement examinations" means the advanced placement examinations conducted by the College Entrance Examination Board, on the basis of which participating institutions of postsecondary education award postsecondary academic credit.

(b) "Economically disadvantaged pupils" has the meaning set forth in the definition contained in Section 54030.

52242. Notwithstanding any other provision of law, a school district receiving funds pursuant to Chapter 1 (commencing with Section 54000) of Part 29 may expend any portion of those funds to pay for all or part of the costs of one or more advanced placement examinations that are charged to economically disadvantaged pupils.

52243. No later than June 30, 1995, the Superintendent of Public Instruction shall submit a report to the Legislature describing the effectiveness of funding expended pursuant to Section 52242 in increasing the number of economically disadvantaged pupils enrolled in advanced placement courses who take and pass, with a score of 3 or better, the advanced placement examination administered by the College Entrance Examination Board. The report shall include information on all of the following:

(a) The total number of pupils participating in advanced placement examinations, separately identifying the number of economically disadvantaged pupils, and any increases in those numbers as a result of the funding expended pursuant to Section 52242.
(b) Any increase in performance and pass rates on advanced placement examinations on the part of economically disadvantaged pupils.
(c) The number of pupils receiving financial assistance pursuant to Section 52242 for advanced placement examination fees.
(d) The number of economically disadvantaged pupils in advanced placement programs who enroll in higher education institutions, separated by institutional segment.
(e) The number of economically disadvantaged pupils who have passed an advanced placement examination with a score of 3 or better in any subject and have taken an advanced placement course in that subject.

SEC. 2. Section 58906 of the Education Code is amended to read:
58906. Demonstration grants shall be awarded in accordance with the following requirements and considerations:
(a) Three categories shall be developed and utilized in which each category represents one of three types of schools, as determined by the achievement performance of pupils as reported by the Superintendent of Public Instruction, including predominantly high-performing pupils, predominantly moderately performing pupils, and predominantly low-performing pupils.

The highest quality proposals from each category shall be funded in the following order:
(1) Three proposals from the category representing predominantly low-performing pupils.
(2) Two proposals from the category representing predominantly moderately performing pupils.
(3) One proposal from the category representing predominantly high-performing pupils.

This sequence shall be repeated until the State Board of Education determines either that the quality of proposals remaining to be funded does not warrant funding, or that available funding has been fully utilized, or both.

If it is necessary to choose between proposals within the same category that are determined to be of equivalent quality, the Superintendent of Public Instruction shall recommend to the State Board of Education the funding of proposals in a manner that, to the maximum extent possible, contributes to an overall funding distribution that is representative of the diversity, on a statewide basis, of the racial and ethnic composition of the pupil population, the geographic location of schools, district size, and school configuration.

(b) It is the intent of the Legislature that demonstration grants be awarded based on the quality and extensiveness of communitywide support for the submitted proposal and to proposals that design new or adapt current restructuring elements specifically to meet the needs of a diverse pupil population and that represent a significant departure in process, organization, or content from the ordinary school or classroom organization, assignment of school staff responsibilities, curriculum development, and instructional
methods.

The Legislature believes that communitywide support and schoolsite leadership can best be determined by a state-level selection process that includes an oral presentation given by the applicant to the advisory committee.

(c) Consideration may be given to each school district that can demonstrate that the district has already achieved success in implementing any of the restructuring elements described.

(d) Consideration also shall be given to each school district that proposes additional or alternative restructuring options of high quality which are consistent with the goals of this chapter.

(e) Any school that receives demonstration program funding pursuant to this chapter shall use the funds solely to further the purposes of the demonstration program.

SEC. 3. Section 84810.5 of the Education Code is amended to read:

84810.5. (a) The Chancellor of the California Community Colleges shall compute each district’s base inmate education allowance based on the prior year’s level of funding, adjusted for such factors as the change in the adult population or other information that the chancellor may receive from the district. No allowances to increase their average daily attendance in those classes over the prior year’s base shall be provided unless all districts are fully funded, in accordance with regulations of the Board of Governors of the California Community Colleges, or the Legislature appropriates funds specifically for Section 84810 and this section. The base inmate education allowance computed under this subdivision for each district also shall include the average daily attendance, not to exceed 12 units of average daily attendance, for an inmate education program operated by the district during the 1990–91 fiscal year through an agreement under the federal Job Training Partnership Act.

(b) Notwithstanding any other provision of law, no funds for inmate education programs provided pursuant to Section 84810 shall be considered as part of the base revenues for community college districts in computing apportionments as prescribed in regulations of the Board of Governors of the California Community Colleges.

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 free school districts from as many rules and regulations as possible with regard to the use of demonstration grants for the Demonstration of Restructuring in Public Education, which are scheduled to be implemented by July 1, 1992, and to authorize certain use of economic impact aid funding and revise the calculation of community college district apportionments prior to the commencement of the 1992–93 fiscal year, it is necessary that this act take effect immediately.
An act to add Section 14110.05 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor June 4, 1992. Filed with Secretary of State June 4, 1992.]

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

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

(a) Implementation of the Medi-Cal eligibility process varies from county to county, resulting in unequal treatment of Medi-Cal applicants.

(b) Nursing facility residents are among the specialized categories of Medi-Cal applicants who face particular barriers to eligibility because they may have great difficulty or be unable to assist in completing Medi-Cal eligibility paperwork requirements when their own resources are too diminished to pay for care.

(c) Nursing facilities have no role in assuring completion of the Medi-Cal application process. Thus, they may be left with neither a source of private payment nor government reimbursement and with no resource other than to write off care expenses as business losses. This strains resources that would otherwise be spent on resident care.

(d) The lack of timely Medi-Cal eligibility determinations is a significant deterrent to provider participation in the program.

SEC. 2. It is the intent of the Legislature to do all of the following:

(a) Ensure that nursing facility residents receive assistance in identifying and securing the information necessary to complete the Medi-Cal eligibility application and determination process.

(b) Ensure the timely processing of Medi-Cal applications for nursing facility residents in accordance with state and federal laws and regulations.

(c) Encourage nursing facility participation in the Medi-Cal program.

(d) Identify barriers to timely Medi-Cal eligibility determinations for nursing facility residents and develop recommendations for improvements in the system.

SEC. 3. Section 14110.05 is added to the Welfare and Institutions Code, to read:

14110.05. (a) The department shall ensure that nursing facility applicants have access to assistance in identifying and securing the information necessary to complete the Medi-Cal application and to make the eligibility determination.

(b) The department shall ensure that Medi-Cal applications for nursing facility residents are processed in a timely manner in accordance with state and federal laws and regulations.

SEC. 4. (a) The State Department of Health Services, in
consultation with representatives of long-term health care facilities, shall evaluate proposals submitted by representatives of the long-term care industry that would increase the timeliness, efficiency, and effectiveness of the Medi-Cal eligibility determination process statewide for nursing facility residents, including, but not limited to, better use of automation and other new technologies.

(b) The State Department of Health Services shall make all evaluations and any proposals developed available, upon request, to the Legislature.

CHAPTER 85

An act to amend Section 655.5 of the Business and Professions Code, relating to clinical laboratory tests.

[Approved by Governor June 4, 1992. Filed with Secretary of State June 4, 1992.]

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

SECTION 1. The Legislature finds and declares that health care costs in California are increasing at a rate which makes it difficult for many California citizens and employers to continue to afford health care coverage. It is the intent of the Legislature, in adopting this act, to address one aspect of the health cost escalation spiral in a way that will reduce the cost of health care to California residents. The Legislature intends to eliminate the ability of a health provider to increase the price of a clinical laboratory test when the health provider performs no actual service. The Legislature does not intend to prohibit a reasonable drawing and processing fee for laboratory specimens prepared in the office of a physician and surgeon.

SEC. 2. Section 655.5 of the Business and Professions Code is amended to read:

655.5. It is unlawful for any person licensed under this division or under any initiative act referred to in this division or for any clinical laboratory to charge, bill, or otherwise solicit payment from any patient, client or customer for any clinical laboratory service not actually rendered by such person or clinical laboratory or under his or her or its direct supervision unless the patient, client, or customer is apprised at the first time of such charge, billing, or solicitation and any subsequent charge, billing, or solicitation of the name, address, and charges of the clinical laboratory performing the service. The first such written charge, bill, or other solicitation of payment and any subsequent charge, bill, or other solicitation of payment shall separately set forth the name, address, and charges of the clinical laboratory concerned and shall clearly show whether or not such charge is included in the total of the account, bill, or charge.
It is also unlawful for any person licensed under this division or under any initiative act referred to in this division to charge additional charges for any clinical laboratory service that is not actually rendered by the licensee to the patient and itemized in the charge, bill, or other solicitation of payment. This section shall not be construed to prohibit any itemized charge for any service actually rendered to the patient by the licensee.

This section shall not apply to any person or clinical laboratory who or which contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if such services are to be provided to members of the plan on a prepaid basis and without additional charge or liability on account thereof.

A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine. A second or subsequent conviction is punishable by imprisonment 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 86

An act to amend Sections 1, 2, 3, 4, and 8 of, and to add Section 13.5 to, Chapter 1143 of the Statutes of 1991, relating to the Mission Bay Development Area, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 8, 1992. Filed with Secretary of State June 9, 1992.]

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

SECTION 1. Section 1 of Chapter 1143 of the Statutes of 1991 is amended to read:

Section 1. As used in this act:
(a) "Boundary of the Port of San Francisco" means that line defining the boundary of Parcel "A" in the description of the lands transferred in trust to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968 recorded on May 14, 1976, in
Book C169, pages 573 through 664 in the City and County of San Francisco Recorder's Office.

(b) "Burton Act trust" means the statutory trust imposed by the Burton Act (Chapter 1333 of the Statutes of 1968, as amended), pursuant to which the state conveyed to the City and County of San Francisco, in trust, by transfer agreement, and subject to certain terms, conditions, and reservations, the state's interest in certain tide and submerged lands, including lands within the Mission Bay Development Area.

(c) "City" means the City and County of San Francisco, a municipal corporation of the State of California, and where necessary to effectuate the land exchanges contemplated in this act, the city acting by and through the San Francisco Port Commission.

(d) "Granted tidelands" means tidelands or submerged lands, or any interest therein, located within the Mission Bay Development Area and heretofore conveyed or conveyed pursuant to this act by the state to the city.

(e) "Mission Bay Development Area" means those lands within the city which are located in the city above the present line of mean high tide and enclosed by a line beginning at the intersection of the northerly line of Mariposa Street (66.00 feet wide) with the easterly line of Pennsylvania Street (90.00 feet wide) running thence from that point of intersection easterly along the northerly line of Mariposa Street north 86°49′04″ east 940.17 feet; thence leaving that northerly line of Mariposa Street north 3°10′56″ west 433.04 feet; thence easterly and parallel with that northerly line of Mariposa Street north 86°49′04″ east 280.00 feet; thence north 3°10′56″ west 433.04 feet to the southerly line of Sixteenth Street (90.00 feet wide); thence easterly along that southerly line of Sixteenth Street north 86°49′04″ east 100.00 feet to the westerly line of Third Street (100.00 feet wide); thence southerly along the westerly line of Third Street south 3°10′56″ east 866.08 feet to that northerly line of Mariposa Street; thence easterly crossing Third Street and running along that northerly line of Mariposa Street north 86°49′04″ east 360.00 feet to the easterly line of Illinois Street (80.00 feet wide); thence southerly along that easterly line of Illinois Street south 3°10′56″ east 129.83 feet; thence north 35°06′05″ east 616.30 feet; thence northeasterly along an arc of a curve to the left tangent to the preceding course with a radius of 440.00 feet through a central angle of 12°29′53″ an arc distance of 98.54 feet; thence tangent to the preceding curve north 22°16′12″ east 700.07 feet; thence northerly along an arc of a curve to the left tangent to the preceding course with a radius of 340.00 feet through a central angle of 12°18′00″ an arc distance of 73.98 feet; thence tangent to the preceding curve north 9°48′12″ east 86.42 feet; thence northerly along the arc of a curve to the left tangent to the preceding course with a radius of 340.00 feet, through a central angle of 11°58′09″, an arc distance of 71.03 feet; thence tangent to the preceding curve north 2°09′57″ west 121.44 feet; thence north 3°10′56″ west 198.86 feet; thence north 2°19′47″ west 292.70 feet;
thence northwesterly along an arc of a curve to the left tangent to the preceding course with a radius of 481.57 feet through a central angle of $24^\circ30'49''$, an arc distance of 206.04 feet; thence tangent to the preceding curve north $26^\circ50'36''$ west 402.03 feet; thence northwesterly along an arc of a curve to the right tangent to the preceding course with a radius of 236.29 feet, through a central angle of $9^\circ00'04''$ an arc distance of 37.12 feet; thence tangent to the preceding curve north $17^\circ50'32''$ west 679.08 feet; thence south $86^\circ49'04''$ west 282.38 feet; thence north $17^\circ34'00''$ west 145.34 feet; thence north $72^\circ26'00''$ east 13.36 feet; thence north $3^\circ10'56''$ west 634.51 feet; thence south $86^\circ49'04''$ west 112.12 feet; thence north $3^\circ10'56''$ west 200.00 feet; thence north $47^\circ36'05''$ east 456.59 feet; thence south $86^\circ49'04''$ west 603.75 feet; thence south $64^\circ21'26''$ west 108.21 feet to the point of intersection of the westerly line of Third Street (80.00 feet wide) with the southeasterly line of Channel Street (165.00 feet wide); running thence along that southeasterly line of Channel Street south $46^\circ18'07''$ west 772.99 feet to the northeasterly line of Fourth Street (82.50 feet wide); thence along that northeasterly line of Fourth Street north $43^\circ41'53''$ west 440.00 feet to the southeasterly line of Berry Street (82.50 feet wide); thence along that southeasterly line of Berry Street north $46^\circ18'07''$ east 825.95 feet to the southwesterly line of Third Street; thence northwesterly along that southwesterly line of Third Street north $43^\circ41'53''$ west 667.50 feet to the southeasterly line of Townsend Street (82.50 feet wide); thence along that southeasterly line of Townsend Street south $46^\circ18'07''$ west 3,549.21 feet to the northeasterly line of Seventh Street (82.50 feet wide); thence along that northeasterly line of Seventh Street south $43^\circ41'53''$ east 3,166.69 feet to a point on the easterly line of Pennsylvania Street (90.00 feet wide); thence southerly along that easterly line of Pennsylvania Street south $3^\circ10'56''$ east 556.59 feet to the point of beginning and contains 317.91 acres, more or less.

Excepting therefrom the following described parcels.

Exception - Parcel 1
Beginning at the intersection of the westerly line of Illinois Street (80.00 feet wide) with the northerly line of Merrimac Street (66.00 feet wide), as those streets now exist, thence along that northerly line of Merrimac Street south $86^\circ49'04''$ west 106.00 feet to the true point of beginning; thence north $3^\circ10'56''$ west 400.00 feet; thence south $86^\circ49'04''$ west 74.00 feet to the easterly line of Third Street (100.00 feet wide); thence along that easterly line of Third Street south $3^\circ10'56''$ east 496.00 feet; thence north $86^\circ49'04''$ east 74.00 feet; thence north $3^\circ10'56''$ west 96.00 feet to the true point of beginning.

Containing 0.84 acres, more or less.

Exception - Parcel 2
Beginning at the intersection of the southerly line of Sixteenth Street (90.00 feet wide) with the easterly line of Third Street (100.00 feet wide) and continuing easterly along that southerly line of Sixteenth Street north $86^\circ49'04''$ east 260.00 feet to a point on the easterly line of Illinois Street (80.00 feet wide), that point being the
northwesterly corner of parcel one as described in the deed to Esprit De Corps, a California corporation, recorded on July 12, 1988, on Reel E634 at Image 1334, Document No. E203992, in the Office of the Recorder of the City and County of San Francisco, that point also being the true point of beginning of this description; thence along the northerly line of that parcel one north 86°49'04" east 335.00 feet; thence along the easterly line of that parcel one south 14°29'32" east 107.08 feet, thence south 3°10'56" east 232.00 feet; thence south 26°50'57" west 72.77 feet to the most easterly corner of parcel two as described in that deed; thence along the easterly line of that parcel two south 26°50'57" west 92.41 feet; thence along the southerly line of that parcel two south 86°49'04" west 273.33 feet to the easterly line of Illinois Street; thence along the westerly line of that parcel two north 3°10'56" west 80.00 feet to the southwesterly corner of that parcel one; thence along the westerly line of that parcel one north 3°10'56" west 400.00 feet to the true point of beginning and containing 3.762 acres of land, more or less.

The bearings herein are based upon the bearing north 43°41'53" west on the northeasterly line of Seventh Street as shown on CalTrans right-of-way map no. R-174.14 and as shown on that certain Record of Survey Map of Mission Bay prepared by KCA Engineers, Inc. dated July 1990, and consisting of 21 sheets, which Record of Survey shall be filed with the State Lands Commission within 180 days of the effective date of this act.

(f) "Mission Bay Specific Plan" means that certain specific plan enacted by the planning commission of the city in satisfaction of the requirements of Article 8 (commencing with Section 65450) of Chapter 3 of Division 1 of Title 7 of the Government Code and the requirements of the charter of the city by Resolution No. 12040, dated September 27, 1990, and by Resolution No. 13017, dated February 14, 1991.

(g) "Public trust" means the public trust for commerce, navigation, and fisheries.

SEC. 2. Section 2 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 2. The Legislature hereby finds and declares as follows:

(a) Certain of the lands within the Mission Bay Development Area are tide or submerged lands which have been filled and reclaimed.

(b) The filled and reclaimed tide and submerged lands within the Mission Bay Development Area are useful for and in connection with, the highly beneficial plan of improvement for harbor development represented by the Mission Bay Specific Plan and related plans for developing consolidated modern port facilities outside the Mission Bay Development Area.

(c) Certain of the tide and submerged lands within the Mission Bay Development Area have been authorized to be, and have been, laid off and sold to private parties pursuant to various acts, including Chapter 41 of the Statutes of 1851, Chapter 160 of the Statutes of 1853,
Chapter 543 of the Statutes of 1867–68; Chapter 490 of the Statutes of 1871–72; Chapter 265 of the Statutes of 1903, Chapter 434 of the Statutes of 1947, and Chapter 1252 of the Statutes of 1953.

(d) Certain of the streets originally laid out within the Mission Bay Development Area are filled and not used, suitable, or necessary for navigation purposes and certain portions of those streets are not necessary for street purposes.

(e) Section 3 of Article X of the California Constitution allows the sale to any city, city and county, municipal corporation, private person, partnership, or corporation of tidelands reserved to the state solely for street purposes, which tidelands the Legislature finds and declares are not used and not necessary for navigation purposes, subject to such conditions as the Legislature may establish.

(f) There is a dispute between the city and the state with respect to the extent to which certain street areas within the Mission Bay Development Area may be subject to the public trust or other encumbrances that may have arisen because the lands were once sovereign lands of the state. The state contends that a total of approximately 40 disputed acres within the Mission Bay Development Area was (1) reserved to the state for street purposes, and (2) is held by the city subject to the public trust. The city contends that it holds those disputed street areas in fee simple free of the public trust or any other such encumbrances. It is in the public interest that this dispute be resolved in a manner that furthers public trust purposes.

(g) The existing fragmented pattern of public and private ownership within the Mission Bay Development Area, especially the industrial area street system and parcelization imposed on the area largely as the result of subdivisions and sales in the latter half of the 19th century, limit both the potential development of the area and the expansion of desirable public uses in the area consistent with the public trust and the Burton Act trust, such as open space and parks along the waterfront and elsewhere within the Mission Bay Development Area, public access to the shoreline, and consolidated, modern facilities for the city. Therefore, the city has developed and adopted the Mission Bay Specific Plan, and the city has negotiated a development agreement pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 of Title 7 of the Government Code with the current private owner of most of the real property within the Mission Bay Development Area to enable the redevelopment of the Mission Bay Development Area; to respond to and rectify the existing limitations on public trust uses which prevent implementation of the Mission Bay Specific Plan; and to facilitate development of consolidated, modern port facilities outside the Mission Bay Development Area. The Mission Bay Specific Plan and the development agreement approved by the city for the development of the Mission Bay Development Area contemplate that certain lands in dispute with the state and certain other lands subject to the public trust or the Burton Act trust shall be conveyed.
free of those trusts to the current private owner of most of the real property within the Mission Bay Development Area, and the public trust and the Burton Act trust over certain other lands shall be terminated, in exchange for (1) the conveyance to the city subject to the public trust and the Burton Act trust of certain lands owned by that private owner, or the conveyance to the city of an easement over those lands which will permanently subject the lands to the public trust and the Burton Act trust, (2) the conveyance to the city of an easement over certain other lands in private ownership which will permanently encumber those lands with the public trust, and (3) the agreement by the city that certain of the street areas in dispute with the state and other areas shall be permanently subjected to the public trust by easement or otherwise. In preparing the Mission Bay Specific Plan, the city has considered present and future public trust and Burton Act trust needs and the purposes for which the city holds or may hold property subject to those trusts within the Mission Bay Development Area. The Mission Bay Specific Plan and that development agreement demonstrate that (1) those lands within the Mission Bay Development Area to be devoted to nonpublic trust purposes or purposes other than those stated in the Burton Act are no longer needed or required for public trust purposes or those purposes provided for in the Burton Act, and (2) the lands to be conveyed to the city, or which will be encumbered by a public trust easement, or which the city will agree to permanently subject to the trust, will be devoted to trust uses as provided for in the Mission Bay Specific Plan and other related plans for maritime development and will, therefore, be highly useful for public trust purposes and Burton Act trust purposes. Specifically, through acquisition of privately owned lands in the pier 70 through 80 area of the city, the city will be able to develop between four and nine container berths in the pier 70 through 80 area. Combining facilities in the pier 70 through 80 area through acquisition of those privately owned lands will also allow the city to take advantage of the existing container-oriented and intermodal infrastructure at piers 80 and 94–96, including the intermodal container transfer facility. In the Mission Bay Development Area, on the other hand, the consolidation of ownerships and the provision by the city of certain additional real property to be developed for public recreational use pursuant to license, together with the toxic remediation of all real property to be subjected to the public trust or the Burton Act trust or to be developed for recreational use will permit the development, pursuant to the Mission Bay Specific Plan, of improved open space, public access, waterfront parks, and other public facilities consistent with the public trust and the Burton Act trust. This development would otherwise not be feasible because of existing ownership patterns and lack of city funds. The consolidation of ownerships referred to in this section will also be facilitated by the resolution of the dispute with the state over the extent to which the street areas within the Mission Bay Development Area are subject to the public
trust. It is intended that the resolution of that dispute and the consolidation of public and private ownerships will be accomplished by and through the exchanges of lands previously referred to. These exchanges shall be for the purpose of effectuating the public trust uses provided for in the Mission Bay Specific Plan and related plans for developing consolidated modern port facilities. The proposed exchanges will not interfere with, and will, in fact, be consistent with and further the purposes of the public trust and the Burton Act trust provided that:

(1) The value of the lands or interests in lands to be conveyed to the city and subjected to the public trust or the Burton Act trust, the value of the public trust easement to be conveyed to the city over certain other lands, and the value of the public trust interest created by the agreement of the city that certain of the street areas in dispute with the state and other areas shall be subjected to the public trust by easement or otherwise are equal to, or greater than, the value of the lands to be conveyed by the city and the value of the public trust or Burton Act trust interest to be terminated pursuant to those exchanges.

(2) The lands or interests in lands to be exchanged by the city and over which the public trust or the Burton Act trust or both will be terminated have been filled and reclaimed, those parcels consisting entirely of dry land lying above the present ordinary high water mark, and are not necessary for the highly beneficial program for development of the harbor and waterfront of the city represented by the Mission Bay Specific Plan and related plans for developing consolidated modern port facilities.

(3) The lands to be exchanged by the city and over which the public trust or the Burton Act trust or both will be terminated are nonwaterfront, having been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property or by a major roadway (China Basin Street), which has provided, and will continue to provide, lateral public access to the water along the entirety of the Mission Bay Development Area.

(4) The lands to be exchanged by the city and over which the Burton Act trust or the public trust or both will be terminated constitute a relatively small portion of the tide and submerged lands granted to the city.

(5) The lands to be exchanged by the city and over which the public trust or the Burton Act trust or both will be terminated are no longer needed or required for the promotion of the public trust or the Burton Act trust.

(h) Substantial portions of the approximately 40 acres of granted tidelands in dispute within the Mission Bay Development Area to be conveyed into private ownership were reserved to the state for street purposes and are not used or necessary for navigation purposes, and therefore under Section 3 of Article X of the California Constitution can and should be conveyed into private ownership for uses consistent with and in furtherance of the Mission Bay Specific
Plan.

(i) It is therefore the intent of the Legislature, on and subject to
the terms and conditions set forth in this act, (1) to authorize, ratify,
and confirm any agreement by the city to enter into an exchange or
exchanges of granted tidelands and to terminate the public trust or
the Burton Act trust or both over granted tidelands consistent with
the findings and declarations stated in this act, and (2) to authorize
the city to dispose of any and all granted tidelands originally laid out
and reserved to the state for street purposes for private use free from
those trusts consistent with and in furtherance of the Mission Bay
Specific Plan.

SEC. 3. Section 3 of Chapter 1143 of the Statutes of 1991 is
amended to read:

Sec. 3. (a) For the purposes of effectuating the exchanges of
lands referred to in subdivision (g) of Section 2, including the
conveyance of certain of those lands by the city free of the public
trust and the Burton Act trust, the State Lands Commission is hereby
authorized:

(1) To convey to the city by patent all of the right, title, and
interest held by the state by virtue of its sovereign trust title to tide
and submerged lands, including any public trust interest or Burton
Act reservation or trust interest, and not heretofore conveyed, in and
to all of the filled tidelands an submerged lands within the Mission
Bay Development Area, subject to such reservations as the State
Lands Commission may determine to be appropriate.

(2) To receive and accept on behalf of the state in its sovereign
capacity any lands or any interest in lands, conveyed to the state in
its sovereign capacity by the city or by any private party pursuant to
this act and pursuant to any exchange authorized, ratified, or
confirmed by this act, including, but not limited to, any public trust
easement conveyed to the state in its sovereign capacity by the city
or by a private party in any such lands.

(3) To convey to the city by patent all of the right, title, and
interest of the state in any lands conveyed to the state in its sovereign
capacity by the city or by any private party pursuant to this act and
pursuant to any exchange authorized, ratified, or confirmed by this
act, including, but not limited to, any public trust easement,
conveyed to the state in its sovereign capacity by the city or by a
private party, in any such lands, subject to such terms, conditions,
and reservations as the State Lands Commission may determine are
necessary to meet the requirements of Section 8.

(b) In any case where the state, pursuant to this act, conveys filled
tidelands and submerged lands transferred to the city pursuant to
Chapter 1333 of the Statutes of 1968, as amended, the state shall
reserve all minerals and all mineral rights in the lands of every kind
and character now known to exist or hereafter discovered, including,
but not limited to, oil and gas and rights thereto, together with the
sole, exclusive, and perpetual right to explore for, remove, and
dispose of those minerals by any means or methods suitable to the
state or to its successors and assigns, except that, notwithstanding Chapter 1333 of the Statutes of 1968, as amended, or Section 6401 of the Public Resources Code, any such reservation shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee or by the grantee's successors or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of any grantee of the lands or the grantee's successors or assignees.

(c) No private owner is required to transfer, pursuant to this act, any mineral rights which it does not own or possess, and similarly, neither the city nor the state is required to transfer any mineral rights which either does not own or possess.

SEC. 4. Section 4 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 4. (a) Subject to the requirements for action by the State Lands Commission specified in subdivision (b), whenever it is determined by the city that any portions of the granted tidelands are cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries or the Burton Act trust or both; and when it is further determined that no substantial interference with those trust uses and purposes will ensue; and when it is further determined that an exchange of those lands and the termination of the public trust or the Burton Act trust will be consistent with the findings and declarations contained in Section 2, the city may terminate the public trust or the Burton Act trust, or both, over those portions of the granted tidelands and exchange those portions of the granted tidelands, or any interest in those lands, to any state agency, political subdivision, person, entity, or corporation, or the United States, or any agency thereof, for lands or interests in lands of equal or greater value, including lands that are or may be subject to the public trust or lands in dispute with the state which the city agrees to subject to the public trust or the Burton Act trust or both, which are useful for public trust or Burton Act trust purposes.

(b) No such exchange and trust termination shall be effective unless and until the State Lands Commission, at a regular open meeting with the proposed exchange and trust termination as a properly scheduled agenda item, does or has done both of the following:

(1) Finds, or has found, that the lands or interests in lands to be acquired by the city and the value of the public trust or Burton Act trust interest to be created by agreement of the city have a value
equal to or greater than the value of the granted tidelands for which they are to be exchanged and the value of the granted tidelands over which the public trust or the Burton Act trust or both will be terminated.

(2) Adopts, or has adopted, a resolution approving the proposed exchange, and trust termination which finds and declares that the granted tidelands to be exchanged and over which the public trust or the Burton Act trust or both will be terminated have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust or the Burton Act trust; and, further, that no substantial interference with the public trust or Burton Act trust uses and purposes will ensue by virtue of the exchange and trust termination; and, further, that the exchange and trust termination is consistent with the findings and declarations in Section 2 and in the best interests of the state and the city. Upon adoption of the resolution, or at such time as may otherwise be specified in the resolution, the granted tidelands to be exchanged and with respect to which the public trust or the Burton Act trust or both are to be terminated shall thereupon be free from the public trust or the Burton Act trust or both.

SEC. 5. Section 8 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 8. (a) Any lands, or interests therein, received by the city pursuant to any exchange authorized by this act and located within the boundary of the Port of San Francisco or located outside the Mission Bay Development Area shall be held by the city subject to the Burton Act trust and subject to those exceptions and reservations to the state, including, but not limited to, subsurface mineral deposits, contained in Chapter 1333 of the Statutes of 1968, as amended, as if those lands had been transferred to the city pursuant to the provisions of Chapter 1333 of the Statutes of 1968, as amended, except that, notwithstanding this section or Chapter 1333 of the Statutes of 1968, as amended, any conveyance to the city of lands outside the Mission Bay Development Area shall not include minerals or mineral rights, including, but not limited to, oil and gas and rights thereto, if the owner of the lands has not held those minerals or mineral rights since January 1, 1990, and the owner of the minerals or mineral rights or that owner's successors or assignees, in connection with any mineral exploration, removal, or disposal activity, do not have the right to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee of those lands or by the grantee's successors or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of any grantee of the lands or the grantee's successors or assignees.
(b) Any lands, or interests in lands, received by the city outside the boundary of the Port of San Francisco, but within the Mission Bay Development Area, pursuant to any exchange authorized by this act shall be held by the city subject to the public trust and for the purposes of effectuating the public trust uses provided for in the Mission Bay Specific Plan, except for those lands or interests in lands with respect to which the public trust or the Burton Act trust is terminated pursuant to the exchange.

SEC. 6. Section 13.5 is added to Chapter 1143 of the Statutes of 1991, to read:

Sec. 13.5. An action may be brought under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure by the parties to any agreement entered into pursuant to this act to confirm the validity of the agreement. Notwithstanding any provision of Section 764.080 of the Code of Civil Procedure, the statement of decision in the action shall include a recitation of the underlying facts and a determination whether the agreement meets the requirements of this act, Sections 3 and 4 of Article X of the California Constitution, and any other law applicable to the validity of the agreement.

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:

An immediate clarification of the authority of the State Lands Commission to reserve mineral rights is necessary in order to effectuate land exchanges necessary to promote public trust uses of lands in accordance with the Mission Bay Specific Plan adopted by the City and County of San Francisco and to thereby ensure the fullest use of those lands for the maximum benefit of public trust purposes. It is necessary therefore, that this act take effect immediately.

CHAPTER 87

An act to amend Sections 27201 and 27361 of, and to repeal and add Sections 27324, 27361.5, and 27361.6 of, the Government Code, relating to recordation of documents.

[Approved by Governor June 10, 1992. Filed with Secretary of State June 11, 1992.]

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

SECTION 1. Section 27201 of the Government Code is amended to read:

27201. (a) The recorder shall, upon payment of proper fees and taxes, accept for recordation any instrument, paper, or notice which
is authorized or required by law to be recorded, if the instrument, paper, or notice contains sufficient information to be indexed as provided by statute, meets recording requirements of state statutes and local ordinances, and is photographically reproducible. The county recorder shall not refuse to record any instrument, paper, or notice which is authorized or required by law to be recorded on the basis of its lack of legal sufficiency.

"Photographically reproducible," for purposes of this division, means all instruments, papers, or notices which comply with standards as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of records.

(b) Each instrument, paper, or notice shall contain an original signature or signatures, except as otherwise provided by law, or be a certified copy of the original.

SEC. 2. Section 27324 of the Government Code is repealed.

SEC. 3. Section 27324 is added to the Government Code, to read:
27324. Each instrument, paper, or notice presented for recordation shall have a title or titles indicating the kind or kinds of documents contained therein. The recorder shall be required to index only that title or titles captioned on the first page of a document immediately below the space reserved for the recorder. Additional titles may be identified and indexed at the discretion of the recorder.

SEC. 4. Section 27361 of the Government Code is amended to read:

27361. (a) The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded is four dollars ($4) for recording the first page and three dollars ($3) for each additional page, except the recorder may charge additional fees as follows:

(1) If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than 3 inches in one sentence, the recorder shall charge one dollar ($1) extra for each page or sheet on which printing appears excepting, however, the extra charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(2) If a page or sheet does not conform with the dimensions described in subdivision (a) of Section 27361.5, the recorder shall charge three dollars ($3) extra per page or sheet of the document. The extra charge authorized under this paragraph shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county’s system of recorded documents. Fees collected under this paragraph are not subject to subdivision (b) or (c).
(b) One dollar ($1) of each three dollar ($3) fee for each additional page shall be transmitted by the county auditor monthly to the Controller and deposited in the General Fund.
(c) One dollar ($1) for recording the first page and one dollar ($1) for each additional page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

SEC. 5. Section 27361.5 of the Government Code is repealed.

SEC. 6. Section 27361.5 is added to the Government Code, to read:

27361.5. (a) As used in Section 27361, a page shall be one printed side of a single piece of paper being 8\(\frac{1}{2}\) inches by 11 inches.
(b) A sheet shall be one printed side of a single piece of paper which is not exactly 8\(\frac{1}{2}\) inches by 11 inches but not greater than 8\(\frac{1}{2}\) inches by 14 inches.

SEC. 7. Section 27361.6 of the Government Code is repealed.

SEC. 8. Section 27361.6 is added to the Government Code, to read:

27361.6. Except as otherwise provided by law or regulation, all documents submitted for recording shall have at least a \(\frac{1}{2}\)-inch margin on the two vertical sides except in the space reserved for recording information. At least the top 2\(\frac{3}{4}\) inches of the first page or sheet shall be reserved for recording information. The left-hand 3\(\frac{1}{2}\) inches of the space shall be used by the public to show the name of the person requesting recording and the name and address to which the document is to be returned following recording. In the event the first page or sheet of a document does not comply with these requirements, a separate page shall be attached by the party requesting recording to the front of the document which meets these criteria and which reflects the title or titles of the document as required by Section 27324. Any printed form accepted for recordation that does not comply with the foregoing shall not affect the notice otherwise imparted by recording.

All instruments, papers, or notices presented for recordation shall be on a quality of paper and contain print of a size and color which will reproduce legibly by microphotographic or imaging processes as set forth in Sections 26205.5 and 27322.2.

Any instrument, paper, or notice presented for recordation which in any way modifies, releases, or cancels the provisions of a previously recorded document shall state the recorder identification number or book and page of the document number being modified, released, or canceled.

SEC. 9. (a) This act shall become operative on July 1, 1994.
(b) Any instrument, paper, or notice executed prior to July 1, 1994, shall not be required to comply with the provisions of this act.
An act to amend Section 798.56a of the Civil Code, relating to mobilehome parks.

[Approved by Governor June 10, 1992. Filed with Secretary of State June 11, 1992.]

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

SECTION 1. Section 798.56a of the Civil Code is amended to read:

798.56a. (a) Within 60 days following receipt, or no later than 65 days after the mailing, of the notice of termination of tenancy for nonpayment of rent or other charges, the legal owner and each junior lienholder shall notify the management in writing of at least one of the following:

(1) Its offer to sell the obligation secured by the mobilehome to the management for the amount specified in its written offer. In that event, the management shall have 15 days following receipt of the offer to accept or reject the offer in writing. If the offer is rejected, the person or entity shall have 10 days in which to exercise one of the other options contained in this section and shall notify management in writing of its choice.

(2) Its intention to foreclose on its security interest in the mobilehome.

(3) Its request that the management pursue the termination of tenancy against the homeowner and its offer to reimburse management for the reasonable attorney's fees and court costs incurred by the management in that action.

(b) In the event that the legal owner or junior lienholder exercises any option described in paragraph (2) or (3) of subdivision (a), and has the right to sell the mobilehome within the park to a third party in accordance with this article, that person or entity shall have the right to keep the mobilehome on the site within the mobilehome park until it is resold as long as the person or entity performs all of the following acts:

(1) (A) Satisfies, within the time period specified in subdivision (a), all of the homeowner's responsibilities and liabilities owing to the management for the 90 days preceding the mailing of the notice of termination of tenancy and then continue to satisfy them as they accrue from the date of the mailing of that notice until the date the mobilehome is resold.

(B) Performance under this paragraph does not cure the default of the homeowner.

(C) For purposes of this paragraph, the "homeowner's responsibilities and liabilities" means all rents, utilities, reasonable maintenance charges of the mobilehome and its premises, and reasonable maintenance of the mobilehome and its premises.
pursuant to existing park rules and regulations.

(2) Within the time period specified in subdivision (a), commences all repairs and necessary corrective actions so that the mobilehome complies with park rules and regulations in existence at the time the notice of termination of tenancy was given as well as the health and safety standards specified in Sections 18550, 18552, and 18605 of the Health and Safety Code, and completes these repairs and corrective actions within 90 calendar days of that notice, or before the date the mobilehome is resold, whichever is earlier.

(3) Complies with the requirements of Article 7 (commencing with Section 798.70) as it relates to the transfer of the mobilehome to a third party.

(4) Reimburses the management the amount of reasonable attorney’s fees and court costs, as agreed upon by the management and the legal owner or junior lienholder, incurred by the management in an action to terminate the homeowner’s tenancy, where a request is made pursuant to paragraph (3) of subdivision (a). The reimbursement shall be paid to the management on or before the earlier of (A) the 60th calendar day following receipt of written notice from the management of the aggregate amount of those reasonable attorney’s fees and costs or (B) the date the mobilehome is resold.

 (c) In the event the legal owner or junior lienholder does not respond to the notice provided by management by notifying management in writing of its election pursuant to subdivision (a), or does not satisfy the requirements of subdivision (b), that person or entity shall have no rights to sell the mobilehome within the park to a third party.

(d) In the event the homeowner files for bankruptcy, the periods set forth in this section are tolled until the mobilehome is released from bankruptcy.

(e) Notwithstanding any other provision of law, including, but not limited to, Section 18099.5 of the Health and Safety Code, in the event neither the legal owner nor a junior lienholder, if any, notifies the management of its decision pursuant to subdivision (a) within the period allowed, or performs as agreed within 30 days, the management may either remove the mobilehome from the premises and place it in storage or store it on its site. In this case, notwithstanding any other provision of law, the management shall have a warehouseman’s lien in accordance with Section 7209 of the Commercial Code against the mobilehome for the costs of dismantling and moving, if appropriate, as well as storage, which shall be superior to all other liens, except the lien provided for in Section 18116.1 of the Health and Safety Code, and may enforce the lien pursuant to Section 7210 of the Commercial Code.

(f) All written notices required by this section shall be sent to the other party by certified or registered mail with return receipt requested.

[Approved by Governor June 10, 1992. Filed with Secretary of State June 11, 1992.]

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

SECTION 1. Section 84202.5 of the Government Code is amended to read:

84202.5. (a) Any candidate or any committee pursuant to subdivision (a) of Section 82013 which makes contributions totaling five thousand dollars ($5,000) or more in connection with an election, including a runoff election, shall file a supplemental preelection statement no later than 12 days before the election, for the period ending 17 days before the election. This statement shall be filed with each office with which the candidate or committee filing the statement is required to file its next campaign statement pursuant to Section 84215.

(b) This section shall not apply to candidates or committees during any semiannual period in which the candidate or committee is required to file preelection statements pursuant to Section 84200.5.

(c) If a candidate or committee makes contributions totaling five thousand dollars ($5,000) or more in connection with an election and all of those contributions are reported pursuant to Section 84200 or 84202.7 on or before the closing date specified in subdivision (a), the candidate or committee shall not be required to file additional statements for that period pursuant to this section.

SEC. 2. Section 84203 of the Government Code is amended to read:

84203. (a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, and the date and amount of the late contribution. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile
transmission, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late 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 within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

SEC. 3. Section 84204 of the Government Code is amended to read:

84204. (a) A candidate or committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, telegram, guaranteed overnight mail through the United States Postal Service or personal delivery within 24 hours of the time it is made. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A candidate or committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made.

(c) A candidate or committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

SEC. 4. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.
CHAPTER 90

An act to add Sections 49150.5 and 56730.7 to, and to repeal Sections 1985, 48440, and 48443 of, the Education Code, relating to school reports.

[Approved by Governor June 10, 1992. Filed with Secretary of State June 11, 1992.]

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

SECTION 1. It is the intent of the Legislature to reduce the burden of paperwork on all school districts and thereby save staff time and lower administrative costs by eliminating certain reporting requirements.

SEC. 2. Section 1985 of the Education Code is repealed.

SEC. 3. Section 48440 of the Education Code is repealed.

SEC. 4. Section 48443 of the Education Code is repealed.

SEC. 5. Section 49150.5 is added to the Education Code, to read:

49150.5. Nothing in Section 49150 shall require that a report be made by a school district or county office of education to the Superintendent of Public Instruction.

SEC. 6. Section 56730.7 is added to the Education Code, to read:

56730.7. (a) Notwithstanding Section 42100, the department shall not require the filing of a program cost accounting report more frequently than once every two fiscal years for those school districts with less than 2,500 pupils in average daily attendance if the department obtains an exemption from the United States Department of Education of specified reporting requirements for those districts. If approval is secured, then in the fiscal year in which the report is not filed, the approved indirect cost rate calculated in the previous year for those districts shall be used instead of the current calculation.

(b) The department shall streamline the annual program cost accounting report for school districts not later than the 1993–94 fiscal year reporting period. Areas to be reexamined for elimination or revision should include, but not be limited to, the methods for allocating direct support costs and the manner in which school districts compile the report. The streamlined version of the annual program cost accounting report shall be developed with the intent of reducing the burden of paperwork on school districts while at the same time providing the Legislature and other interested parties with uniform and consistent program cost information regarding school districts.
CHAPTER 91

An act to amend Section 20131.01 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 10, 1992. Filed with Secretary of State June 11, 1992.]

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

SECTION 1. Section 20131.01 of the Government Code is amended to read:

20131.01. (a) Funds remaining in the Investment Dividend Disbursement Account, the Purchasing Power Accounts, and the Extraordinary Performance Dividend Account upon the repeal of Sections 21235, 21236, 21237, and 21238, shall be used to reduce employer contributions in fiscal year 1991–92 and subsequent fiscal years until those amounts are depleted.

(b) For the state employer, the funds shall only be utilized to reduce the employer contributions required of state agencies or departments that would otherwise be paid from General Fund appropriations. Any interest that will be credited to the state employer funds in fiscal year 1991–92 and thereafter shall also be used to reduce the state employer’s contributions in that manner.

SEC. 2. This act shall be deemed to have become operative on July 1, 1991.

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 projected shortfall between General Fund revenues and expenditures for 1991–92 and 1992–93 fiscal years constitutes a genuine fiscal emergency; therefore, this act must take effect immediately in order to ensure the continuation of essential governmental services.

CHAPTER 92

An act making an appropriation for the payment of judgments and settlement claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 17, 1992. Filed with Secretary of State June 18, 1992.]
The people of the State of California do enact as follows:

SECTION 1. (a) The sum of six million two thousand dollars ($6,002,000) is hereby appropriated to the Attorney General to pay judgments and settlement claims as specified in the following schedule:

(1) Ninety-seven thousand dollars ($97,000) from the General Fund for the case of Pate-Pereyra v. State of California (Superior Ct., Nevada Co., Case No. 40427).

(2) Seven hundred fifty thousand dollars ($750,000) from the General Fund for the case of Neary v. Smith (United States District Court, Eastern District, California, Case No. CUF-84-55 EDP).

(3) One hundred ten thousand dollars ($110,000) from the Motor Vehicle Account in the State Transportation Fund for the case of C.R. Johnson v. State of California (Superior Ct., Kern Co., Case No. 200408).

(4) Four hundred fifty thousand dollars ($450,000) from Item 4440-011-001 of Section 2.00 of Chapter 118 of the Statutes of 1991 (Budget Act of 1991) for the case of McPherson v. Salas (United States District Court, California, Case Nos. 87-4142 CBM, 87-4143 CBM, 87-5827 CBM; Superior Ct., Los Angeles Co., Case No. SEC 58411).

(5) Two hundred thousand dollars ($200,000) from Item 4440-011-001 of Section 2.00 of Chapter 118 of the Statutes of 1991 (Budget Act of 1991) for the case of Kim v. State of California (Superior Ct., Los Angeles Co., Case No. SEC 79957).

(6) Three million one hundred twenty-five thousand dollars ($3,125,000) from the General Fund and one million dollars ($1,000,000) from the State Asset Forfeiture Account, Special Deposit Fund for the case of Nadeau v. Office of the Attorney General (United States District Court, Eastern District, California, Case No. CIV. S-89-0119 LKK-EM).

(7) Two hundred twenty-five thousand dollars ($225,000) from the General Fund for the case of Oppenheimer v. Department of Fair Employment and Housing (Superior Ct., Alameda Co., Case No. 626692-5).

(8) Forty-five thousand dollars ($45,000) from the 1986 Prison Construction Fund for the case of City of Los Angeles v. State of California Department of Corrections (Superior Ct., Los Angeles Co., Case No. C 748962).

(b) Any amounts appropriated in excess of the amounts actually required for the payment of these judgments and settlement claims shall revert to the fund from which the appropriation was made on June 30 of the fiscal year in which the payments are made.

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 93

An act relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 17, 1992. Filed with Secretary of State June 18, 1992.]

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

SECTION 1. The Legislature finds and declares as follows:
(a) Assessments of state-assessed property by the State Board of Equalization have on many occasions been subject to legal challenge.
(b) Valuation issues raised by those lawsuits have placed in question significant amounts of property tax revenues that have already been collected and expended for the provision of essential public services, and thus jeopardized the ability of cities, counties, school entities, and special districts to adequately fund essential public services in the future.
(c) Given the number and potential fiscal impact of lawsuits contesting State Board of Equalization assessments of property, it is appropriate and necessary that the Legislature clarify state policy with respect to the settlement of those lawsuits.

SEC. 2. (a) Notwithstanding any other provision of law, and in addition to its general authority with respect to the settlement of lawsuits, the State Board of Equalization is expressly authorized to enter into, in its discretion, the settlement of a lawsuit that provides for the manner in which the affected state assessee’s property will be valued in future assessment years, where all of the following are satisfied:
(1) The lawsuit involves refunds with respect to one or more prior assessment years.
(2) A judgment in favor of the taxpayer in the lawsuit would have a significant, negative impact on the fiscal status of cities, counties, school entities, and special districts.
(3) The State Board of Equalization determines that the settlement is reasonably balanced against any assessment reductions in future assessment years that would result from the settlement and the risks and expense of continued litigation.
(4) The required number of affected counties, as specified in the settlement, agree to the settlement.
(5) The State Board of Equalization has obtained the Attorney General’s approval of the settlement.
(b) For purposes of this act, “settlement of a lawsuit or lawsuits” includes, but is not limited to, a settlement agreement with all parties
to, and all taxpayers included within the scope of, a validation proceeding filed pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, that includes as a party or within its scope all parties to the settlement agreement, and in which the validity and enforceability of the settlement agreement is confirmed. Any settlement agreement executed pursuant to this act shall be deemed a contract within the meaning of Section 53511 of the Government Code.

SEC. 3. Section 2 of this act does not constitute a change in, but is declaratory of, existing law, including, but not limited to, Section 19 of Article XIII of the California Constitution.

SEC. 4. For any validation action filed pursuant to this act during calendar year 1992, the time limitation for filing contained in Section 860 of the Code of Civil Procedure is extended from 60 days to 90 days.

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 clarify the authority of the State Board of Equalization to settle pending lawsuits that, if resolved in favor of the plaintiffs therein, could result in severe property tax revenue losses to cities, counties, school entities, and special districts, it is necessary that this act take effect immediately.

CHAPTER 94

An act to amend Sections 8664.5, 8664.8, 8680, 8681, 8681.5, 8681.7, and 8692.5 of, to add Section 12003.5 to, and to add Article 12 (commencing with Section 8150) to Chapter 1 of, and Article 1.4 (commencing with Section 8610.1) to Chapter 3 of, Part 3 of Division 6 of, to repeal Sections 8664.65 and 8664.67 of, to amend and repeal Section 8683 of, and to repeal and add Section 8682 of, the Fish and Game Code, relating to marine resources, and making an appropriation therefor.

[Approved by Governor June 17, 1992. Filed with Secretary of State June 18, 1992.]

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

SECTION 1. Article 12 (commencing with Section 8150) is added to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, to read:
Article 12. Impacted Fisheries

8150. The Legislature finds and declares that impacted fishermen are experienced in the use of gill and trammel nets and are capable of safely operating in the herring gill net fishery. Notwithstanding any other section in this code, the experience points requirement for eligibility to obtain a herring gill net permit contained in Section 8552.8 shall be waived for impacted fishermen from January 1, 1992, to January 1, 1996.

No herring gill net permit obtained by an impacted fisherman pursuant to this section may be transferred by that person during the first five years that permit is held by that person, except that, in the event of the death of a permittee, the permit may be transferred pursuant to Section 8104.

Impacted fishermen seeking to obtain herring gill net permits pursuant to this section shall be given preference in obtaining any low-interest loans that may be offered by the state to commercial fishermen, in order to purchase herring gill net permits.

8151. "Impacted fisherman" for purposes of Section 8150 means any person who, from January 1, 1986, to December 31, 1990, inclusive, landed a minimum of 1,000 pounds of fish, other than shark or rockfish, in each of at least three calendar years during that period with set gill and trammel nets and landed the fish at ports within areas subject to gill and trammel net closures pursuant to Section 8664.5. Landings shall be verified by the fisherman's submittal of landing receipts as provided in Section 8043.

SEC. 1.5. Article 1.4 (commencing with Section 8610.1) is added to Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 1.4. Marine Resources Protection Act of 1990

8610.1. The Marine Resources Protection Act of 1990 (Art. X B, Cal. Const.) was adopted as an initiative constitutional amendment at the November 6, 1990, general election. This article codifies and implements that initiative constitutional amendment.

8610.2. (a) "District" for the purposes of this article and of Article X B of the California Constitution means a fish and game district as defined in this code on January 1, 1990.

(b) Except as specifically provided in this article, all references to sections, articles, chapters, parts, and divisions of this code are to those statutes in effect on January 1, 1990.

(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the state.

(d) "Zone" means the Marine Resources Protection Zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San

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Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolas, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.

8610.3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the department pursuant to Section 8610.5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.

8610.4. (a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after November 7, 1990, the use of gill nets and trammel nets shall be regulated by Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) to (f), inclusive, of Section 8681.5, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use or possession of gill nets or trammel nets. The director shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings.

8610.5. The department shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 8610.3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850 to 7852.3, inclusive.

(b) Has a permit issued pursuant to Section 8681 and is presently the owner or operator of a vessel equipped with a gill net or trammel net.

8610.6. The department shall charge the following fees for permits issued pursuant to Section 8610.5 pursuant to the following schedule:
Calendar Year | Fee
---|---
1991 | $250
1992 | 500
1993 | 1,000

8610.7. (a) Commencing on July 1, 1993, there shall be paid to any person who submitted the form required by Section 7 of Article X B of the California Constitution within the 90-day period specified in subdivision (a) of that section, holds a permit issued pursuant to Section 5 of Article X B, who operates in the zone established pursuant to that article, who surrenders that permit to the department between July 1, 1993, and January 1, 1994, inclusive, and who agrees to permanently discontinue fishing with gill and trammel nets within the zone, a one-time compensation consisting of the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 within the zone during the years 1983 to 1987, inclusive. The department shall determine the amount of compensation to be paid by reviewing logs and landing receipts submitted to the department.

(b) Any person who did not submit the form required by Section 7 of Article X B of the California Constitution within the 90-day period specified in subdivision (a) of that section, or whose claim to compensation cannot be verified, shall not be compensated.

(c) Any person who is denied compensation by the department, as a result of the department's failure to verify landings, may appeal that decision to the commission.

(d) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(e) Notwithstanding any other provision of law, any legal action or proceeding to challenge the validity of subdivision (b) of Section 3, or of Section 7, of Article X B of the California Constitution shall be commenced on or before April 1, 1993. In all actions brought to challenge the validity of subdivision (b) of Section 3, or of Section 7, of Article X B of the California Constitution, including the hearing of any such action on appeal from the decision of a lower court, all courts where those actions are filed or pending shall give preference to those actions over all other civil actions filed or pending in that court, with respect to setting the action for trial or hearing, and in trying or hearing the matter, to the end that all such actions shall be heard and determined as expeditiously as possible.

(f) If subdivision (b) of Section 3, or Section 7, of Article X B of the California Constitution is held invalid, any compensation paid to a person pursuant to this section shall be repaid to the state. No
person shall be issued any permit or license pursuant to this article until repayment has been made.

8610.8. (a) There is hereby created the Marine Resources Protection Account in the Fish and Game Preservation Fund. On and after January 1, 1991, the department shall collect any and all fees required by this article. All fees received by the department pursuant to this article shall be deposited in the account and shall be expended or encumbered to compensate persons who surrender permits pursuant to Section 8610.7 or to provide for administration of this article. All funds received by the department during any fiscal year pursuant to this article which are not expended during that fiscal year to compensate persons as set forth in Section 8610.7 or to provide for administration of this article shall be carried over into the following fiscal year and shall be used only for those purposes. All interest accrued from the department's retention of fees received pursuant to this article shall be credited to the account. The accrued interest may only be expended for the purposes authorized by this article. The account shall continue in existence, and the requirement to pay fees under this article shall remain in effect, until the compensation provided in Section 8610.7 has been fully funded or until January 1, 1995, whichever occurs first.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account excluding any interest accrued or any funds carried over from a prior fiscal year may be expended for the administration of this article and Article X B of the California Constitution.

(c) In addition to a valid California sportfishing license issued pursuant to Section 7149, 7149.1, or 7149.2 and any applicable sport license stamp issued pursuant to this code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to that person's sportfishing license a marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3). This subdivision does not apply to any one-day fishing license.

(d) In addition to a valid California commercial passenger fishing boat license required by Section 7920, the owner of any boat or vessel who, for profit, permits any person to fish from the boat or vessel in ocean waters south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3).

(e) The department may accept contributions or donations from any person who wishes to donate money to be used for the compensation of commercial gill net and trammel net fishermen who surrender permits under this article.

(f) This section shall become inoperative on January 1, 1995.

8610.9. Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January
1, 1995, shall, with the approval of the commission, be used to provide grants to colleges, universities, and other bona fide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 8610.14. An amount, not to exceed 15 percent of the total funds remaining in that account on or after January 1, 1995, may be expended for the administration of this section.

8610.10. On or before December 31 of each year, the director shall prepare and submit a report to the Legislature regarding the implementation of this article, including an accounting of all funds. The director shall include in the report an account of the costs incurred by the department for the administration of this article and Article X B of the California Constitution.

8610.11. It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article.

8610.12. To increase the state's scientific and biological information on the ocean fisheries of this state, the department shall establish a program whereby it can monitor and evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry.

8610.13. (a) The penalty for a first violation of Sections 8610.3 and 8610.4 is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit, or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for six months. The penalty for a second or subsequent violation of Sections 8610.3 and 8610.4 is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit, or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

(b) Notwithstanding any other provisions of law, a violation of Section 8610.8 shall be deemed a violation of Section 7145, and the penalty for such violation shall be consistent with Section 12002.2.

(c) If a person convicted of a violation of Section 8610.3, 8610.4, or 8610.8 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

8610.14. Prior to January 1, 1994, the commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources.

8610.15. This article does not preempt or supersede any other
closures to protect any other wildlife, including sea otters, whales, and shorebirds.

8610.16. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

SEC. 2. Section 8664.5 of the Fish and Game Code is amended to read:

8664.5. (a) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in those portions of District 17 between a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County and a line extending 252° magnetic from Yankee Point, Carmel Highlands, in Monterey County in waters 30 fathoms or less in depth at mean lower low water.

(b) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in that portion of District 18 north of a line extending due west from Point Sal in Santa Barbara County in waters 30 fathoms or less in depth at mean lower low water.

(c) Notwithstanding Sections 8693 and 8724, any person using gill nets or trammel nets in those portions of Districts 17 and 18 from a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County to a line extending due west from Point Sal in Santa Barbara County in waters between 30 fathoms and 40 fathoms in depth at mean lower low water shall comply with all of the following requirements in order to ensure adequate monitoring of fishing effort to protect marine mammals:

(1) Prior to the use, the person shall notify the department that gill nets or trammel nets will be set in the area.

(2) The person shall give adequate notification, as determined by the department, to the department at its office in Monterey or Morro Bay at least 24 hours prior to each fishing trip to ensure full compliance and cooperation with the monitoring program. The department may require that an authorized monitor be on board the vessel. The department shall determine whether on board, at sea, or shoreside monitoring is appropriate. If the authorized monitor is not on board the fishing vessel, the fishing vessel operator and the authorized monitor shall make every effort to remain in radio contact if the radio equipment is made available to the monitor.

(3) To ensure the effectiveness of the monitoring program, gill nets and trammel nets may be set or pulled only between one-half hour after sunrise and one-half hour before sunset.

(4) A permit may be revoked and canceled pursuant to Section 8681 for failure to comply with the department's notification and monitoring requirements.

(d) If the director determines that the use of gill or trammel nets is having an adverse impact on any population of any species of seabird, marine mammal, or fish, the director shall issue an order prohibiting or restricting the use, method of use, size, or materials
used in the construction of either or both types of those nets in all or any part of District 10 or 17, or in all or any part of District 18 north of a line extending due west from Point Conception in Santa Barbara County for a specified period. The order shall take effect no later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary.

(e) For purposes of this section, "adverse impact" means either of the following:

(1) The danger of irreparable injury to, or mortality in, any population of any species of seabird, marine mammal, or fish which is occurring at a rate that threatens the viability of the population as a direct result of the use of gill nets or trammel nets.

(2) The impairment of the recovery of a species listed as an endangered species or threatened species pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3) or a species of seabird, marine mammal, or fish designated as fully protected under this code, as a direct result of the use of gill nets or trammel nets.

(f) This section does not apply to any gill net with meshes 3 1/2 inches or less in length in any portion of District 18 between Yankee Point in Monterey County and Point Sal in Santa Barbara County.

(g) The Legislature finds and declares that this section, as amended by Chapter 884 of the Statutes of 1990, and as amended by the act that amended this section during the 1992 portion of the 1991–92 Regular Session, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article X B of the California Constitution.

SEC. 3. Section 8664.8 of the Fish and Game Code is amended to read:

8664.8. (a) Notwithstanding Sections 8685, 8687, 8696, and 8724, and except as provided in subdivisions (c) and (d), set or drift gill or trammel nets shall not be used in ocean waters between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and the westerly extension of the California-Oregon boundary.

(b) (1) Notwithstanding Sections 8664.5, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used in waters which are 40 fathoms or less in depth at mean lower low water between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and a line extending 225° magnetic from Pillar Point at Half Moon Bay in San Mateo County.

(2) Notwithstanding Sections 8664.5, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used in ocean waters which are
60 fathoms or less in depth at mean lower low water between a line extending 225° magnetic from Pillar Point at Half Moon Bay in San Mateo County to a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County.

(c) Subdivisions (a) and (b) do not apply to the use of drift gill nets operated under a permit issued by the department in that part of Arcata Bay in Humboldt County lying northeast of the Samoa Bridge during the period from April 1 to September 30, inclusive. The department may issue not more than six permits pursuant to this subdivision. Each permit shall specify the amount and type of gear which may be used under the permit.

(d) Subdivisions (a) and (b) do not apply to the use of set gill nets used pursuant to Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6 or regulations adopted under that article or to the use of drift gill nets with a mesh size of 14 inches or more.

(e) (1) Notwithstanding subdivision (b) and Sections 8687, 8696, and 8724, gill or trammel nets shall not be used within three nautical miles of the Farallon Islands in San Francisco County, and within three nautical miles of Noonday Rock buoy located approximately 3½ miles 276° magnetic from North Farallon Island.

(2) If the director determines that the use of set or drift gill or trammel nets is having an adverse impact on any population of any species of sea bird, marine mammal, or fish, the director shall issue an order prohibiting the use of those nets between three nautical miles and five nautical miles of the Farallon Islands and Noonday Rock buoy or any portion of that area. The order shall take effect not later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary. Gill and trammel nets used to take fish in District 10 shall be marked at each end with a buoy displaying above its waterline in Arabic numerals at least two inches high, the fisherman’s identification number issued by the department under Section 7852. Nets shall be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the department.

(f) The Legislature finds and declares that this section, as amended by Chapter 1633 of the Statutes of 1990, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article X B of the California Constitution.

SEC. 4. Section 8664.65 of the Fish and Game Code is repealed.

SEC. 5. Section 8664.67 of the Fish and Game Code is repealed.

SEC. 6. Section 8680 of the Fish and Game Code is amended to read:
8680. (a) The Legislature finds and declares that it is in the best interest of the people of the state, the commercial fishing industry, and California's marine resources that fishermen who use gill nets or trammel nets be experienced in the use of those nets.

(b) In accordance with Section 4 of Article X.B of the California Constitution, this section contains the provisions in effect on January 1, 1990.

SEC. 7. Section 8681 of the Fish and Game Code is amended to read:

8681. (a) Gill nets or trammel nets shall not be used for commercial purposes except under a revocable, nontransferable permit issued by the department. Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. A permit may be revoked and canceled by the commission when so recommended by the department upon a conviction for a violation of this article, or regulation authorized by this article, by the permittee, his or her agents, servants, or employees, or those acting under his or her direction and control. A permit may be revoked and canceled for a period not to exceed one year from the date of revocation.

(b) In accordance with Section 4 of Article X.B of the California Constitution, this section contains the provisions in effect on January 1, 1989.

SEC. 8. Section 8681.5 of the Fish and Game Code is amended to read:

8681.5. (a) The department shall issue no new gill net or trammel net permits under Section 8681, except to those persons who applied prior to January 1, 1986, to take the examination for a gill and trammel net permit issued pursuant to Section 8681 and who pass the examination. However, the department may renew an existing, valid permit issued under Section 8681, under regulations adopted pursuant to Section 8682 and upon payment of the fee prescribed under Section 8683.

(b) Notwithstanding subdivision (a) or Section 8681, any person who has an existing, valid permit issued pursuant to Section 8681, and presents to the department satisfactory evidence that he or she has taken and landed fish for commercial purposes in at least 15 of the preceding 20 years, may transfer that permit to any person otherwise qualified under the regulations adopted pursuant to Section 8682 upon payment of the fee prescribed under Section 8683.

(c) The fee collected by the department for the transfer of a gill and trammel net permit issued pursuant to Section 8682 shall not exceed the cost of the permit fee as prescribed under Section 8683.

(d) For purposes of subdivision (b), the death of the holder of the permit is a disability which authorizes transfer of the permit by that person's estate to a qualified fisherman pursuant to Section 8682. For purposes of a transfer under this subdivision, the estate shall renew the permit, as specified in Section 8681, if the permittee did not renew the permit before his or her death. The application for
transfer by that person’s estate shall be received by the department, including the name, address, and telephone number of the qualified fisherman to whom the permit will be transferred, within one year of the date of death of the permitholder. If no transfer is initiated within one year of the date of death of the permitholder, the permit shall revert to the department for disposition pursuant to Section 8681.

(e) Any active participant who becomes disabled in such a manner that he or she can no longer earn a livelihood from commercial fishing may transfer his or her permit as provided under this section.

(f) The Legislature finds and declares that this section, as amended by this act at the 1991-92 Regular Session of the Legislature, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1989, and therefore complies with Section 8610.4, and Section 4 of Article X.B of the California Constitution.

SEC. 9. Section 8681.7 of the Fish and Game Code is amended to read:

8681.7. (a) Notwithstanding Section 8681.5, any person who possessed a valid permit issued pursuant to Section 8681 and who was denied renewal of that permit, may appeal to the commission where evidence can be presented that illness or the loss of a vessel resulted in the person not meeting the qualifications for renewal or reissuance of that permit.

(b) The appeal shall be filed with the commission within 60 days of a denial of the renewal of a permit.

(c) If the commission determines that a permit is to be issued to a prior permittee under this section, a permit shall be made available to that person upon payment of required fees.

(d) In accordance with Section 4 of Article X.B of the California Constitution, this section contains the provisions in effect on January 1, 1989.

SEC. 10. Section 8682 of the Fish and Game Code is repealed.

SEC. 11. Section 8682 is added to the Fish and Game Code, to read:

8682. (a) The commission shall establish regulations for the issuance of gill net and trammel net permits as necessary to establish an orderly gill net and trammel net fishery. In promulgating regulations, the commission shall consider recommendations of the gill net and trammel net advisory committee created pursuant to subdivision (b). The regulations shall include, but are not limited to, a requirement that persons being granted a permit have had previous experience as a crewmember of a vessel using gill nets or trammel nets or have successfully passed a proficiency test administered by the department, under such regulations as the commission shall prescribe.

(b) The director shall establish an advisory committee, consisting of fishermen experienced in the use of gill nets and trammel nets, to
advise the department in developing regulations to be proposed to the commission governing the use of gill nets and trammel nets.

(c) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions in effect on January 1, 1989.

SEC. 12. Section 8683 of the Fish and Game Code, as amended by Section 62 of Chapter 1703 of the Statutes of 1990, is repealed.

SEC. 13. Section 8683 of the Fish and Game Code, as added by Section 63 of Chapter 1703 of the Statutes of 1990, is amended to read:

8683. (a) The fee for a permit issued pursuant to Section 8681 shall be three hundred thirty dollars ($330).

(b) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions in effect on January 1, 1990.

SEC. 14. Section 8692.5 of the Fish and Game Code is amended to read:

8692.5. (a) Not more than 1,250 fathoms (7,500 feet) of gill net or trammel net shall be fished in combination each day from any vessel for lingcod in ocean waters.

(b) The Legislature finds and declares that this section, as amended by this act at the 1991-92 Regular Session of the Legislature, is more restrictive on the use and possession of gill nets and trammel nets than the provisions in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article X B of the California Constitution.

SEC. 15. Section 12003.5 is added to the Fish and Game Code, to read:

12003.5. (a) The penalty for a first violation of Section 8610.3 or 8610.4 is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit, or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for six months. The penalty for a second or subsequent violation of Section 8610.3 or 8610.4 is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit, or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

(b) Notwithstanding any other provisions of law, a violation of Section 8610.8 shall be deemed a violation of Section 7145, and the penalty for such violation shall be as prescribed by Section 12002.2.

(c) If a person convicted of a violation of Section 8610.3, 8610.4, or 8610.8 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, a requirement that the person pay at least the minimum fine prescribed in this section.

SEC. 16. Of the amounts available in the Marine Resources Protection Account in the Fish and Game Preservation Fund, up to five million dollars ($5,000,000) is hereby appropriated to the
Department of Fish and Game to be available for encumbrance without regard to fiscal year to provide the compensation provided for in Section 8610.7 of the Fish and Game Code.

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 95

An act to amend Sections 11301, 11340, 11341, and 11342 of the Business and Professions Code, relating to real estate, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 17, 1992. Filed with Secretary of State June 18, 1992]

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

SECTION 1. Section 11301 of the Business and Professions Code is amended to read:

11301. (a) There is hereby created within the Business, Transportation and Housing Agency an Office of Real Estate Appraisers to administer and enforce this part.

(b) On and after June 30, 1992, or a subsequent date upon which the secretary issues a finding that 7,400 appraisers have been licensed or certified, any person who engages in or proposes to engage in federally related real estate appraisal activity as defined by subdivision (k) of Section 11302 shall be licensed or certified pursuant to this part.

SEC. 2. Section 11340 of the Business and Professions Code is amended to read:

11340. The director shall adopt regulations governing the process and the procedure of applying for a real estate appraiser license and real estate appraiser certificate which shall include, but not be limited to, necessary experience or education, equivalency, and minimum requirements of the Appraisal Foundation, if any.

(a) For purposes of the educational background requirements established under this section, the director shall grant credits for any courses taken on real estate appraisal ethics or practices pursuant to Section 10153.2, or which are deemed by the director to meet standards established pursuant to this part and federal law.
(b) For the purpose of implementing and applying this section, the director shall, with the advice and assistance of the committee, prescribe by regulation "equivalent courses" and "equivalent experience." The experience of employees of an assessor's office or of the State Board of Equalization in setting forth opinions of value of real property for tax purposes shall be deemed equivalent to experience in federally related real estate appraisal activity.

(c) The director shall adopt regulations governing the process of applying for certification as a state certified real estate appraiser which shall meet, at a minimum, the requirements and standards established by the Appraisal Foundation, the Resolution Trust Corporation, and the federal financial institutions regulatory agencies acting pursuant to Section 1112 of the Financial Institutions Reform Recovery and Enforcement Act of 1989, Public Law 101-73 (FIRREA). The director shall, by regulation, require the application for a real estate appraiser license and real estate appraiser certificate to include the applicant's social security number.

SEC. 3. Section 11341 of the Business and Professions Code is amended to read:

11341. A license shall be valid for four years from the date of its issuance, however, the initial term of a license shall expire on the applicant's fifth birthday following issuance.

SEC. 4. Section 11342 of the Business and Professions Code is amended to read:

11342. A certificate shall be valid for four years from the date of its issuance, however, the initial term of a certificate shall expire on the applicant's fifth birthday following issuance.

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 commencement date for requiring persons, who engage in or propose to engage in federally related real estate appraisal activity to be licensed or certified, to June 30, 1992, or until such time as the Secretary of Business, Transportation and Housing determines that a specified number of persons is licensed or certified, it is necessary that this act take effect immediately.
CHAPTER 96

An act to amend Section 31520.3 of, and to add Section 31520.5 to, the Government Code, relating to the County Employees Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 17, 1992. Filed with Secretary of State June 18, 1992.]

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

SECTION 1. Section 31520.3 of the Government Code is amended to read:

31520.3. Notwithstanding Section 31520.1, the board of retirement of a county of the 16th class, as defined by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth member is elected. The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy until a successor qualifies. The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Section 31521, whether or not the eighth member is in attendance at those meetings. In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety member shall not sit and act for the eighth member.

SEC. 2. Section 31520.5 is added to the Government Code, to read:

31520.5. Notwithstanding Section 31520.1, the board of retirement of a county of the 13th class, as defined by Sections 28020 and 28034, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth member is elected. The term of office of the alternate retired member shall run concurrently
with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy until a successor qualifies. The alternate retired member shall be entitled to the same compensation as the eighth member only in the event the alternate retired member is present and acting for the eighth member during the entire meeting. In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety member shall not sit and act for the eighth member.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. 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 remove, at the earliest possible time, a condition upon the receipt of compensation by certain optional alternate members of the county retirement board of Santa Barbara County and so facilitate the orderly and equitable administration of that county retirement system, it is necessary that this act take effect immediately.

CHAPTER 97

An act to amend Section 3482.5 of, and to add Section 3482.6 to, the Civil Code, relating to nuisance.

[Approved by Governor June 23, 1992. Filed with Secretary of State June 24, 1992.]

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 city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural activity, operation, facility, or appurtenances thereof and is subject to the provisions of this section consistent with Section 1102.6a.

(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.

SEC. 2. Section 3482.6 is added to the Civil Code, to read:

3482.6. (a) No agricultural processing activity, operation, facility, or appurtenances thereof, conducted or maintained for
commercial purposes, and in a manner consistent with proper and accepted customs and standards, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in continuous operation for more than three years if it was not a nuisance at the time it begins.

(b) If an agricultural processing activity, operation, facility, or appurtenances thereof substantially increases its activities or operations after January 1, 1993, then a public or private nuisance action may be brought with respect to those increases in activities or operations which have a significant effect on the environment. For increases in activities or operations that have been in effect more than three years, there shall be a rebuttable presumption affecting the burden of producing evidence that the increase was not substantial.

(c) This section shall not supersede any other provision of law, except other provisions of this part, if the agricultural processing activity, operation, facility, or appurtenances thereof, constitute a nuisance, public or private, as specifically defined or described in the provision.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state, except regulations adopted pursuant to Section 41700 of the Health and Safety Code as applied to agricultural processing activities, operations, facilities, or appurtenances thereof which are surrounded by housing or commercial development on the effective date on this section. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural processing activity, operation, facility, or appurtenances thereof and is subject to of provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section:

(1) "Agricultural processing activity, operation, facility, or appurtenances thereof" includes, but is not limited to, the canning or freezing of agricultural products, the processing of dairy products, the production and bottling of wine, the processing of meat and egg products, the drying of fruits and grains, the packing and cooling of fruits and vegetables, and the storage or warehousing of any agricultural products, and shall include processing for wholesale or retail markets of agricultural products.

(2) "Continuous operation" means at least 30 days of agricultural processing operations per year.

(3) "Proper and accepted customs and standards" means the compliance with all applicable state and federal statutes and regulations governing the operation of the agricultural processing activity, operation, facility, or appurtenances thereof with respect to
the condition or effect alleged to be a nuisance.
(f) This section shall not apply to any litigation pending or cause
of action accruing prior to January 1, 1993.

CHAPTER 98

An act to amend Section 987.65 of, and to repeal and add Section
1006.16 of, the Military and Veterans Code, relating to veterans, and
declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1992. Filed with
Secretary of State June 26, 1992.]

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

SECTION 1. Section 987.65 of the Military and Veterans Code is
amended to read:
987.65. (a) The purchase price of a home to the department, or
the sum to be expended by the department pursuant to a contract
for the construction of a dwelling house and other improvements, or
the purchase price of a mobilehome sited on a lot owned by the
purchaser and installed on a foundation system pursuant to Section
18551 of the Health and Safety Code, shall be determined by the
department once each calendar year. The maximum home loan shall
be based on the median purchase price of existing homes in
California, as determined by the department pursuant to subdivision
(b), on the previous June 30, and, in no event, shall exceed one
hundred seventy thousand dollars ($170,000), or 90 percent of the
county median purchase price, whichever is higher. In determining
the maximum home loan, the department shall take into
consideration the solvency of the Veterans’ Farm and Home
Building Fund of 1943 and the availability of loan funds. Any change
in the maximum home loan shall take effect only after approval of
the Veterans’ Finance Committee of 1943 by a majority vote of those
members present.
(b) For purposes of subdivision (a), the department shall
determine the state and county median purchase prices of existing
homes using information obtained from any of the following:
(1) California Association of Realtors.
(2) Federal Internal Revenue Service.
(3) Any recognized public or private index acceptable to the
department and the Veterans Finance Committee of 1943.
(c) The purchase price of a mobilehome which is to be sited in a
mobilehome park, as defined in Section 18214 of the Health and
Safety Code, shall not exceed seventy thousand dollars ($70,000), or
90 percent of the median purchase price of those mobilehomes in
California on the previous June 30, whichever amount is greater.
(d) A veteran purchasing the home may advance, subject to
Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required, under Section 987.69, to add to the purchase price of the home in fixing the selling price to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds.

(e) The purchase price of a farm to the department shall not exceed two hundred thousand dollars ($200,000) or 160 percent of the purchase price of homes as determined in subdivision (a). A veteran purchasing the farm may advance the difference between the total price of the farm, or the cost of the dwelling and improvements to be constructed on a farm under a contract, and the sum of the purchase price to the department or contract price to the department and any amount which the department is required, under Section 987.69, to add to the purchase or contract price to the department in fixing the selling price of the farm to the veteran.

(f) The assistance provided by the department to a veteran pursuant to subdivision (e) of Section 987.85 shall not exceed seventy thousand dollars ($70,000).

(g) During any calendar year, at least one-third of the proceeds available for contracts of purchase shall be set aside for use by veteran purchasers who are either first-time home buyers or who are purchasers of homes at or below the statewide median purchase price. If the department determines that purchasers in these categories are not applying in sufficient numbers to use the available proceeds, the department may make the remainder of the funds available to all qualified veteran contract purchasers.

SEC. 2. Section 1006.16 of the Military and Veterans Code is repealed.

SEC. 3. Section 1006.16 is added to the Military and Veterans Code, to read:

1006.16. The department shall require that all applicants under this article qualify under the applicable federal laws and regulations governing the permitted uses of tax-exempt bond funds.

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 revise the Veterans' Farm and Home Purchase Act of 1974 to provide veterans with the opportunity to acquire farms and homes, including homes in urban areas where the median purchase price of a home is relatively high, it is necessary that this act take effect immediately.
An act to add Sections 26669 and 72115 to the Government Code, relating to counties.

[Approved by Governor June 26, 1992. Filed with Secretary of State June 26, 1992.]

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

SECTION 1. Section 26669 is added to the Government Code, to read:

26669. Notwithstanding any other provision of law, the Board of Supervisors of San Bernardino County shall consolidate court-related services provided by the sheriff and the marshal within that county. An election shall be conducted among all of the judges of the superior and municipal courts of that county to determine the agency, either the sheriff or the marshal, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast, provided that the total number of votes cast exceeds 50 percent of the number of superior and municipal court judges in the county by at least one vote. The results of that election shall be reported within two working days following the election period, by the presiding judges of the superior and municipal courts to the board of supervisors and to the other judges of the superior and municipal courts of that county. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by the judges.

SEC. 2. Section 72115 is added to the Government Code, to read:

72115. (a) Notwithstanding any other provision of law, the Board of Supervisors of San Bernardino County shall consolidate court-related services provided by the sheriff and the marshal within that county. An election shall be conducted among all of the judges of the superior and municipal courts of that county to determine the agency, either the sheriff or the marshal, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast, provided that the total number of votes cast exceeds 50 percent of the number of superior and municipal court judges in the county by at least one vote. The results of that election shall be reported within two working days following the election period by the presiding judges of the superior and municipal courts to the board of supervisors and to the other judges of the superior and municipal courts of that county. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by the judges.

(b) Notwithstanding any other provision of law, the marshal and all personnel of the marshal's office or personnel of the sheriff's office
affected by a consolidation of court-related services under this section or Section 26669 shall become employees of that consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred during a period of six years following the consolidation out of that consolidated court-related services office.

(c) Permanent employees of the marshal’s office or sheriff’s office on the effective date of a consolidation under this section or Section 26669 shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the sheriff’s office or the marshal’s office on the effective date of a consolidation under this section or Section 26669 shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period. Transferring personnel may be required to take a promotional examination to promote to a higher classification but shall not be required to retest for his or her existing classification as a prerequisite to testing for a higher classification. A transferring deputy marshal requesting a transfer to another division in the sheriff’s office shall not be required to take a written test as a prerequisite to making a lateral transfer.

(d) All county service or service by employees of the sheriff’s office or the marshal’s office on the effective date of a consolidation under this section or Section 26669 shall be counted toward seniority in that court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(e) No employee of the sheriff’s office or the marshal’s office on the effective date of a consolidation under this section or Section 26669 shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court services.

SEC. 3. Due to unique facts and circumstances applicable to San Bernardino County, 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, necessarily applicable to only San Bernardino County.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. 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 100

An act to amend Section 3728 of the Labor Code, relating to workers' compensation, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1992. Filed with Secretary of State June 26, 1992]

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

SECTION 1. Section 3728 of the Labor Code is amended to read:

3728. The director may draw from the State Treasury out of the appropriation made to the Uninsured Employers Fund for the purposes of Sections 3716 and 3716.1, without at the time presenting vouchers and itemized statements, a sum not to exceed in the aggregate the level provided for pursuant to Section 16400 of the Government Code, to be used as a cash revolving fund. The revolving fund shall be deposited in such banks and under such conditions as the Department of General Services determines. The Controller shall draw his warrants in favor of the Director of Industrial Relations for the amounts so withdrawn and the Treasurer shall pay such warrants.

Expenditures made from the revolving fund in payment of claims for compensation and for administrative and adjusting services rendered herein are exempted from the operation of Section 925.6 of the Government Code. Reimbursement of the revolving fund for these expenditures shall be made upon presentation to the Controller of an abstract or statement of the expenditures. The abstract or statement shall be in such form as the Controller requires.

SEC. 2. For the purpose of providing benefit payments to injured workers, an amount not to exceed eight million eighty-four thousand dollars ($8,084,000) is hereby appropriated as follows:

(a) There is hereby appropriated from the Subsequent Injuries Moneys Account of the General Fund the amount of one million one hundred sixteen thousand dollars ($1,116,000) for augmentation of Item 8450-001-016 of the Budget Act of 1991 for payment of the additional compensation of subsequent injuries provided for by Sections 4750 to 4755, inclusive, of the Labor Code.

(b) There is hereby transferred a sufficient sum to provide a loan from the General Fund to the Subsequent Injuries Moneys Account to maintain the continuous payment of claims for subsequent injuries claimants. The loan shall be provided by Executive order of the Department of Finance and shall not exceed the amount appropriated in subdivision (a). The loan shall be repaid when sufficient funds are available in the Subsequent Injuries Moneys Account of the General Fund, but no later than September 1, 1992.

(c) There is hereby appropriated from the Employee's Account of the Uninsured Employers Fund the amount of six million nine
hundred sixty-eight thousand dollars ($6,968,000) for augmentation of Item 8350-001-571 of the Budget Act of 1991 for payment of claims pursuant to Sections 3715 to 3727, inclusive, of the Labor 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:

The funds appropriated in the 1991–92 Budget Act for the Uninsured Employers Fund and Subsequent Injuries Fund are exhausted. Recipients of workers' compensation indemnity through these funds have been without compensation since April 1992, causing a severe hardship on these claimants. It is therefore necessary that this act take effect immediately.

CHAPTER 101

An act to add Title 1.61 (commencing with Section 1785.41) to Part 4 of Division 3 of the Civil Code, relating to credit reporting.

[Approved by Governor June 26, 1992. Filed with Secretary of State June 29, 1992]

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

SECTION 1. Title 1.61 (commencing with Section 1785.41) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.61. COMMERCIAL CREDIT REPORTS

1785.41. Consumer credit reporting is subject to the regulations of the Consumer Credit Reporting Agencies Act. Commercial credit reports, which differ significantly, are not subject to that act. The circumstances, business practices, and reports themselves differ sufficiently to make it impractical to include commercial credit reports under the Consumer Credit Reporting Agencies Act.

1785.42. (a) "Commercial credit report" means any report provided to a commercial enterprise for a legitimate business purpose, relating to the financial status or payment habits of a commercial enterprise which is the subject of the report. It does not include a report subject to Title 1.6 (commencing with Section 1785.1), Title 1.6A (commencing with Section 1786), or a report prepared for commercial insurance underwriting, claims, or auditing purposes.

(b) "Commercial credit reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, provides commercial credit reports to third parties.

(c) "Subject" means the commercial enterprise about which a commercial credit report has been compiled.
1785.43. (a) Commercial credit reporting agencies may protect the identity of sources of information to be used in commercial credit reports.

(b) Upon the request of a representative of the subject of a report, the commercial credit reporting agency shall provide one printed copy of the subject's commercial credit report in a format routinely made available to third parties, at a cost no greater than the cost usually charged to third parties.

(c) In the event that the subject of a commercial credit report believes the report contains an inaccurate statement of fact, a representative of the subject of the report may, within 30 days of receipt of the report pursuant to subdivision (b), file with the commercial credit reporting agency a written summary statement of not more than 50 words identifying the particular statement of fact that is disputed, and indicating the nature of the disagreement with the statement in the report. Within 30 days of receipt of a subject's summary statement of disagreement, the commercial credit reporting agency shall either delete the disputed item of information from the report, or include in the report an indication that the subject's summary statement of disagreement will be provided upon request.

CHAPTER 102

An act to amend Section 19026 of the Health and Safety Code, relating to radon certification, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1992. Filed with Secretary of State June 29, 1992]

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

SECTION 1. Section 19026 of the Health and Safety Code is amended to read:

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.

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

In order to assure the availability of adequately qualified certified
radon testing and consulting specialists in sufficient quantities, it is
necessary that this act take effect immediately.

CHAPTER 103

An act to amend Sections 20017.81, 20603.2, and 21022.2 of, to add
Sections 19876.5, 19889.7, 20023.01, 20038.5, 20750.97, 20864.5, 21020.5,
21020.6, 21292.4, 21365.55, 22811.6, and 22957.5 to, to add and repeal
Section 22825.17 of, and to repeal Section 20603.3 of, the Government
Code, and to amend Section 139.5 of the Labor Code, relating to state
employees making an appropriation therefor, and declaring the
urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1992. Filed with
Secretary of State June 30, 1992.]

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

SECTION 1. The provisions of the following memoranda of
understanding prepared pursuant to Section 3517.5 of the
Government Code entered into by the state employer and the
following employee organizations and which require the
expenditure of funds, are hereby approved for the purposes of
Section 3517.6 of the Government Code:

(a) Unit 4 - California State Employees’ Association.
(b) Unit 5 - California Association of Highway Patrolmen.
(c) Unit 7 - California Union of Safety Employees.
(d) Unit 8 - California Department of Forestry Employees’
Association.
(e) Unit 10 - California Association of Professional Scientists.
(f) Unit 15 - California State Employees’ Association.
(g) Unit 16 - Union of American Physicians and Dentists.  
(h) Unit 17 - California State Employees' Association.  
(i) Unit 18 - California Association of Psychiatric Technicians.  
(j) Unit 19 - American Federation of State, County, and Municipal Employees.  
(k) Unit 20 - California State Employees' Association.  
(l) Unit 21 - California State Employees' Association.  

SEC. 2. Provisions of the following proposed memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code subject to ratification of the mediator's proposal by the membership:  
(a) Unit 12 - International Union of Operating Engineers.  
(b) Unit 13 - International Union of Operating Engineers.  

SEC. 3. Any provision in a memorandum of understanding approved by Section 1 or approved by Section 2 which is scheduled to take effect on or after July 1, 1993, and which requires the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate over the affected provisions.  

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.  

SEC. 5. Section 19876.5 is added to the Government Code, to read:  

19876.5. State employees in state bargaining units 4, 15, 18, and 20 who suffer a job-related injury or illness and become eligible for vocational rehabilitation under Section 139.5 of the Labor Code on or after January 1, 1993, shall first be subject to an evaluation to determine what type of state employment can be performed. The evaluation shall include vocational rehabilitation when deemed appropriate, based on a medical evaluation and previous experience. Disability benefits shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan necessary to continue state employment.  

SEC. 6. Section 19889.7 is added to the Government Code, to read:  

19889.7. The department may charge an administrative fee to employees participating in a group legal services plan established through regulation for excluded employees and memoranda of understanding reached pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) for
represented employees.

SEC. 7. Section 20017.81 of the Government Code is amended to read:

20017.81. "State safety member" also includes officers and employees with the State Department of Mental Health and the Department of Corrections in the following classifications:

<table>
<thead>
<tr>
<th>Classification Code</th>
<th>Classification Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>8254</td>
<td>Prelicensed Psychiatric Technician</td>
</tr>
<tr>
<td></td>
<td>(forensic facility)</td>
</tr>
<tr>
<td>8253</td>
<td>Psychiatric Technician</td>
</tr>
<tr>
<td></td>
<td>(forensic facility)</td>
</tr>
<tr>
<td>8252</td>
<td>Senior Psychiatric Technician</td>
</tr>
<tr>
<td></td>
<td>(forensic facility)</td>
</tr>
</tbody>
</table>

"State safety member" also includes an officer or employee of the State Department of Mental Health at Patton State Hospital or Atascadero State Hospital, who either is excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the direct supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Personnel Administration shall determine which classes meet the above conditions and report its findings to the Public Employees' Retirement System, whereupon the change in membership categories shall take effect.

Any person so designated pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit and contribution rate by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

SEC. 8. Section 20023.01 is added to the Government Code, to read:

20023.01. “Compensation earnable,” with respect to a state member receiving supplemental payments pursuant to Section 21020.6 at the time of retirement or death, means the highest average monthly compensation paid to the employee in the classification in which the member was employed at time of becoming eligible for benefits pursuant to Section 21020.6, or the average compensation earnable by the member at time of retirement or death, whichever is higher.

SEC. 9. Section 20038.5 is added to the Government Code, to
read:

20038.5. "Industrial" with respect to state miscellaneous members also means death or disability on or after January 1, 1993, resulting from an injury which is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of Mental Health at Patton State Hospital or Atascadero State Hospital, an inmate at the Department of Mental Health Psychiatric Program at California Medical Facility at Vacaville, or a patient at any other state hospital which is deemed a forensic facility if:

(a) The member was performing his or her duties within a treatment ward at the time of the injury, or

(b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients, and

(c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or

(d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

SEC. 10. Section 20603.2 of the Government Code is amended to read:

20603.2. (a) Notwithstanding Section 20603.01, the normal rate of contribution for patrol members for service rendered on and after January 1, 1984, shall be 8 percent of the compensation in excess of eight hundred sixty-three dollars ($863) per month paid those members. The Legislature reserves the right to increase the rate of contribution of patrol members as it may find appropriate from time to time. The employer may apply the specified amount of salaries and wages excluded from the normal rate of contribution to those employees not covered by a memorandum of understanding.

(b) The normal rate of contribution for patrol members for service rendered between July 1, 1992, and December 31, 1993, shall be 2.6 percent of the compensation in excess of eight hundred sixty-three dollars ($863) per month. The remaining 5.4 percent of the compensation shall be paid from surplus funds.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 11. Section 20603.3 of the Government Code is repealed.

SEC. 12. Section 20750.97 is added to the Government Code, to
read:

20750.97. Notwithstanding Section 20750.92, surplus funds credited to the patrol member category shall be used to reduce the state employer contribution to the system. Surplus funds in the patrol member category may also be used to reduce the member contributions required by Section 20603.2, under the terms of a memorandum of understanding reached pursuant to Section 3517.5.

SEC. 13. Section 20864.5 is added to the Government Code, to read:

20864.5. For all retirement purposes including benefit eligibility and calculations of retirement allowances for state employees in the personal leave program, credit for service shall be based on the amount of service which would have been credited had the employee not been in the personal leave program.

SEC. 14. Section 21020.5 is added to the Government Code, to read:

21020.5. (a) Notwithstanding any other provision of law, a state member shall not be retired for industrial disability on or after January 1, 1993, unless the member is incapacitated for the performance of duty in any employment with the state employer and the disability is of permanent or extended and uncertain duration, as determined by the Department of Personnel Administration. This section shall only apply to state safety, state industrial, and state miscellaneous members employed in any state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section.

(b) The appointing power of the affected employee shall reimburse the Department of Personnel Administration for any costs associated with the administration of this provision.

SEC. 15. Section 21020.6 is added to the Government Code, to read:

21020.6. Any state member who is subject to Section 21020.5 and does not qualify for disability retirement under this part, shall be paid a supplemental payment from this system in an amount that, when added to the salary earned by the employee in the current state position, would be equal to the state salary earned by the member at the time of becoming unable to perform the duties of his or her previous position. This supplemental payment shall not result in the member being deemed to be retired nor reduce the member's accrued or future benefits payable upon separation from service, death, or retirement. The supplemental payments made under this section shall be paid for by the state employer in the same manner as all other state retirement benefits are funded.

SEC. 16. Section 21022.2 of the Government Code is amended to read:

21022.2. “Member” for purposes of Section 21022 also includes state miscellaneous members employed by the Department of Justice who perform the duties now performed in positions with the
class title of criminalist, ranges A, B, and C (Class Code 8466), or senior criminalists (Class Code 8478), or criminalist supervisor (Class Code 8477), or criminalist manager (Class Code 8467), latent print analyst I (Class Code 8460), latent print analyst II (Class Code 8472), or latent print supervisor (Class Code 8473), and state miscellaneous members employed by the Department of California Highway Patrol who perform the duties now performed in positions with the class title of communications operator I (Class Code 1663), communications operator II (Class Code 1664), communications supervisor (Class Code 1662), or communications supervisor II (Class Code 1665), and state miscellaneous members whose disability resulted under the conditions specified in Section 20038.5.

SEC. 17. Section 21292.4 is added to the Government Code, to read:

21292.4. Notwithstanding Sections 21292, 21292.1, 21292.2, 21292.3, and 21292.5, any state member who becomes subject to Section 21020.5 on or after January 1, 1993, and retires for industrial disability because of incapacity for the performance of duties in any employment with the state employer, as determined by the Department of Personnel Administration, shall receive a disability retirement allowance of 60 percent of the member’s final compensation plus an annuity purchased with the member’s accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive the service retirement allowance if the allowance, after deducting the annuity, is greater.

Benefits payable under this section shall be subject to the provisions of Section 21292.6 and are payable solely to state members employed in state bargaining units subject to Section 21020.5.

SEC. 18. Section 21365.55 is added to the Government Code, to read:

21365.55. (a) Notwithstanding any other provision of this article requiring attainment of the minimum age for voluntary service retirement to him or her in his or her last employment preceding death, upon the death of a state member on or after January 1, 1993, who is credited with 20 years or more of state service, the surviving spouse, or eligible children if there is no eligible spouse, may receive a monthly allowance in lieu of the basic death benefit. The board shall notify the eligible survivor, as defined in Section 21365.5, of this alternate death benefit, which shall be funded from the amount which would have been otherwise payable as the basic death benefit and from the amount of employer contributions which would be attributed to the state member’s period of compensated service. The board shall determine the present value of the total amount which shall fund this alternate death benefit for the survivor, and then calculate the monthly allowance which shall be payable under the terms and conditions of Section 21365.5.

(b) This section shall only apply to members employed in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee
organization to become subject to this section, members who are
excluded from the definition of state employees in subdivision (c) of
Section 3513, and members employed by the executive branch of
government who are not members of the civil service.

(c) For purposes of this section, "state service" means service
rendered as a state employee, as defined in Section 19815. This
section shall not apply to any contracting agency nor to the
employees of any contracting agency.

SEC. 19. Section 22811.6 is added to the Government Code, to
read:

22811.6. (a) A family member who receives an allowance as the
survivor of a state member, as provided by Section 21365.55, may
elect to continue to be covered by the health benefits plan and dental
care plan. A family member who elects to continue coverage shall
assume payment of the total premium costs plus an additional 2
percent of the contribution payments to cover the administrative
costs incurred by the board and the Department of Personnel
Administration in administering this section.

(b) No person, other than the unborn child of the member, may
be enrolled as a family member when a monthly allowance under
Section 21365.55 is payable unless the person is enrolled as a family
member on the date of the death of the member.

SEC. 20. Section 22825.17 is added to the Government Code, to
read:

22825.17. Notwithstanding Section 22825.16, a health benefit plan
offered by the California Association of Highway Patrolmen
pursuant to Section 22790 may rebate funds to active employees
enrolled in the employee organization's sponsored basic plan in
order to ensure that employee out-of-pocket costs remain at a
reasonable and competitive level as determined by the Board of
Trustees of the California Association of Highway Patrolmen Health
Benefits Trust. The rebate shall apply only to those active employees
who are not eligible to receive the subsidy provided by Section
22825.01. The payments shall be made from the special reserves of
the health benefits trust fund for that health benefit plan. The
amount of funds shall be limited to that portion of special reserves
which is in excess of the amount necessary to fund the risk up to the
reinsurance attachment level. Administrative costs incurred by the
state shall be reimbursed by the health benefits trust fund for that
health benefit plan.

This section shall become operative on July 1, 1992, and shall be
repealed on June 30, 1995, unless a statute chaptered after the
effective date of this section extends or deletes that date.

SEC. 21. Section 22957.5 is added to the Government Code, to
read:

22957.5. A family member who receives an allowance as the
survivor of a state member, pursuant to Section 21365.55, may enroll
in a dental plan. A family member who elects to enroll shall assume
payment of the total premium costs plus an additional 2 percent of
the contribution payments to cover the administrative costs incurred by the board and the Department of Personnel Administration in administering this section.

SEC. 22. Section 139.5 of the Labor Code is amended to read:

139.5. (a) The administrative director shall establish within the Office of Benefit Determination a vocational rehabilitation unit, which shall include appropriate professional staff, and which shall have the following duties:

(1) To foster, review, and approve vocational rehabilitation plans developed by a qualified rehabilitation representative of the employer, insurer, state agency, or employee.

(2) To develop rules and regulations, to be promulgated by the administrative director, which would expedite and facilitate the identification, notification and referral of industrially injured employees to vocational rehabilitation services.

(3) To coordinate and enforce the implementation of vocational rehabilitation plans.

(4) To develop a fee schedule, to be promulgated by the administrative director, governing reasonable fees for vocational rehabilitation services provided on and after January 1, 1991. The initial fee schedule promulgated under this paragraph shall be designed to reduce the cost of vocational rehabilitation services by 10 percent from the level of fees paid during 1989.

(5) To develop standards, to be promulgated by the administrative director, for governing the timeliness and the quality of vocational rehabilitation services.

(b) The salaries of the personnel of the vocational rehabilitation unit shall be fixed by the Department of Personnel Administration.

(c) When an employee is determined to be medically eligible and chooses to enroll in a vocational rehabilitation program, he or she shall continue to receive temporary disability indemnity payments, and, after his or her medical condition becomes permanent and stationary, a maintenance allowance. The employee also shall receive additional living expenses necessitated by the vocational rehabilitation services, together with all reasonable and necessary vocational training, at the expense of the employer.

(d) The amount of the maintenance allowance due under subdivision (c) shall be two-thirds of the employee's average weekly earnings at the date of injury payable as follows:

(1) The amount the employee would have received as continuing temporary disability indemnity, but not more than two hundred forty-six dollars ($246) a week for injuries occurring on or after January 1, 1990.

(2) At the employee's option, an additional amount from permanent disability indemnity due or payable, sufficient to provide the employee with a maintenance allowance equal to two-thirds of the employee's average weekly earnings at the date of injury subject to the limits specified in subdivision (a) of Section 4453 and the requirements of Section 4661.5. In no event shall temporary disability
indemnity and maintenance allowance be payable concurrently. If the employer disputes the treating physician's determination of medical eligibility, the employee shall continue to receive that portion of the maintenance allowance payable under paragraph (1) pending final determination of the dispute. If the employee disputes the treating physician's determination of medical eligibility and prevails, the employee shall be entitled to that portion of the maintenance allowance payable under paragraph (1) retroactive to the date of the employee's request for vocational rehabilitation services.

(e) No provision of this section nor of any rule, regulation, or vocational rehabilitation plan developed or promulgated under this section nor any benefit provided pursuant to this section shall apply to an injured employee whose injury occurred prior to January 1, 1975. Nothing in this section shall affect any plan, benefit, or program authorized by this section as added by Chapter 1513 of the Statutes of 1965 or as amended by Chapter 83 of the Statutes of 1972.

(f) The time within which an employee may request vocational rehabilitation services is set forth in Sections 5405.5, 5410, and 5803.

(g) An offer of a job within state service to a state employee in State bargaining unit 4, 15, 18, or 20 at the same or similar salary and the same or similar geographic location is a prima facie offer of vocational rehabilitation under this statute.

SEC. 23. Notwithstanding any other provisions of law, the Department of Finance may adjust departmental appropriations to reflect the salary, personal leave, and benefit changes made pursuant to this act or pursuant to a memorandum of understanding entered into by the state employer and a recognized employee organization pursuant to Section 3517.5 of the Government Code which has been approved and ratified by the Legislature.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 1992-93 fiscal year, and so facilitate the orderly administration of state government at the earliest possible time, it is necessary for this act to take effect immediately.
An act to amend and repeal Section 12022.6 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1992. Filed with Secretary of State June 30, 1992.]

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

SECTION 1. Section 12022.6 of the Penal Code, as amended by Section 1 of Chapter 1571 of the Statutes of 1990, is amended to read:

12022.6. When any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term as follows:

(a) If the loss exceeds fifty thousand dollars ($50,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of one year.

(b) If the loss exceeds one hundred fifty thousand dollars ($150,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of two years.

(c) If the loss exceeds one million dollars ($1,000,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of three years.

(d) If the loss exceeds two million five hundred thousand dollars ($2,500,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of four years.

In any accusatory pleading involving multiple charges of taking, damage, or destruction, the additional terms provided in this section may be imposed if the aggregate losses to the victims from all felonies exceed the amounts specified in this section and arise from a common scheme or plan. All pleadings under this section shall remain subject to the rules of joinder and severance stated in Section 954.

The additional terms provided in this section shall not be imposed unless the facts of the taking, damage, or destruction in excess of the amounts provided in this section are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

This section applies to, but is not limited to, property taken, damaged, or destroyed in violation of Section 502 or subdivision (b) of Section 502.7.

(e) It is the intent of the Legislature that the provisions of this
section be reviewed within five years to consider the effects of inflation on the additional terms imposed. For that reason, 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.

SEC. 2. Section 12022.6 of the Penal Code, as amended by Section 2 of Chapter 1571 of the Statutes of 1990, is repealed.

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 provisions of Section 12022.6 of the Penal Code without interruption, it is necessary that this act take effect immediately.

CHAPTER 105

An act to amend Sections 41000, 41300, 41500, 41510, and 41791 of the Public Resources Code, and to amend Sections 45002, 45009, 45152, 45155, 45201, and 45202 of, and to add Sections 45052, 45151.1, and 45902 to, the Revenue and Taxation Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1992. Filed with Secretary of State June 30, 1992.]

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

SECTION 1. Section 41000 of the Public Resources Code is amended to read:

41000. (a) On or before July 1, 1992, each city shall prepare, adopt, and, excepting a city and county, submit to the county in which the city is located a source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

(b) Notwithstanding subdivision (a), if a city determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the city shall do all of the following:

(1) On or before July 1, 1992, the city shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the element. The resolution shall also state a date when the city will comply with the deadline established under subdivision (a) and complete and certify the
environmental impact report for the element.

(2) On or before July 1, 1992, the city shall submit its draft source reduction and recycling element and a copy of the resolution adopted pursuant to paragraph (1) to the county within which the city is located.

(3) Upon completion and certification of the environmental impact report for the source reduction and recycling element, or December 1, 1992, whichever is sooner, the city shall submit its final source reduction and recycling element to the county.

SEC. 2. Section 41300 of the Public Resources Code is amended to read:

41300. (a) On or before July 1, 1992, each county shall prepare and adopt for the unincorporated area a county source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:

(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the element. The resolution shall also state a date when the county will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the element.

(2) On or before July 1, 1992, the county shall submit a copy of the resolution adopted pursuant to paragraph (1) to the board.

(3) Upon completion and certification of the environmental impact report for the source reduction and recycling element, or December 1, 1992, whichever is sooner, the county shall adopt its source reduction and recycling element.

SEC. 3. Section 41500 of the Public Resources Code is amended to read:

41500. (a) On or before July 1, 1992, each city shall prepare, adopt, and submit to the county in which the city is located a household hazardous waste element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the city and which should be separated from the solid waste stream.

In preparing a city household hazardous waste element pursuant to this section, a city may use components of a city hazardous waste plan prepared pursuant to subdivision (c) of Section 25135.7 of the Health and Safety Code if the city hazardous waste plan meets the requirements of this article and Section 41802.
(b) Notwithstanding subdivision (a), if a city determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the city shall do all of the following:

(1) On or before July 1, 1992, the city shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the household hazardous waste element. The resolution shall also state a date when the city will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the household hazardous waste element.

(2) On or before July 1, 1992, the city shall submit its draft household hazardous waste element and a copy of the resolution adopted pursuant to paragraph (1) to the county within which the city is located.

(3) Upon completion and certification of the environmental impact report for the household hazardous waste element, or December 1, 1992, whichever is sooner, the city shall submit its final household hazardous waste element to the county.

SEC. 4. Section 41510 of the Public Resources Code is amended to read:

41510. (a) On or before July 1, 1992, each county shall prepare a household hazardous waste element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the unincorporated area of the county and which should be separated from the solid waste stream. In preparing a county household hazardous waste element pursuant to this section, a county may use components of a county hazardous waste management plan prepared pursuant to Section 25135.1 of the Health and Safety Code, if that plan meets the requirements of this article and of Section 41802.

(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:

(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the household hazardous waste element. The resolution shall also state a date when the county will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the household hazardous waste element.
(2) On or before July 1, 1992, the county shall submit its draft household hazardous waste element and a copy of the resolution adopted pursuant to paragraph (1) to the board.

(3) Upon completion and certification of the environmental impact report for the household hazardous waste element, or December 1, 1992, whichever is sooner, the county shall adopt its household hazardous waste element.

SEC. 5. Section 41791 of the Public Resources Code is amended to read:

41791. (a) Any county which has less than eight years of landfill capacity shall submit its countywide integrated waste management plan to the board within 12 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

(b) Any city or county which has more than 8 years of landfill capacity shall submit its countywide integrated waste management plan to the board within 18 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

SEC. 6. Section 45002 of the Revenue and Taxation Code is amended to read:

45002. The collection and administration of the fees referred to in Sections 45051 and 45052 shall be governed by the definitions contained in Part 6 (commencing with Section 46000) of Division 30 of the Public Resources Code, unless expressly superseded by the definitions contained in this part.

SEC. 7. Section 45009 of the Revenue and Taxation Code is amended to read:

45009. "Fee payer" means any person liable for the payment of a fee imposed by Section 46801 or Section 48000 of the Public Resources Code.

SEC. 8. Section 45052 is added to the Revenue and Taxation Code, to read:

45052. The fee imposed pursuant to Section 48000 of the Public Resources Code shall be administered and collected by the board in accordance with this part.

SEC. 9. Section 45151.1 is added to the Revenue and Taxation Code, to read:

45151.1. The fee collected and administered under Section 45052 is due and payable to the board quarterly on or before the 25th day of the calendar month following the quarterly period for which the fee is due. Each fee payer shall prepare a return in the form as prescribed by the board, showing the total amount of solid waste subject to the fee, the amount of fee for the period covered by the return, and any other information that the board determines to be
The fee payer shall deliver the return, together with a remittance of the amount of fee due, to the office of the board on or before the 25th day of the calendar month following the quarterly period for which the fee is due.

SEC. 10. Section 45152 of the Revenue and Taxation Code is amended to read:

45152. (a) The board for good cause may extend, for not to exceed one month, the time for making any report or return or paying any amount required to be paid under this part. The extension may be granted at any time if a request therefor is filed with the board within or prior to the period for which the extension may be granted.

(b) Any person to whom an extension is granted shall pay, in addition to the fee, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5 from the date on which the fee would have been due without the extension until the date of payment.

SEC. 11. Section 45155 of the Revenue and Taxation Code is amended to read:

45155. (a) If the board finds that a person’s failure to make a timely report or return or payment is due to reasonable cause and circumstances beyond the person’s control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Section 45153.

(b) 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. 12. Section 45201 of the Revenue and Taxation Code is amended to read:

45201. (a) If the board is dissatisfied with the report or return filed or the amount of fee paid to the state by any fee payer, or if no report or return has been filed or no payment or payments of the fees have been made to the state by a fee payer, the board may compute and determine the amount to be paid, based upon any information available to it. One or more additional determinations may be made of the amount of fee due for one, or for more than one, period. The amount of fee so determined shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount of the fee, or any portion thereof, became due and payable until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or regulations adopted by the board pursuant to this part, a penalty of 10 percent
of the amount of that determination shall be added, plus interest as provided in subdivision (a).

(c) If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized regulations, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided in subdivision (a).

(d) The board shall give to the fee payer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the fee payer at his or her address as it appears in the records of the board. The giving of the notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, subpost office, substation, mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 13. Section 45202 of the Revenue and Taxation Code is amended to read:

45202. Except in the case of fraud, intent to evade this part or rules and regulations adopted under this part, or failure to make a report or return, every notice of a determination of an additional amount due shall be given within three years after the date when the amount was required to have been paid. In the case of failure to make a report or return, the notice of determination shall be mailed within eight years after the date the amount of the fee was due.

SEC. 14. Section 45902 is added to the Revenue and Taxation Code, to read:

45902. All fees, interest, and penalties imposed and all fee amounts required to be paid to the state pursuant to Section 45052 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 in the Integrated Waste Management Account in the Solid Waste Management Fund.

SEC. 15. 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. 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. 16. This act is an urgency statute necessary for the
immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to promote the reduction and recycling of solid waste and the safe disposal of household hazardous waste, thereby protecting health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 106

An act to amend Section 56341 of, and to add Section 56321.5 to, the Education Code, relating to special education.

[Approved by Governor June 30, 1992. Filed with Secretary of State June 30, 1992.]

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

SECTION 1. Section 56321.5 is added to the Education Code, to read:

56321.5. The copy of the notice of parent rights shall include the right to electronically record the proceedings of individualized education program meetings as specified in Section 56341.

SEC. 2. Section 56341 of the Education Code is amended to read:

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

(b) The individualized education program team shall include all of the following:

(1) A representative other than the pupil's teacher designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil and who is qualified to provide, or supervise the provision of, special education.

(2) The pupil's present teacher. If the pupil does not presently have a teacher, this representative shall be the teacher with the most recent and complete knowledge of the pupil who has also observed the pupil's educational performance in an appropriate setting. If no teacher is available, this representative shall be a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

(3) One or both of the pupil's parents, a representative selected by the parent, or both, pursuant to Public Law 94-142.

(c) When appropriate, the team shall also include:

(1) The individual with exceptional needs.

(2) Other individuals, at the discretion of the parent, district, special education local plan area, or county office who possess.
expertise or knowledge necessary for the development of the individualized education program.

(d) If the team is developing, reviewing, or revising the individualized education program of an individual with exceptional needs who has been assessed for the purpose of that individualized education program, the district, special education local plan area, or county office, shall ensure that a person is present at the meeting who has conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil and is familiar with the results of the assessment. The person shall be qualified to interpret the results if the results or recommendations, based on the assessment, are significant to the development of the pupil's individualized education program and subsequent placement.

(e) For pupils with suspected learning disabilities, at least one member of the individualized education program team, other than the pupil's regular teacher, shall be a person who has observed the pupil's educational performance in an appropriate setting. If the child is younger than five years or is not enrolled in a school, a team member shall observe the child in an environment appropriate for a child of that age.

(f) The parent shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings relating to eligibility for special education and related services, recommendations, and program planning.

(g) (1) Notwithstanding Section 632 of the Penal Code, the parent, district, special education local plan area, or county office shall have the right to electronically record the proceedings of individualized education program meetings on an audio tape recorder. The parent, district, special education local plan area, or county office shall notify the members of the individualized education program team of their intent to record a meeting at least 24 hours prior to the meeting. If the district, special education local plan area, or county office initiates the notice of intent to audio tape record a meeting and the parent objects or refuses to attend the meeting because it will be tape recorded, then the meeting shall not be recorded on an audio tape recorder.

(2) The Legislature hereby finds as follows:

(A) Under federal law, audio tape recordings made by a district, special education local plan area, or county office are subject to the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g).

(B) Parents have the right, pursuant to Sections 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal Regulations, to (i) inspect and review the tape recordings, (ii) request that the tape recordings be amended if the parent believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of the individual with exceptional needs, and (iii)
challenge, in a hearing, information that the parent believes is inaccurate, misleading, or in violation of individual's rights of privacy or other rights.

(h) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs. However, if the public education agency uses an attorney during any part of the individualized education program meeting, that use shall be governed by the provisions of Section 56507.

CHAPTER 107

An act to amend Section 830.7 of the Penal Code, relating to county parole officers.

[Approved by Governor June 30, 1992. Filed with Secretary of State June 30, 1992.]

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

SECTION 1. 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.

(g) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

CHAPTER 108

An act to amend Sections 1597.41 and 1597.65 of the Health and Safety Code, relating to family day care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1992. Filed with Secretary of State June 30, 1992.]

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

SECTION 1. Section 1597.41 of the Health and Safety Code is amended to read:

1597.41. (a) The State Director of Social Services shall authorize the Counties of Placer and Ventura to operate a pilot project, pursuant to this section, for a period not to extend beyond December 31, 1993. The purpose of the pilot project is to test the feasibility of permitting two additional schoolage children to be cared for in a family day care home.

(b) Notwithstanding Section 1596.78, upon authorization from the State Director of Social Services pursuant to subdivision (a), family day care homes in the Counties of Placer and Ventura shall be subject to the following limits on capacity:

(1) A large family day care home may provide family day care to 7 to 12 children, inclusive, or up to 14 children, inclusive, if two of the children are six years of age or older. Children under the age of 10 years who reside in the home, as defined in regulations, shall be counted for purposes of these limits.

(2) A small family day care home may provide family day care to six or fewer children, or eight or fewer children if two of the children are six years of age or older. Children under the age of 10 years who reside in the home, as defined in regulations, shall be counted for
purposes of these limits.

(c) Any family day care provider who opts to care for children under the higher limits described in subdivision (b) shall notify the department of his or her intention prior to accepting the two additional children for care. Upon request of a local planning agency, local zoning agency, or similar local agency, the department shall inform the agency about whether or not a specified provider is participating in the pilot project.

(d) By March 1, 1993, the department shall submit an evaluation of the pilot project to the Assembly Human Services Committee and the Senate Health and Human Services Committee of the Legislature. In preparing the evaluation, the department shall consult with cities or other local agencies in the pilot counties, family day care provider associations, and other associations representing the interests of parents and children. The evaluation shall include, but not be limited to, all of the following:

(1) The number of family day care homes that participate in the pilot project, by county and by size of home.

(2) The number of additional children cared for as a result of the pilot project, by county and by size of home.

(3) Problems encountered by providers, parents, or other parties with respect to licensing and zoning requirements, and barriers to participation in the pilot project encountered by providers.

(4) Comments from providers, local agencies, and parents about the effectiveness, feasibility, and other aspects of the pilot project. The report shall include an assessment of the impact of the pilot project on local zoning practices and policies.

(5) Recommendations as to whether or not the pilot project should be expanded to other areas of the state, and the reasons for those recommendations.

(e) This section shall remain in effect only until December 31, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1993, deletes or extends that date.

SEC. 2. Section 1597.65 of the Health and Safety Code is amended to read:

1597.65. This chapter shall remain in effect only until December 31, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1993, deletes or extends that date.

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 is necessary to prevent the disruption of child care services to children and their parents.
An act to amend Section 2602 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1992. Filed with Secretary of State June 30, 1992.]

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

SECTION 1. Section 2602 of the Streets and Highways Code is amended to read:

2602. The state-local transportation partnership program shall be implemented by the department and the applicants under the following procedures:

(a) Applicants shall submit applications for eligible projects to the department not later than June 30.

(b) The department shall review the applications for consistency with the requirements of this chapter and shall compile a preliminary list of all eligible projects not later than September 30 of the year in which the application was submitted.

(c) (1) If the total state share for eligible projects exceeds the amount specified in the Governor’s proposed budget, the department shall compute the preliminary pro rata share of state funds to be available so that each eligible project would receive the same ratio of state share to local share. Not later than April 1 of the following year, the department shall advise the applicants of the preliminary pro rata share of state funds to be available.

(2) Not later than June 15 of the following year, each applicant shall inform the department whether or not it can proceed with the project with the lower state share and meet the project development completion requirements specified in paragraph (4) of subdivision (b) of Section 2601.

(3) Upon the enactment of the annual Budget Act, the department shall compile a new list of eligible projects consisting of those projects that were included in the original list that the applicant has indicated it can proceed with a lower state share and for which the applicant has indicated it can still meet the delivery requirements pursuant to paragraph (4) of subdivision (b) of Section 2601.

(4) Based on the amount of the appropriation contained in the annual Budget Act, the department shall compute the final pro rata state share so that each project on the new list would receive the same ratio of state share to local share.

(5) Within 30 days of the enactment of the annual Budget Act, the department shall report to the Legislature on the projects being funded through this program and the ratio of state share to local share.
(d) The Legislature intends to appropriate two hundred fifty million dollars ($250,000,000) by June 30, 1990, two hundred fifty million dollars ($250,000,000) by June 30, 1991, and two hundred million dollars ($200,000,000) by June 30 of each year thereafter for this program.

(e) Construction contracts for projects on the eligibility list established pursuant to subdivision (b) or (c) shall be let not later than June 30 of the fiscal year for which funds are appropriated pursuant to subdivision (d).

(f) Beginning with projects funded through appropriations made by the Budget Act of 1992, applications shall not be accepted for any project within the boundaries of a project subject to, but for which contracts were not let in accordance with, subdivision (e), for a period of three fiscal years following the fiscal year in which the applicant's notification of intent to proceed under paragraph (2) of subdivision (c) was submitted.

(g) The funds appropriated shall be expended not later than June 30 of the fourth year following the appropriation.

SEC. 2. Notwithstanding subdivision (d) of Section 130051.5 of the Public Utilities Code, until January 1, 1993, an alternate member of the Los Angeles County Transportation Commission may concurrently serve on the Board of Directors of the Southern California Rapid Transit District. This section shall apply to any person serving as an alternate member of the commission on June 30, 1992, or thereafter appointed as an alternate member of the commission.

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

In order that cities and counties may expend, during the 1992–93 fiscal year, funds appropriated and allocated to them for necessary transportation projects, and in order to provide for the orderly transition of governance from the Los Angeles County Transportation Commission and the Southern California Rapid Transit District to the Los Angeles County Metropolitan Transportation Authority, it is necessary that this act take effect immediately.
An act to add Section 69910 to the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1992 Filed with Secretary of State June 30, 1992 ]

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

SECTION 1. Section 69910 is added to the Government Code, to read:

69910. With respect to the superior, municipal, and justice courts in San Bernardino County, to the extent that the county’s Consolidated Memorandum of Understanding for county employees designates certain days, not in excess of 10 days annually, as unpaid furlough days for employees assigned to regular positions in the superior, municipal, and justice courts, including all superior court, municipal court, and county employees assigned to the courts, the courts shall not be in session on those days except as ordered by the presiding judge upon a finding by the presiding judge of a judicial emergency as defined in Chapter 1.1 (commencing with Section 68115). On these furlough days, although the clerk’s office shall not be open to the public, each court shall permit documents to be filed at a drop box, and an appropriate judicial officer shall be available to conduct arraignments and to sign any necessary documents on an emergency basis. These furlough days shall be excluded for purposes of computing the time within which a defendant must be taken before a magistrate following arrest pursuant to Section 825 of the Penal Code.

SEC. 2. Section 1 of this act is necessary since special facts and circumstances applicable to San Bernardino County, and not generally applicable, make the accomplishment of this purpose impossible by any general law. Special legislation is therefore necessary, applicable to San Bernardino County only. The special facts are as follows:

This act is necessary to fully implement an existing memorandum of understanding applicable solely to San Bernardino County.

SEC. 3. Because the act implements an existing memorandum of understanding, the Legislature finds that Section 1 of this act does not violate subdivision (b) of Section 16 of Article IV of the California Constitution.

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

The severe budgetary problems experienced by the County of San Bernardino have made it necessary for the county to amend its
collective bargaining agreement with its employees, imposing 10 unpaid furlough days on employees assigned to regular positions in the superior, municipal, and justice courts, including all superior court, municipal court, and county employees assigned to the courts, commencing with the 1992-93 fiscal year, in order to avoid employee layoffs.

It is also necessary that this act take effect prior to July 1, 1992, so that the same furlough days imposed upon these employees shall be judicial holidays, and so that the courts in San Bernardino County may be closed on the furlough days designated, producing the additional cost savings to be realized from closing the courts entirely on those days.

CHAPTER 111

An act to amend Section 14678 of the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1992. Filed with Secretary of State June 30, 1992]

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

SECTION 1. Section 14678 of the Government Code is amended to read:

14678. The Department of General Services is authorized to acquire, pursuant to the Property Acquisition Law (Part 11, commencing with Section 15850, Division 3, Title 2, Government Code) or by lease or other means, real property and to construct, operate, and maintain motor vehicle parking facilities thereon for state officers and employees, or other persons, provided that no such acquisition shall be commenced pursuant to the Property Acquisition Law unless and until an appropriation of funds therefor has been made by the Legislature. The department may enter into arrangements with other public and state agencies for joint use of motor vehicle parking facilities, provided the benefit to be derived by the state is commensurate with its participation. The department may prescribe the terms and conditions of this parking, including the payment of parking fees in any amounts and under any circumstances as may be determined by the department. Varying rates of parking fees may be established for different localities or for different parking facilities. The department may charge different rates of parking fees based on the number of riders in each vehicle. In determining rates of parking fees the department shall consider the rates charged in the same locality by other public agencies and by private employers for employee parking.

Revenues received by the department from (a) any of the
hereinabove motor vehicle parking facilities as may be designated by
the director, and (b) motor vehicle parking facilities under the
jurisdiction of any other state agency which has entered into an
agreement with the department for the payment of revenues
therefrom to the department, shall be deposited in the General Fund
and are hereby appropriated, without regard to fiscal years, to the
Department of General Services for the construction, operation, and
maintenance of motor vehicle parking facilities on real property
acquired hereunder or on real property under the jurisdiction of any
other state agency which has agreed to the payment of revenues as
foresaid from its motor vehicle parking facilities to the department,
for reimbursement to state agencies for all or part of the costs
incurred by these agencies in selling public transit passes at a
discount to defray state agency employees' commuting costs, and for
other approved transportation subsidy programs. The department
shall certify to the Department of Finance the amount of funds
available for reimbursement of transportation subsidies. The
Department of Finance shall determine the amount that may be
withdrawn by state agencies for payment of these subsidies. Requests
from state agencies for reimbursement shall include appropriate
verification of the state agency's costs. Any unneeded balance in this
appropriation shall be transferred by the Controller on order of the
Director of General Services to the unappropriated balance of the
General Fund.

The Legislature by this section does not intend to authorize the
institution of a private parking program unrelated to state purposes
in competition with private industry.

SEC. 2. Notwithstanding Section 3517.6 of the Government
Code, the provisions of any memorandum of understanding that
require the expenditure of funds shall become effective even if the
provisions of the memorandum of understanding are approved by
the Legislature in legislation other than the annual Budget Act.

SEC. 3. The provisions of the following memoranda of
understanding prepared pursuant to Section 3517.5 of the
Government Code entered into by the state employer and the
following employee organizations and which require the
expenditure of funds, are hereby approved for the purposes of
Section 3517.6 of the Government Code:

Unit 11--California State Employees' Association.

SEC. 4. Provisions of the following memoranda of understanding
prepared pursuant to Section 3517.5 of the Government Code
entered into by the state employer and the following employee
organizations and which require the expenditure of funds, are
hereby approved for the purposes of Section 3517.6 of the
Government Code subject to ratification of the proposal by the
membership:

Unit 1--California State Employees' Association.

SEC. 5. Any provision in a memorandum of understanding
approved by Section 3 or 4 that is scheduled to take effect on or after
July 1, 1993, and that requires the expenditure of funds, shall not take
effect unless funds for these provisions are specifically appropriated
by the Legislature. In the event that funds for these provisions are
not specifically appropriated by the Legislature, the state employer
and the affected employee organization shall meet and confer to
renegotiate over the affected provisions.

SEC. 6. Notwithstanding any other provision of law, the
Department of Finance may adjust departmental appropriations to
reflect the salary, personal leave, and benefit changes made pursuant
to this act or pursuant to a memorandum of understanding entered
into by the state employer and a recognized employee organization
pursuant to Section 3517.5 of the Government Code which has been
approved and ratified by the Legislature.

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 provisions of this act to be applicable as soon as
possible in the 1991–92 fiscal year, and so facilitate the orderly
administration of state government at the earliest possible time, it is
necessary that this act take effect immediately.

CHAPTER 112

An act to amend Section 25906 of the Health and Safety Code,
relating to skateboard parks.

[Approved by Governor July 1, 1992. Filed with
Secretary of State July 2, 1992.]

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

SECTION 1. Section 25906 of the Health and Safety Code is
amended to read:

25906. (a) No operator of a skateboard park shall permit any
person to ride a skateboard therein, unless that person is wearing a
helmet, elbow pads, and knee pads.

(b) With respect to any facility, owned or operated by a local
public agency, that is designed and maintained for the purpose of
recreational skateboard use, and that is not supervised on a regular
basis, the requirements of subdivision (a) may be satisfied by
compliance with the following:

1. Adoption by the local public agency of an ordinance requiring
any person riding a skateboard at the facility to wear a helmet, elbow
pads, and knee pads.

2. The posting of signs at the facility affording reasonable notice
that any person riding a skateboard in the facility must wear a
helmet, elbow pads, and knee pads, and that any person failing to do
so will be subject to citation under the ordinance required by paragraph (1).
(c) "Local public agency" for purposes of this section includes, but is not limited to, a city, county, or city and county.

CHAPTER 113

An act to amend Sections 25180.1 and 25198.6 of the Health and Safety Code, and to amend Section 44206 of the Public Resources Code, relating to waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1992. Filed with Secretary of State July 2, 1992]

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

SECTION 1. Section 25180.1 of the Health and Safety Code is amended to read:

25180.1. For purposes of this chapter, "permit" includes matters deemed to be permits pursuant to subdivision (c) of Section 25198.6.

SEC. 2. Section 25198.6 of the Health and Safety Code is amended to read:

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 (b), 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.

SEC. 3. Section 44206 of the Public Resources Code is amended to read:

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 (b), 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.

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

In order for this correction to be made in time to apply to contracts currently being negotiated for projects scheduled to begin early in 1992, it is necessary that this act take effect immediately.

CHAPTER 114

An act to amend Section 44561 of the Health and Safety Code, relating to pollution control.

[Approved by Governor July 1, 1992. Filed with Secretary of State July 2, 1992]

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

SECTION 1. Section 44561 of the Health and Safety Code is amended to read:

44561. (a) This division provides a complete, additional, and alternative method for the doing of the things authorized by this division, and is supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this division need not comply with any other law applicable to the issuance of bonds including, but not limited to, Division 13 (commencing with Section 21000) of the Public Resources Code. In the construction and acquisition of a project pursuant to this division,
the authority need not comply with any other law applicable to the
construction or acquisition of public works, except as specifically
provided in this division. Pollution control facilities and projects may
be acquired, constructed, completed, repaired, altered, improved, or
extended, and bonds may be issued for any of those purposes under
this division, notwithstanding that any other law may provide for the
acquisition, construction, completion, repair, alteration, improvement, or extension of like pollution control facilities or for
the issuance of bonds for like purposes, and without regard to the
requirements, restrictions, limitations, or other provisions contained
in any other law.
(b) Except as provided in subdivision (a), the financing of a
project pursuant to this part shall not exempt a project from any
requirement of law which otherwise would be applicable to the
project.

CHAPTER 115

An act to amend Sections 35314, 42820, 48933, and 52327 of the
Education Code, relating to school districts.

[Approved by Governor July 1, 1992. Filed with
Secretary of State July 2, 1992.]

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

SECTION 1. Section 35314 of the Education Code is amended to
read:
35314. Money in the fund shall be deposited in a bank or other
institution whose accounts are federally insured, and any money so
deposited shall be in an account or accounts fully covered by that
insurance.
The committee shall establish and maintain procedures to identify
clearly all money in the fund and its separate and distinct impressed
trusts, if any, and from whom and to whom the money was received
and disbursed.

SEC. 2. Section 42820 of the Education Code is amended to read:
42820. The governing board of any school district may establish
a revolving cash fund in any bank or other institution whose deposits
are federally insured, for the purpose of paying bills as prescribed in
Section 42821. Article 1 (commencing with Section 42800) of this
chapter shall not apply to the revolving cash fund established
pursuant to this article.
The governing board may appropriate money from the county or
joint school district fund in the county treasury belonging to the
school district to establish the revolving cash fund.
The maximum amount in the revolving cash fund shall be as
follows:
(a) In a school district with 20,000 or more units of average daily attendance, ten thousand dollars ($10,000).
(b) In a school district with 5,000 or more, but less than 20,000, units of average daily attendance, five thousand dollars ($5,000).
(c) In a school district with 500 or more, but less than 5,000, units of average daily attendance, two thousand five hundred dollars ($2,500).
(d) In a school district with less than 500 units of average daily attendance, one thousand dollars ($1,000).

SEC. 3. Section 48933 of the Education Code is amended to read:
48933. (a) The funds of any student body organization established in the public schools of any school district shall, subject to approval of the governing board of the school district, be deposited or invested in one or more of the following ways:
(1) Deposits in a bank or banks, or other institution, whose accounts are federally insured.
(2) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, provided those associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.
(3) Purchase of repurchase agreements issued by savings and loan associations or banks.
(4) Purchase of bonds, notes, bills, certificates, debentures, or any other obligations issued by the United States of America.
(5) Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any credit union in this state, organized under the provisions of Division 5 (commencing with Section 14000) of the Financial Code or the statutes of the United States relating to credit unions insured by the administrator of the National Credit Union Administration or a comparable agency as provided by a state government.
(b) The funds shall be expended subject to such procedure as may be established by the student body organization subject to the approval of each of the following three persons, which shall be obtained each time before any of the funds may be expended: an employee or official of the school district designated by the governing board, the certificated employee who is the designated adviser of the particular student body organization, and a representative of the particular student body organization.

SEC. 4. Section 52327 of the Education Code is amended to read:
52327. The governing board of any district maintaining a regional occupational center may establish a bookstore on district property for the purpose of offering for sale textbooks, workbooks, supplementary textbooks and workbooks, school supplies, stationery supplies, confectionary items, and related auxiliary school supplies and services.

The governing board may establish a bookstore fund into which the proceeds derived from the operation of a regional occupational
center bookstore may be transferred. Moneys in a bookstore fund shall be deposited or invested in one or more of the following ways:

(a) Deposits in a bank or banks, or other institution, whose accounts are federally insured.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, provided the associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(c) Purchase of United States securities pursuant to subdivision (a) of Section 16430 of the Government Code.

The governing board shall designate an employee or official of the district to act as trustee for funds derived from the operation of a regional occupational center bookstore and to receive those funds in accordance with procedures established by the board.

All necessary expenses, including salaries, wages and costs of capital improvements may be deducted from the revenue of a regional occupational center bookstore. Net proceeds from the operation of a regional occupational center bookstore shall be used for the general benefit of the student body as determined by the governing board. Income from a regional occupational center bookstore shall not be included in the district revenue limit. Funds derived from the operation of a regional occupational center bookstore shall be subject to audit pursuant to Section 41020.

CHAPTER 116

An act relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1992. Filed with Secretary of State July 2, 1992.]

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

SECTION 1. (a) Subject to Section 4 of Article XIII A of the California Constitution, the Analy Union High School District and its feeder elementary school districts may join together to impose qualified special taxes on the area served by the districts pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code and any other applicable procedures provided by law.

(b) As used in this section, the feeder elementary school districts may, but are not required to, join with Analy Union High School District to impose these taxes. Special taxes collected in each elementary school district shall be distributed between the Analy Union High School District and that elementary school district based upon the percentage of the number of grades served.
(c) (1) The election shall be ordered by a joint resolution approved by each participating district placing a single measure on the ballot throughout the area served by the districts. The election shall be conducted pursuant to Article 2 (commencing with Section 5320) of Chapter 3 of Part 4 of the Education Code. Passage of the measure for each individual participating district shall require a two-thirds vote by the voters within the boundaries of that district's jurisdiction.

(2) The full text of the measure to be placed in the voter pamphlet shall read substantially as follows:

FULL TEXT OF MEASURE (insert designation)

The Analy Union High School District and each of its feeder elementary school districts are authorized to join together to impose qualified special taxes under a single measure, pursuant to Assembly Bill 3184 of the 1991–92 Regular Session.

Under Measure (insert designation), the Analy Union High School District and those of its feeder elementary districts that so agreed, have joined together to impose qualified special taxes in the amount of (insert amount) per parcel based upon the use or right of use on each assessor's parcel within the boundaries of the Analy Union High School District for a period of (insert number) years beginning July 1, (insert year), and increasing their respective appropriations limit for the maximum time allowed by law by the amount of revenue generated by that special tax. The proceeds from the taxes shall be distributed between the Analy Union High School District, serving grades 9 to 12, inclusive, and, if they have so chosen to join the Analy Union High School District in imposing these taxes, the feeder elementary school districts, serving grades kindergarten to 8 inclusive, based upon the percentage of grades each district serves ((insert amount) per parcel for the high school district and (insert amount) per parcel in those feeder elementary school districts that have chosen to join with the high school district to impose these taxes), to maintain and enhance their educational programs and services to the extent allowed by the revenue generated from the special taxes.

(3) The measure to be placed on the ballot shall read as follows:

Shall the Analy Union High School District and its feeder elementary school districts that have chosen to join with the high school district impose qualified special taxes in the amount not to exceed (insert amount) per parcel ((insert amount) per parcel for the high school district and (insert amount) per parcel in the feeder elementary school districts), to maintain and enhance educational programs and services and correspondingly increase their respective appropriations limits for the maximum time allowed by law?

____ Yes ____No

14150
The Analy Union High School District may assess and collect its share of the qualified special tax as set forth in this measure ((insert amount) per parcel) only if it attains a two-thirds vote of the electorate voting on the measure within the entire boundaries of its jurisdiction. If the Analy Union High School District fails to attain the required two-thirds vote and a feeder elementary school district attains the required two-thirds vote, only 69 percent of the tax, or (insert amount) per parcel, due to the feeder elementary school district, shall be assessed and collected.

Each of the feeder elementary school districts may assess and collect its share of the qualified special tax set forth in this measure ((insert amount) per parcel) only if it joins with the Analy Union High School District to impose the taxes and attains a two-thirds vote of the electorate voting on the measure within the boundaries of its jurisdiction. If a feeder elementary school district chooses not to join the Analy Union High School District to impose the taxes, or fails to attain the required two-thirds vote and the Analy Union High School District attains the required two-thirds vote, only 31 percent of the tax, or (insert amount) per parcel, due to the Analy Union High School District shall be assessed and collected.

The following Analy Union High School District feeder elementary school districts have chosen to join with the high school district to impose qualified special taxes: (insert districts).

(4) The full text of the measure to be placed in the voter pamphlet pursuant to paragraph (2) and the abbreviated measure to be placed on the ballot pursuant to paragraph (3) may be amended upon mutual agreement between the governing boards of the Analy Union High School District and the participating feeder elementary school districts if they decide to provide for exemptions from the qualified special tax.

(d) As used in this section, “qualified special taxes” means special taxes that apply uniformly to all taxpayers or all real property in each of the districts. If an elementary school district has not chosen to join with the Analy Union High School District to impose the taxes, or fails to attain the required two-thirds vote and the Analy Union High School District attains the required two-thirds vote, only the percentage of tax due to the Analy Union High School District shall be assessed and collected. If the Analy Union High School District does not attain the required two-thirds vote, only the percentage of tax due to the feeder elementary school districts that have attained the required two-thirds vote shall be assessed and collected. “Qualified special taxes” may include special taxes that provide for an exemption from those taxpayers 65 years of age or older. However, “qualified special taxes” do not include special taxes imposed on a particular class of property or taxpayers.

SEC. 2. The Legislature finds and declares that due to the unique characteristics of the Analy Union High School District and its feeder
elementary school districts 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.
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 enable the Analy Union High School District and its
feeder elementary school districts to consider the imposition of
special taxes in as timely a manner as possible to ensure the
continued availability of quality education to local pupils, it is
necessary that this act take effect immediately.

CHAPTER 117

An act to add Chapter 21.25 (commencing with Section 17645) to
Part 10 of the Education Code, relating to funding school
construction through the issuance and sale of bonds of the State of
California and by providing for the handling and disposition of those
funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 1992. Filed with
Secretary of State July 7, 1992.]

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

SEC. 1.7. Chapter 21.25 (commencing with Section 17645) is
added to Part 10 of the Education Code, to read:

CHAPTER 21.25. 1992 SCHOOL FACILITIES BOND ACT


17645. This chapter shall be known and may be cited as the 1992
School Facilities Bond Act.
17645.10. As used in this chapter, the following terms have the
following meanings:
(a) "Committee" means the State School Building Finance
Committee created pursuant to Section 15909.
(b) "Fund" means the State School Building Lease-Purchase
Fund.

Article 2. Program Provisions

17645.15. The proceeds of bonds issued and sold pursuant to this
chapter shall be deposited in the fund.
17645.20. (a) All moneys deposited in the fund shall be available
to provide aid to school districts of the state in accordance with the
Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700)), and of all acts amendatory thereof and supplementary thereto, to provide aid to school districts of the state in accordance with Section 17645.30, to provide funds to repay any money advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

(b) As to any project that is funded, in whole or in part, from the proceeds of bonds to be expended under this chapter for the purposes of Chapter 22 (commencing with Section 17700), the state's portion of land costs paid from the proceeds of bonds authorized under this chapter shall not exceed two million two hundred fifty thousand dollars ($2,250,000) per acre, per project.

17645.30. Of the proceeds from the sale of bonds pursuant to this chapter, not more than two hundred seventy million dollars ($270,000,000) may be used for one or more of the following purposes:

(a) Project funding for applicant districts under Chapter 22 (commencing with Section 17700) that are eligible for that funding, but that lack funding priority due to the size of pupil enrollment in the district.

(b) The identification, assessment, or abatement of hazardous asbestos in school facilities, pursuant to either Chapter 22 (commencing with Section 17700) or Section 39619.6.

(c) The acquisition of portable classrooms for use in accordance with Chapter 25 (commencing with Section 17785).

(d) The reconstruction or modernization of facilities pursuant to Chapter 22 (commencing with Section 17700). Notwithstanding Section 17721.3, the State Allocation Board may allocate funding pursuant to this subdivision for the reconstruction or modernization of an existing structure in an amount that exceeds 25 percent of the replacement cost of that structure in order to finance structural improvements needed to avert future earthquake damage.

(e) The purchase and installation of air-conditioning equipment and insulation materials, and related costs, pursuant to Section 42250.1 for schools operated on a year-round multitrack schedule in a manner that increases school capacity and reduces or eliminates the school district's need for the construction of additional classroom space.


17645.40. Bonds in the total amount of nine hundred million dollars ($900,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense
Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

17645.44. The State School Building Finance Committee, created by Section 15909 and composed of the Governor, Controller, Treasurer, Director of Finance, and the Director of Education, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall be designated to chair the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet and advise with the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and as that committee shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide the assistance to the committee as it may require. The Attorney General of the state shall be the legal adviser of the committee.

17645.45. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the “board.”

17645.50. Upon request of the board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Section 17645.20, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

17645.55. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and
every act which is necessary to collect that additional sum.

17645.60. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 17645.70, appropriated without regard to fiscal years.

17645.63. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. 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 this chapter. The board shall execute those 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 this chapter.

17645.65. Notwithstanding any other provision of this chapter, 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 that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes subject to designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and for 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 that is 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.

17645.70. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

17645.75. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.
17645.80. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of the bonds described in this chapter shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

17645.85. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 2. Section 1 of this act shall become operative upon the approval by the voters, at the November 3, 1992, general election, of the 1992 School Facilities Bond Act, as set forth in Section 1 of this act, which shall be submitted to the voters at the November 3, 1992, general election only if the School Facilities Bond Act of 1992, as set forth in Assembly Bill 880, is approved by the voters at the June 2, 1992, direct primary election.

SEC. 3. Subject to Section 2, Section 1 of this act shall be submitted to the voters at the November 3, 1992, general election in accordance with provisions of the Government Code and Election Code governing the submission of statewide measures to the voters and, notwithstanding any other provision of law, shall appear as the first proposition on the ballot.

SEC. 4. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "1992 School Facilities Bond Act", and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of nine hundred million dollars ($900,000,000) to provide capital outlay for construction or improvement of public schools." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting of the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with the provisions of 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 1992 School Facilities Bond Act may be submitted for voter approval at the November 3, 1992, general election to provide financing for urgently needed school facilities, it is necessary that this act take effect immediately.
CHAPTER 118

An act to amend Section 754 of the Evidence Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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, 1993.

Commencing January 1, 1994, 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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 effect the orderly extension of the July 1, 1992, deadlines, as contained in this act, it is necessary that this act take effect immediately.

CHAPTER 119

An act to add Section 2812.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 2812.5 is added to the Vehicle Code to read:

2812.5. Whenever visibility limitations pose a significant safety hazard, as determined by a member of the California Highway Patrol, that member may restrict or prohibit the use of any highway by any vehicle subject to regulation by the Department of the California Highway Patrol pursuant to Section 34500.

CHAPTER 120

An act to amend Sections 46601.5 and 48204 of, and to add Section 54762 to, the Education Code, and to repeal Sections 3, 5, 6, and 7 of Chapter 988 of the Statutes of 1987, relating to education.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 46601.5 of the Education Code is amended to read:

46601.5. (a) The governing boards of any two school districts
that have been requested by a pupil's parent or legal guardian to enter into an agreement for interdistrict attendance pursuant to Section 46600 shall, in considering that request, give consideration to the child care needs of the pupil.

(b) The governing board of any unified school district that has entered into an agreement for the interdistrict attendance of a pupil based on that pupil's child care needs shall allow that pupil to continue to attend school through the 12th grade in that district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (f) of Section 48204.

(c) The governing board of any high school district whose feeder elementary school has entered into an agreement with another school district for the interdistrict attendance of a pupil based on that pupil's child care needs shall allow that pupil to continue to attend school through the 12th grade in the same district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (f) of Section 48204.

(d) This section shall remain in effect only until June 30, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1995, deletes or extends that date.

SEC. 2. Section 48204 of the Education Code is amended to read:

48204. Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in a home or institution shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600).

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil whose parent or legal guardian has established the residence of the pupil in a home located within the boundaries of that school district, provided that home is properly licensed as required by law. The person maintaining the home shall provide evidence to the school that a current license is in effect or that a license is not required under the law.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) An elementary school pupil, one or both of whose parents, or whose legal guardian, is employed within the boundaries of that school district.
(1) Nothing in this subdivision requires the school district within which the pupil's parents or guardians are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the pupil's parents or guardians is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the district's court-ordered or voluntary desegregation plan.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) Any district governing board prohibiting a transfer pursuant to paragraph (1), (2), or (3) shall identify, and communicate in writing to the pupil's parent or guardian, the specific reasons for that determination and shall ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision shall be calculated pursuant to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever is greater.

(C) For any district with an average daily attendance of 2,501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever is greater.

(7) Pursuant to this subdivision, districts shall report annually to the Superintendent of Public Instruction all of the following:

(A) The number of requests for interdistrict transfers.

(B) The number of pupils transferred out of the district.

(C) The number of pupils transferred into the district.

The State Department of Education shall summarize the school district reports and report to the Legislature on a triennial basis. The report shall include the data described in Section 48204.1.

(8) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and
is enrolled in a school in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, or where a pupil's legal guardian is employed, the pupil shall not have to reapply in the next school year to attend a school within that school district.

(9) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school district whose boundaries include the location where one parent or both parents of the pupil is employed, or where a pupil's legal guardian is employed, that pupil shall be allowed to continue to attend school through the 12th grade in that district if the parent or guardian so chooses subject to paragraphs (1) to (6), inclusive.

(g) This section shall remain in effect only until June 30, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1995, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1995, pursuant to Section 9611 of the Government Code, Section 48204 of the Education Code, as amended by Section 3 of Chapter 1191 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. It is the intent of the Legislature, pursuant to Section 4 of this act, to avert a reduction in supplemental grant funding entitlement under Article 9 (commencing with Section 54760) of Chapter 9 of Part 29 of the Education Code on the part of the Fullerton Joint Union High School District that otherwise could result from adjusting the district's base revenue limit under Section 10 of this act or from statutory adjustments for declining enrollment.

SEC. 4. Section 54762 is added to the Education Code, to read:

54762. Notwithstanding any other provision of law, the total revenue limit funding for the Fullerton Joint Union High School District computed pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 54761, for the 1993-94 fiscal year and each subsequent fiscal year, shall be an amount equal to the total revenue limit funding of that district computed pursuant to that subparagraph for the 1992-93 fiscal year, as increased or decreased for changes in average daily attendance, for inflation adjustments for the 1993-94 fiscal year and each subsequent fiscal year, and for equalization adjustments for the current fiscal year. The average daily attendance of the Fullerton Joint Union High School District utilized for the computation described in this section shall be the district's second principal apportionment regular average daily attendance for the current fiscal year.

SEC. 5. Section 3 of Chapter 988 of the Statutes of 1987 is repealed.

SEC. 6. Section 5 of Chapter 988 of the Statutes of 1987 is repealed.

SEC. 7. Section 6 of Chapter 988 of the Statutes of 1987 is repealed.
SEC. 8. Section 7 of Chapter 988 of the Statutes of 1987 is repealed.

SEC. 9. (a) Notwithstanding any other provision of law, the Yorba Linda Elementary School District, as it existed on January 1, 1988, is part of the Placentia-Yorba Linda Unified School District for all purposes except as otherwise provided in this act.

(b) No provision of this act shall be deemed to supersede or otherwise modify the reorganization action described in Chapter 988 of the Statutes of 1987 with regard to the division of property rights and obligations between the Placentia-Yorba Linda Unified School District and the Fullerton Joint Union High School District, or otherwise to require or authorize, under any provision of law, the transfer between those districts of any property right or obligation existing prior to July 1, 1993.

(c) Notwithstanding any other provision of law, until July 1, 1996, the Fullerton Joint Union High School District shall continue to be the district of residence for each pupil residing within the boundaries of the Yorba Linda Elementary School District, as it existed on January 1, 1988, who, in the immediately preceding school year, was enrolled in any of grades 9 to 12, inclusive, in the Fullerton Joint Union High School District. The Placentia-Yorba Linda Unified School District is the district of residence for all other pupils residing within those boundaries, including, but not limited to, all other pupils who enter any of grades 9 to 12, inclusive, on or after July 1, 1993.

(d) Notwithstanding any other provision of law, Sections 5, 6, and 7 of Chapter 988 of the Statutes of 1987 shall apply only with regard to the pupils who attend grades 9 to 12, inclusive, in the Fullerton Joint Union High School District in one or more of the fiscal years 1993–94 to 1995–96, inclusive, under the authority set forth in subdivision (c).

(e) Each of the members of the governing board of the Fullerton Joint Union High School District as of July 1, 1993, who is a resident of the Yorba Linda Elementary School District, as it existed on January 1, 1988, shall continue to serve in that capacity for the remainder of his or her current term of office.

SEC. 10. (a) Notwithstanding any other provision of law, the base revenue limit for the Fullerton Joint Union High School District for the 1993–94 fiscal year, in lieu of the base revenue limit that otherwise would be determined for that school district for that fiscal year pursuant to subdivision (b) of Section 42238 of the Education Code, shall be an amount equal to the statewide average of the base revenue limits calculated under subdivision (b) of Section 42238 of the Education Code for the 1991–92 fiscal year for high school districts having more than 300 units of average daily attendance, on the basis of the Education Code as it read on January 1, 1992. The base revenue limit determined for the Fullerton Joint Union High School District pursuant to this subdivision shall be adjusted pursuant to Section 42238.1 of the Education Code.

(b) For the 1994–95 fiscal year, the base revenue limit determined
pursuant to subdivision (a) shall be deemed to be the "base revenue limit for the prior fiscal year" for the Fullerton Joint Union High School District for purposes of subdivision (b) of Section 42238 of the Education Code.

SEC. 11. (a) Sections 3, 4, 5, 9, and 10 of this act become operative July 1, 1993.

(b) Sections 6, 7, and 8 of this act become operative July 1, 1996.

SEC. 12. Due to unique circumstances concerning the Fullerton Joint Union High School District and the Placentia-Yorba Linda Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 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 121

An act to amend Sections 4034.5 and 4131 of the Business and Professions Code, relating to medical devices.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 4034.5 of the Business and Professions Code is amended to read:

4034.5. (a) "Medical device retailer" is an area, place, or premises, other than a pharmacy, in and from which dangerous devices are sold, fitted, or dispensed pursuant to prescription. "Medical device retailer" includes, but is not limited to, any area, place, or premises described in a permit issued by the board by reference to plans filed with and approved by the board wherein dangerous devices, as defined, are stored, possessed, prepared, manufactured, or repackaged, and from which the dangerous devices are furnished, sold or dispensed at retail.

(b) "Medical device retailer" shall not include any area in a facility licensed by the State Department of Health Services where

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floor supplies, ward supplies, operating room supplies, or emergency room supplies of dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment in the facility or for treatment of patients receiving emergency care in the facilities.

(c) “Dangerous devices” as used in this chapter shall include, but is not limited to, all devices to which any of the following apply:

1. Devices bearing the legend, “Caution, federal law prohibits dispensing without prescription,” or words of similar import.
2. Devices enumerated in Section 4211.
3. Hypodermic syringes and needles, or other devices, the sale of which is restricted by law to a registered pharmacist.

Notwithstanding any other provision of this chapter, hypodermic needles and syringes shall only be distributed, possessed, or used as authorized by Article 5.5 (commencing with Section 4140) of this chapter.

(d) For purposes of this chapter, “device” does not include contact lenses, nor does it include any prosthetic or orthopedic device that does not require a prescription.

(e) Neither this section nor any other provision of law shall be construed as prohibiting a medical device retailer from furnishing a prescription device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with facility regulations of the State Department of Health Services set forth in Title 22 of the California Code of Regulations.

SEC. 2. Section 4131 of the Business and Professions Code is amended to read:

4131. (a) Each medical device retailer shall have written policies and procedures related to medical device retailer handling and dispensing of dangerous devices. Those written policies and procedures shall include, but not be limited to:

1. Training of staff, patients, and caregivers.
2. Cleaning, storage, and maintenance of dangerous devices and equipment.
3. Emergency services.
4. Recordkeeping requirements.
5. Storage and security requirements.
6. Quality assurance.

(b) Consultation shall be available to the patient or primary caregiver concerning proper use of dangerous devices and related supplies furnished by the medical device retailer.

(c) Each retailer shall ensure all personnel of the medical device retailer who engage in the taking of orders for, sale, or fitting of, dangerous devices shall have training and demonstrate initial and continuing competence in the order-taking, fitting, and sale of dangerous devices which the medical device retailer furnishes. The pharmacist-in-charge or exemptee shall be jointly responsible with the owner or owners of the medical device retailer for compliance
with the requirement.

(d) Each retailer shall prepare and maintain records of training and demonstrated competence for each individual employed or retained by said retailer. Said records shall be maintained for three years from and after the last date of employment.

(e) Each retailer shall have an ongoing, documented quality assurance program which includes, but is not limited to, the following:

(1) Monitoring personnel performance.
(2) Storage, maintenance, and dispensing of dangerous devices.
(3) The records and documents specified in subdivisions (a) and (e) shall be maintained for three years from the date of making. The records and documents in subdivisions (a), (d), and (e), shall be, at all times during business hours, open to inspection by authorized officers of the law.

CHAPTER 122

An act to amend, repeal, and add Section 27315 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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 and any motortruck of less than 6,001 pounds unladen weight, but "private passenger motor vehicle" does not include a motorcycle.

(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 properly 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. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a private passenger motor vehicle. This paragraph does not preempt any more stringent or restrictive standards imposed by the Labor Code or any other state or federal regulation regarding the transportation of employees in a private passenger motor vehicle.

(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 properly 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 properly 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 properly 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 proper 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) If the United States Secretary of Transportation fails to adopt 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 adopted 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.

(l) 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, and 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.

(m) Compliance with subdivision (k) or (l) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(n) 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 properly restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.

(o) 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 properly restrained by a safety belt prior to stopping at the first box and subsequent to
stopping at the last box on the route.

(p) Subdivisions (d), (e), (f), (g), and (h) shall become inoperative immediately upon the date that the United States Secretary 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, except 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.

(q) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 2. Section 27315 is added to the Vehicle Code, 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 and any motortruck of less than 6,001 pounds unladen weight, but "private passenger motor vehicle" does not include a motorcycle.

(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 properly restrained by a safety belt. This paragraph does not apply to the operator of a taxicab, as defined in Section 27908, when the taxicab is driven on a city street. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a private passenger motor vehicle. This paragraph does not preempt any more stringent or restrictive standards imposed by the Labor Code or any other state or federal regulation regarding the transportation of employees in a private passenger motor vehicle.

(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 properly 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 properly 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 properly 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 proper 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 adopt 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 adopted 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 541.2.1 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, and 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 properly 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 properly 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 United States Secretary 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, except 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.
(r) This section shall become operative on January 1, 1996.

CHAPTER 123

An act to amend Section 14132.49 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992]

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

SECTION 1. Section 14132.49 of the Welfare and Institutions Code is amended to read:

14132.49. (a) Upon federal approval of the state plan amendments made pursuant to Section 14021.7 for federal financial assistance, targeted case management, pursuant to subdivision (g) of Section 1396n of Title 42 of the United States Code, is covered as a benefit, subject to the availability of funding through the budget process, and subject to utilization controls, for pregnant and parenting adolescents and their children.

(b) In administering subdivision (a), the department shall limit the targeted case management benefit to the amount of General Fund or other public moneys, and federal matching funds made available in the Budget Act or other legislation.

(c) The department may redirect General Fund moneys for local assistance for existing adolescent family life programs to the extent necessary to provide state matching funds for implementation of subdivision (a). The amount which may be redirected shall not exceed the amount appropriated for local assistance for the Adolescent Family Life Program.

(d) It is the intent of the Legislature that the additional federal matching funds made available by implementation of subdivision (a) be used to expand the Adolescent Family Life Program and not supplant General Fund or other public moneys or federal funds provided for pursuant to Titles V and XIX of the federal Social Security Act (Sec. 701 and following, and Sec. 1396 and following, respectively, of Title 42 of the United States Code).

(e) Determinations to continue, expand, or terminate the program shall be based on all of the following:

(1) The department's assessment of the effect of Medi-Cal funding for services on the effectiveness of the Adolescent Family Life Program.

(2) A determination of the amount of federal funds received for this service.

(3) An assessment of the cost-effectiveness of the services to the General Fund.
(4) An estimate of the amount of federal funds that could be received by expanding the project to all adolescent family programs statewide.

(f) The department shall submit, not later than June 30, 1993, amendments to the state plan required to implement the amendments made to this section during the 1992 portion of the 1991–92 Regular Session for approval by the Secretary of Health and Human Services.

CHAPTER 124

An act to add Section 1355.5 to the Civil Code, relating to common interest developments.

[Approved by Governor July 6, 1992 Filed with Secretary of State July 7, 1992 ]

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

SECTION 1. Section 1355.5 is added to the Civil Code, to read: 1355.5. (a) Notwithstanding any provision of the governing documents of a common interest development to the contrary, the board of directors of the association may, after the developer of the common interest development has completed construction of the development, has terminated construction activities, and has terminated his or her marketing activities for the sale, lease, or other disposition of separate interests within the development, adopt an amendment deleting from any of the governing documents any provision which is unequivocally designed and intended, or which by its nature can only have been designed or intended, to facilitate the developer in completing the construction or marketing of the development. However, provisions of the governing documents relative to a particular construction or marketing phase of the development may not be deleted under the authorization of this subdivision until that construction or marketing phase has been completed.

(b) The provisions which may be deleted by action of the board shall be limited to those which provide for access by the developer over or across the common area for the purposes of (a) completion of construction of the development, and (b) the erection, construction, or maintenance of structures or other facilities designed to facilitate the completion of construction or marketing of separate interests.

(c) At least 30 days prior to taking action pursuant to subdivision (a), the board of directors of the association shall mail to all owners of the separate interests, by first-class mail, (1) a copy of all amendments to the governing documents proposed to be adopted under subdivision (a) and (2) a notice of the time, date, and place
the board of directors will consider adoption of the amendments. The board of directors of an association may consider adoption of amendments to the governing documents pursuant to subdivision (a) only at a meeting which is open to all owners of the separate interests in the common interest development, who shall be given opportunity to make comments thereon. All deliberations of the board of directors on any action proposed under subdivision (a) shall only be conducted in such an open meeting.

(d) The board of directors of the association may not amend the governing documents pursuant to this section without the approval of the owners, casting a majority of the votes at a meeting or election of the association constituting a quorum and conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of, and Section 7613 of, the Corporations Code. For the purposes of this section, “quorum” means more than 50 percent of the owners who own no more than two separate interests in the development.

CHAPTER 125

An act to amend Section 12419.3 of the Government Code, and to amend Sections 832, 1026, 1036, 1135, and 1703 of, and to repeal Sections 804 and 1032.7 of, the Unemployment Insurance Code, relating to employment development.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992]

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

SECTION 1. Section 12419.3 of the Government Code is amended to read:

12419.3. (a) The Controller shall offset delinquent accounts against personal income tax refunds which have been certified by the Franchise Tax Board, in the following priority:

1. The nonpayment of child or family support accounts enforced by a district attorney.
2. The nonpayment of child or family support accounts enforced by someone other than a district attorney.
3. The nonpayment of spousal support accounts enforced by a district attorney.
4. The nonpayment of spousal support accounts enforced by someone other than a district attorney.
5. The benefit overpayment accounts administered by the Employment Development Department if no signed reimbursement agreement exists, or if two consecutive payments on a reimbursement agreement are delinquent at any time.
6. The other offset accounts in the priority determined by the
(b) The Controller, the Franchise Tax Board, and the Employment Development Department shall annually report to the Assembly Committees on Finance and Insurance and Revenue and Taxation and the Senate Committees on Industrial Relations and Revenue and Taxation on the progress of offsets in reducing outstanding benefit overpayment accounts, and the programs for multiple offsets with adjustable priorities and cross-matching capabilities.

SEC. 2. Section 804 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 832 of the Unemployment Insurance Code is amended to read:

832. The administrator shall at least annually calculate, as of the close of and for the immediately preceding fiscal year, the experiences of school employers relative to usage of the Unemployment Fund. The calculations shall include tabulations on the experience of each school employer in relation to the expenditures from and the income to the School Employees Fund from the wages paid by the employer. All school employers shall be listed and ranked by ratio of use. The report shall contain comments and recommendations on improvements to the administration, enforcement, and financing of the provisions relative to this article. The report by the administrator on the above shall be made each year to the affected school employer and governing board thereof prior to the 15th day of December of each year.

The administrator shall develop experience relationships on all benefits paid to employees via the School Employees Fund and on school employers' experience related to use and exposure. Data shall relate to numbers of employees and types of programs and shall be calculated as of the close of and for the immediately preceding fiscal year. A report by the administrator on the above shall be made each year to the Legislature prior to the 15th day of December containing comments and recommendations on improvement to administration, enforcement and financing of the provisions relative thereto.

SEC. 4. Section 1026 of the Unemployment Insurance Code is amended to read:

1026. (a) The director shall maintain a separate reserve account for each employer, and shall credit each reserve account with all the contributions paid on his or her behalf.

(b) Unemployment compensation benefits paid to an unemployed individual during any benefit year shall be charged against the reserve account of his or her employer during his or her base period, but if the individual performed services in employment for more than one employer during his or her base period, unemployment compensation benefits paid to him or her shall be charged against the respective reserve accounts of the employers in the proportion that the total wages paid to the individual in
employment for each employer bears to the total wages paid to the
individual in employment for all employers during the base period.

(c) The director shall credit the interest earned by the
Unemployment Fund to each positive reserve employer account in
proportion to the amount the account bears to the total of all positive
reserve accounts.

(d) Except as provided by Sections 803 and 821, in proportion to
the amount each employer's taxable wages bears to the total of all
employers' taxable wages, the director shall credit to each employer
reserve account all of the following:

(1) Benefit overpayments collected in the four quarters prior to
the computation date.

(2) Positive balances in reserve accounts canceled pursuant to
Section 1029.

(3) Other nontax income.

(e) Except as provided by Sections 803 and 821, in the same
proportion as provided in subdivision (d), the director shall charge
to each employer reserve account all of the following:

(1) The increase in the total of all negative reserve account
balances as computed by subtracting the total of all negative reserve
account balances on July 31 of each year prior to the cancellations
required by Section 1027.5 from the total of all negative reserve
account balances on the prior July 31 after the cancellations required
by Section 1027.5.

(2) Benefit overpayments established in the four quarters prior to
the computation date.

(3) Benefits not charged to employer reserve accounts pursuant
to Section 1032, 1032.5, 1034, 1035, 1036, 1335, 1338, or 1380.

(4) Other items of expense and benefit charges not included in
active employer reserve accounts.

SEC. 5. Section 1032.7 of the Unemployment Insurance Code is
repealed.

SEC. 6. Section 1036 of the Unemployment Insurance Code is
amended to read:

1036. (a) Prior to the expiration of the rating period to which a
statement relates, the director shall give notice, pursuant to Section
1206, to the employer of the correction of any error which the
director finds in any statement of account or statement of charges.

(b) Any additional amount of contributions resulting from an
increased contribution rate caused by the correction of any error that
the director finds in any statement of reserve account or statement
of charges shall be assessed within 180 days from the postmarked date
of the notice of correction. These assessments shall be issued in
accordance with Article 8 (commencing with Section 1126). However,
these assessments shall become final on the last day of the
calendar month following the calendar quarter in which the
assessment is issued.

(c) Any overpaid amount of contributions resulting from a
reduced rate caused by the correction of an error that the director
finds on any statement of reserve account or statement of charges shall be refunded within 180 days of the postmarked date of the notice of correction. These refunds shall be issued in accordance with Article 9 (commencing with Section 1176).

SEC. 7. Section 1135 of the Unemployment Insurance Code is amended to read:

1135. Assessments under this article become delinquent if not paid on or before the date they become final pursuant to Sections 1036, 1221, 1222, and 1224. There shall be added to the amount of each delinquent assessment a penalty of 10 percent of the amount thereof exclusive of interest and penalties.

SEC. 8. Section 1703 of the Unemployment Insurance Code is amended to read:

1703. (a) If any employing unit or other person fails to pay any amount imposed under this division at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs, shall be a perfected and enforceable state tax lien. This lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For purposes of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the director, the date of the notice by the director to the taxpayer of the amount due.

(2) For penalties imposed pursuant to Sections 1112.5, 1114, and 13052.5, the date of the notice by the director to the taxpayer of the amount due.

(3) For all other amounts, the date the assessment is final.

(c) The lien provided by this section shall not arise during any period that Section 362 of the United States Bankruptcy Code applies to the employing unit or other person against whom the lien would otherwise apply.

CHAPTER 126

An act to amend Section 682 of the Welfare and Institutions Code, relating to youth, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 682 of the Welfare and Institutions Code is amended to read:

682. (a) To continue any hearing relating to proceedings pursuant to Section 601 or 602, regardless of the custody status of the

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minor, beyond the time limit within which the hearing is otherwise required to be heard, a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing good cause for the continuance.

(b) A continuance shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the moving party at the hearing on the motion. Neither stipulation of the parties nor convenience of the parties is, in and of itself, good cause. Whenever any continuance is granted, the facts which require the continuance shall be entered into the minutes.

(c) Notwithstanding subdivision (a), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for failure to comply with those requirements, the court shall deny the motion.

(d) In any case in which the minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance.

(e) When any hearing is continued pursuant to this section, the hearing shall commence on the date to which it was continued or within seven days thereafter whenever the court is satisfied that good cause exists and the moving party will be prepared to proceed within that time.

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 eliminate undue delays in the administration of justice in the juvenile courts, it is necessary that this act take effect immediately.

CHAPTER 127

An act to amend Section 286 of, and to add Section 1660 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 286 of the Vehicle Code is amended to read: 286. The term "dealer" does not include any of the following:

(a) Insurance companies, banks, finance companies, public
officials, or any other person coming into possession of vehicles in the regular course of business, who sells vehicles under a contractual right or obligation, in performance of an official duty, or in authority of any court of law, if the sale is for the purpose of saving the seller from loss or pursuant to the authority of a court.

(b) Persons who sell or distribute vehicles of a type subject to registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by those manufacturers or distributors. However, any of those persons who also sell vehicles at retail are vehicle dealers and are subject to this code.

(c) Persons regularly employed as salespersons by vehicle dealers licensed under this code while acting within the scope of that employment.

(d) Persons engaged exclusively in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States, if no federal excise tax is legally payable or refundable on any of the transactions. Persons not engaged exclusively in the bona fide business of exporting vehicles, but who are engaged in the business of soliciting orders for the sale and delivery of vehicles, outside the territorial limits of the United States are exempt from licensure as dealers only if their sales of vehicles produce less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, who dispose of any vehicle acquired and used in good faith, for their own personal use, or for use in their business, and not for the purpose of avoiding the provisions of this code.

(f) Persons who are engaged in the purchase, sale, or exchange of vehicles, other than motorcycles subject to identification under this code, which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories by means of public auction on behalf of the owners at the owners' place of business, or as otherwise approved by the department, if intermediate physical possession or control of, or an ownership interest in, the inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer to be used exclusively for carrying racing vehicles. For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a lessor.

(j) Any person who is a renter.

(k) Any salvage pool.

(l) Any yacht broker who is subject to the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of
Division 3 of the Harbors and Navigation Code) and who sells used boat trailers in conjunction with the sale of a vessel.

(m) Any licensed automobile dismantler who sells vehicles that have been reported for dismantling as provided in Section 11520.

(n) The Director of Corrections when selling vehicles pursuant to Section 2813.5 of the Penal Code.

(o) Any public or private nonprofit charitable, religious, or educational institution or organization that sells vehicles if all of the following conditions are met:

(1) The proceeds of the sale of the vehicles are retained by that institution or organization for its charitable, religious, or educational purposes.

(2) The vehicles sold were donated to the institution or organization.

(3) They meet all of the applicable equipment requirements of Division 12 (commencing with Section 24000) and have been issued a certificate pursuant to Section 44015 of the Health and Safety Code.

(4) The institution or organization has qualified for state tax-exempt status under Section 23701d of the Revenue and Taxation Code, and federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

SEC. 2. Section 1660 is added to the Vehicle Code, to read:

1660. (a) Any institution or organization described in subdivision (o) of Section 286 shall keep a record for not less than three years of the name and address of each vehicle donor.

(b) The department may inspect the records of a nonprofit institution or organization that sells vehicles in order to ascertain whether it meets the conditions specified in subdivision (o) of Section 286.

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 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.
An act to amend Sections 1265 and 1382 of the Penal Code, relating to criminal procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 1265 of the Penal Code is amended to read: 1265. (a) After the certificate of the judgment has been remitted to the court below, the appellate court has no further jurisdiction of the appeal or of the proceedings thereon, and all orders necessary to carry the judgment into effect shall be made by the court to which the certificate is remitted. However, if a judgment has been affirmed on appeal no motion shall be made or proceeding in the nature of a petition for a writ of error coram nobis shall be brought to procure the vacation of that judgment, except in the court which affirmed the judgment on appeal. When a judgment is affirmed by a court of appeal and a hearing is not granted by the Supreme Court, the application for the writ shall be made to the court of appeal.

(b) Where it is necessary to obtain personal jurisdiction of the defendant in order to carry the judgment into effect, upon a satisfactory showing that other means such as contact by mail, phone, or notification by means of the defendant's counsel have failed to secure the defendant's appearance, the court to which the certificate has been remitted may issue a bench warrant.

SEC. 2. 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

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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 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 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.

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 correct a drafting error in legislation enacted in 1991,
thereby giving the statute grammatical and conceptual sense, it is
necessary that this act go into effect immediately to prevent further
confusion, delay, and duplicative court hearings.

CHAPTER 129

An act to amend Section 16430 of the Government Code, relating
to state funds, and declaring the urgency thereof, to take effect
immediately.

[Approved by Governor July 6, 1992 Filed with
Secretary of State July 7, 1992 ]

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

SECTION 1. Section 16430 of the Government Code is amended
to read:

16430. Eligible securities for the investment of surplus moneys
shall be:

(a) Bonds or interest-bearing notes or obligations of the United
States, or those for which the faith and credit of the United States are
pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are
guaranteed as to principal and interest by a federal agency of the
United States.

(c) Bonds and notes of this state, or those for which the faith and
credit of this state are pledged for the payment of principal and
interest.

(d) Bonds or warrants, including, but not limited to, revenue
warrants, of any county, city, metropolitan water district, California
water district, California water storage district, irrigation district in
the State of California, municipal utility district, or school district of
this state.

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(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended, and bonds, notes, and other obligations guaranteed by the Commodity Credit Corporation for the export of California agricultural products under the Commodity Credit Corporation Charter Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or savings and loan association or by a state-licensed branch of a foreign bank. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20

(k) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank of Puerto Rico.

(l) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

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 state surplus moneys to be invested in Commodity Credit Corporation securities as soon as possible, this act must take effect immediately.

CHAPTER 130

An act to amend Section 10232 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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, and 10232.25 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, the California Housing Finance Agency, a local housing finance agency organized under the Health and Safety Code, 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 and 10232.25, 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.

(F) The California Housing Finance Agency or any local housing finance agency organized under the Health and Safety Code.

(G) A licensed real estate broker selling all or part of the loan, the note, or the contract to a lender or purchaser specified in subparagraphs (A) through (F) of this subdivision.

(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.
An act to amend Section 830.39 of the Penal Code, relating to peace officers.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 830.39 of the Penal Code is amended to read:

830.39. (a) Any regularly employed law enforcement officer of the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety is a peace officer in this state if all of the following conditions are met:

(1) The officer is providing, or attempting to provide, law enforcement services within this state on the state or county highways and areas immediately adjacent thereto, within a distance of up to 50 statute miles of the contiguous border of this state and the state employing the officer.

(2) The officer is providing, or attempting to provide, law enforcement services pursuant to either of the following:

(A) In response to a request for services initiated by a member of the California Highway Patrol.

(B) In response to a reasonable belief that emergency law enforcement services are necessary for the preservation of life, and a request for services by a member of the Department of the California Highway Patrol is impractical to obtain under the circumstances. In those situations, the officer shall obtain authorization as soon as practical.

(3) The officer is providing, or attempting to provide, law enforcement services for the purpose of assisting a member of the California Highway Patrol to provide emergency service in response to misdemeanor or felony criminal activity, pursuant to the authority of a peace officer as provided in subdivision (a) of Section 830.2, or, in the event of highway-related traffic accidents, emergency incidents or other similar public safety problems, whether or not a member of the California Highway Patrol is present at the scene of the event. Nothing in this section shall be construed to confer upon the officer the authority to enforce traffic or motor vehicle infractions.

(4) An agreement pursuant to Section 2403.5 of the Vehicle Code is in effect between the Department of the California Highway Patrol and the agency of the adjoining state employing the officer, the officer acts in accordance with that agreement, and the agreement specifies that the officer and employing agency of the adjoining state shall be subject to the same civil immunities and liabilities as a peace officer and his or her employing agency in this
state.

(5) The officer receives no separate compensation from this state for providing law enforcement services within this state.

(6) The adjoining state employing the officer confers similar rights and authority upon a member of the California Highway Patrol who renders assistance within that state.

(b) Whenever, pursuant to Nevada law, a Nevada correctional officer is working or supervising Nevada inmates who are performing conservation-related projects or fire suppression duties within California, the correctional officer may maintain custody of the inmates in California, and retake any inmate who should escape in California, to the same extent as if the correctional officer were a peace officer in this state and the inmate had been committed to his or her custody in proceedings under California law.

(c) Notwithstanding any other provision of law, any person who is acting as a peace officer in this state in the manner described in this section shall be deemed to have met the requirements of Section 1031 of the Government Code and the selection and training standards of the Commission on Peace Officer Standards and Training if the officer has completed the basic training required for peace officers in his or her state.

(d) In no case shall a peace officer of an adjoining state be authorized to provide services within a California jurisdiction during any period in which the regular law enforcement agency of the jurisdiction is involved in a labor dispute.

CHAPTER 132

An act to amend Sections 31651 and 31725.6 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 31651 of the Government Code is amended to read:

31651. If the returning member files an election pursuant to Section 31649, the auditor or other officer charged with the duty of drawing salary or wage warrants shall deduct current contributions only from salary or wage warrants delivered 30 or more days after the filing of the election. Member contributions shall be calculated upon the basis of the age of the member upon his or her first entry into the retirement system.

SEC. 2. Section 31725.6 of the Government Code is amended to read:

31725.6. (a) When the board finds, based on medical advice, that
a member in county service is incapacitated for the performance of
the member's duties, the board shall determine, based upon that
medical advice, whether the member is capable of performing other
duties. If the board determines that a member, although
incapacitated for the performance of the member's duties, is capable
of performing other duties, the board shall inform the appropriate
agency in county service of its findings and request that the agency
immediately initiate a suitable rehabilitation program for the
member pursuant to Section 139.5 of the Labor Code, whereby the
member could become qualified for assignment to a position in
county service consistent with the rehabilitation program.

(b) When the appropriate agency in county service receives such
a request from the board, the agency shall immediately refer the
member to a qualified rehabilitation representative for vocational
evaluation. During the course of the evaluation, the rehabilitation
representative shall consult with the appropriate agency in county
service to determine what position, if any, in county service would
be compatible with the member's aptitudes, interests, and abilities
and whether rehabilitation services will enable the member to
become qualified to perform the duties of the position.

(c) Upon completion of the vocational evaluation of the member,
the rehabilitation representative shall develop a suitable
rehabilitation plan and submit the plan for concurrence by the
member and the appropriate agency in county service and,
thereafter, the agency shall forward the plan to the Division of
Industrial Accidents for approval pursuant to Section 139.5 of the
Labor Code.

(d) Upon receipt of approval of the rehabilitation plan, the
appropriate agency in county service shall notify the board that the
agency is either proceeding to implement an approved
rehabilitation plan that will qualify the member for a position in
county service specified in the plan or is unable to provide a position
in county service compatible with the approved rehabilitation plan.

(e) Upon commencement of service by the member in the
position specified in the approved rehabilitation plan, the member
shall not be paid the disability retirement allowance to which the
member would otherwise be entitled during the entire period that
the member remains in county service. However, if the
compensation rate of the position specified in the approved
rehabilitation plan is less than the compensation rate of the position
for which the member was incapacitated, the board shall, in lieu of
disability retirement allowance, pay to the member a supplemental
disability allowance in an amount equal to the difference between
the compensation rate of the position for which the member was
incapacitated, applicable on the date of the commencement of
service by the member in the position specified in the approved
rehabilitation plan, and the compensation rate of the position
specified in the plan, applicable on the same date. The disability
allowance shall be adjusted annually to equal the difference between
the current compensation rate of the position for which the member was incapacitated and the current compensation of the position specified in the approved rehabilitation plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of the payments shall not be greater than the disability retirement allowance to which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all of these payments received by a member shall be considered as a part of the member’s compensation within the meaning of Section 31460.

(f) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved rehabilitation plan, and the member has commenced service in that position, the disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the period during which the member was receiving disability retirement payments shall not be considered as breaking the continuity of the member’s service, and the rate of the member’s contributions shall continue to be based on the same age at entrance into the retirement system as the member’s rates were based on prior to the date of the member’s disability. The member’s accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(g) Notwithstanding Section 31560, a member whose principal duties, while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved rehabilitation plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(h) If, within one year from the date that the member has been eligible for a disability retirement allowance, the appropriate agency in county service has offered to the member, in writing, the position specified in the rehabilitation plan which had previously been concurred, in writing, by the member and approved by the Division of Industrial Accidents pursuant to Section 139.5 of the Labor Code, the member shall, within 30 days of receipt of the notice, report for duty at the location specified in the notice. If the member refuses to report for duty within the time specified, the appropriate agency in county service may apply to the board to have the member’s allowance discontinued. The board shall be authorized to discontinue the member’s disability retirement allowance if based
upon substantial evidence of the refusal of the member to report to work without reasonable cause. However, the board shall not be authorized to impair any other of the rights or retirement benefits to which the member would otherwise be entitled.

(i) This section shall apply only to members who are eligible to retire for service-connected disability.

CHAPTER 133

An act to amend Section 669 of the Penal Code, relating to sentencing.

[Approved by Governor July 6, 1992. Filed with Secretary of State July 7, 1992.]

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

SECTION 1. Section 669 of the Penal Code is amended to read:

669. When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment upon which sentence is ordered to be executed shall direct whether the terms of imprisonment or any of them to which he or she is sentenced shall run concurrently or consecutively. Life sentences, whether with or without the possibility of parole, may be imposed to run consecutively with one another or with any other term of imprisonment for a felony conviction. Whenever a person is committed to prison on a life sentence which is ordered to run consecutive to any determinate term of imprisonment imposed pursuant to Section 1170, 1170.1, 667, 667.5, 667.6, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, or 12022.9, the determinate term of imprisonment shall be served first and no part thereof shall be credited toward the person’s eligibility for parole as calculated pursuant to Section 3046 or pursuant to any other section of law that establishes a minimum period of confinement under the life sentence before eligibility for parole.

In the event that the court at the time of pronouncing the second or other judgment upon that person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon that failure to determine, or upon that prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of the notice, determine how the term of imprisonment upon the second or other subsequent judgment
shall run with reference to the prior incompletely term or terms of imprisonment. Upon the failure of the court to determine how the terms of imprisonment on the second or subsequent judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

The Department of Corrections shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

SEC. 2. This act shall not become operative if Senate Bill 25 of the 1991–92 Regular Session is enacted and becomes effective on or before January 1, 1993, and amends or repeals Section 669 of the Penal Code.

CHAPTER 134

An act to amend Section 10131.01 of the Business and Professions Code, and to add Section 1864 to the Civil Code, relating to real estate.

[Approved by Governor July 7, 1992.Filed with Secretary of State July 8, 1992]

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

SECTION 1. Section 10131.01 of the Business and Professions Code is amended to read:

10131.01. (a) Subdivision (b) of Section 10131 does not apply to (1) the manager of a hotel, motel, auto and trailer park, to the resident manager of an apartment building, apartment complex, or court, or to the employees of that manager, or (2) any person or entity, including a person employed by a real estate broker, who, on behalf of another or others, solicits or arranges, or accepts reservations or money, or both, for transient occupancies described in paragraphs (1) and (2) of subdivision (b) of Section 1940 of the Civil Code, in a dwelling unit in a common interest development, as defined in Section 1351 of the Civil Code, in a dwelling unit in an apartment building or complex, or in a single-family home, or (3) any person other than the resident manager or employees of that manager, performing the following functions who is the employee of the property management firm retained to manage a residential apartment building or complex or court and who is performing under the supervision and control of a broker of record who is an employee of that property management firm or a salesperson licensed to the broker who meets certain minimum requirements as specified in a regulation issued by the commissioner:

(A) Showing rental units and common areas to prospective tenants.

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(B) Providing or accepting preprinted rental applications, or responding to inquiries from a prospective tenant concerning the completion of the application.

(C) Accepting deposits or fees for credit checks or administrative costs and accepting security deposits and rents.

(D) Providing information about rental rates and other terms and provisions of a lease or rental agreement, as set out in a schedule provided by an employer.

(E) Accepting signed leases and rental agreements from prospective tenants.

(b) A broker or salesperson shall exercise reasonable supervision and control over the activities of nonlicensed persons acting under paragraph (3) of subdivision (a).

(c) A broker employing nonlicensed persons to act under paragraph (3) of subdivision (a) shall comply with Section 10163 for each apartment building or complex or court where the nonlicensed persons are employed.

SEC. 2. Section 1864 is added to the Civil Code, to read:

1864. Any person or entity, including a person employed by a real estate broker, who, on behalf of another or others, solicits or arranges, or accepts reservations or money, or both, for transient occupancies described in paragraphs (1) and (2) of subdivision (b) of Section 1940, in a dwelling unit in a common interest development, as defined in Section 1351, in a dwelling unit in an apartment building or complex, or in a single-family home, shall do each of the following:

(a) Prepare and maintain, in accordance with a written agreement with the owner, complete and accurate records and books of account, kept in accordance with generally accepted accounting principles, of all reservations made and money received and spent with respect to each dwelling unit. All money received shall be kept in a trust account maintained for the benefit of owners of the dwelling units.

(b) Render, monthly, to each owner of the dwelling unit, or to that owner's designee, an accounting for each month in which there are any deposits or disbursements on behalf of that owner, however, in no event shall this accounting be rendered any less frequently than quarterly.

(c) Make all records and books of account with respect to a dwelling unit available, upon reasonable advance notice, for inspection and copying by the dwelling unit's owner. The records shall be maintained for a period of at least three years.

(d) Comply fully with all collection, payment, and recordkeeping requirements of a transient occupancy tax ordinance, if any, applicable to the occupancy.

(e) In no event shall any activities described in this section subject the person or entity performing those activities in any manner to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code. However, a real estate licensee subject to this
section may satisfy the requirements of this section by compliance with the Real Estate Law.

CHAPTER 135

An act to add Chapter 5.5 (commencing with Section 1318) to Division 6 of the Military and Veterans Code, and to add Section 621 to the Penal Code, relating to memorials.

[Approved by Governor July 7, 1992. Filed with Secretary of State July 8, 1992.]

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

SECTION 1. Chapter 5.5 (commencing with Section 1318) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 5.5. VANDALISM OF VETERANS' MEMORIALS

1318. Every person who maliciously destroys, cuts, breaks, mutilates, effaces, or otherwise injures, tears down, or removes any veterans' memorial constructed or established pursuant to this division, or constructed or established by any veterans' association, as defined in subdivision (c) of Section 1260, is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for less than one year.

SEC. 2. Section 621 is added to the Penal Code, to read:

621. Every person who maliciously destroys, cuts, breaks, mutilates, effaces, or otherwise injures, tears down, or removes any law enforcement memorial or firefighter's memorial is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for less than one year.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. 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 136

An act to amend Section 36512 of, and to repeal Sections 36512.1, 36512.2, and 36512.3 of, the Government Code, relating to city council vacancies.

[Approved by Governor July 7, 1992. Filed with Secretary of State July 8, 1992.]

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

SECTION 1. Section 36512 of the Government Code is amended to read:

36512. (a) If a vacancy occurs in an appointive office provided for in this chapter, the council shall fill the vacancy by appointment. A person appointed to fill a vacancy holds office for the unexpired term of the former incumbent.

(b) If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 30 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 90 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(c) Notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance which:

(1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section 34902. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 90 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 90 days from the filing of the petition. A governing body which has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 90 days from the call of the special election.

(d) (1) Notwithstanding subdivision (b) and Section 34902, an
appointment shall not be made to fill a vacancy on a city council if
the appointment would result in a majority of the members serving
on the council having been appointed. The vacancy shall be filled in
the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be
held on the next regularly established election date not less than 90
days after the call.

(3) If the city council does not call an election pursuant to
paragraph (2), the vacancy shall be filled at the next regularly
established election date.

SEC. 2. Section 36512.1 of the Government Code is repealed.
SEC. 3. Section 36512.2 of the Government Code is repealed.
SEC. 4. Section 36512.3 of the Government Code is repealed.

CHAPTER 137

An act to add Section 11367.5 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 7, 1992. Filed with
Secretary of State July 8, 1992.]

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

SECTION 1. Section 11367.5 is added to the Health and Safety
Code, to read:

11367.5. (a) Any sheriff, chief of police, the Chief of the Bureau
of Narcotic Enforcement, or the Commissioner of the California
Highway Patrol, or a designee thereof, may, in his or her discretion,
provide controlled substances in his or her possession and control to
any duly authorized peace officer or civilian drug detection canine
trainer working under the direction of a law enforcement agency,
provided the controlled substances are no longer needed as criminal
evidence and provided the person receiving the controlled
substances, if required by the Drug Enforcement Administration,
possesses a current and valid Drug Enforcement Administration
registration which specifically authorizes the recipient to possess
controlled substances while providing substance abuse training to
law enforcement or the community or while providing canine drug
detection training.

(b) All duly authorized peace officers, while providing substance
abuse training to law enforcement or the community or while
providing canine drug detection training, in performance of their
official duties, and any person working under their immediate
direction, supervision, or instruction, are immune from prosecution
under this division.

(c) (1) Any person receiving controlled substances pursuant to
subdivision (a) shall maintain custody and control of the controlled
substances and shall keep records regarding any loss of, or damage to, those controlled substances.

(2) All controlled substances shall be maintained in a secure location approved by the dispensing agency.

(3) Any loss shall be reported immediately to the dispensing agency.

(4) All controlled substances shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

CHAPTER 138

An act to amend Sections 2080.1 and 2080.3 of the Civil Code, relating to unclaimed property.

[Approved by Governor July 7, 1992. Filed with Secretary of State July 8, 1992.]

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

SECTION 1. Section 2080.1 of the Civil Code is amended to read:

2080.1. (a) If the owner is unknown or has not claimed the property, the person saving or finding the property shall, if the property is of the value of one hundred dollars ($100) or more, within a reasonable time turn the property over to the police department of the city or city and county, if found therein, or to the sheriff’s department of the county if found outside of city limits, and shall make an affidavit, stating when and where he or she found or saved the property, particularly describing it. If the property was saved, the affidavit shall state:

(1) From what and how it was saved.

(2) Whether the owner of the property is known to the affiant.

(3) That the affiant has not secreted, withheld, or disposed of any part of the property.

(b) The police department or the sheriff’s department shall notify the owner, if his or her identity is reasonably ascertainable, that it possesses the property and where it may be claimed. The police department or sheriff’s department may require payment by the owner of a reasonable charge to defray costs of storage and care of the property.

SEC. 2. Section 2080.3 of the Civil Code is amended to read:

2080.3. (a) If the reported value of the property is two hundred fifty dollars ($250) or more and no owner appears and proves his or her ownership of the property within 90 days, the police department or sheriff’s department shall cause notice of the property to be published at least once in a newspaper of general circulation. If, after seven days following the first publication of the notice, no owner appears and proves his or her ownership of the property and the
person who found or saved the property pays the cost of the publication, the title shall vest in the person who found or saved the property unless the property was found in the course of employment by an employee of any public agency, in which case the property shall be sold at public auction. Title to the property shall not vest in the person who found or saved the property or in the successful bidder at the public auction unless the cost of publication is first paid to the city, county, or city and county whose police or sheriff's department caused the notice to be published.

(b) If the reported value of the property is less than two hundred fifty dollars ($250) and no owner appears and proves his or her ownership of the property within 90 days, the title shall vest in the person who found or saved the property, unless the property was found in the course of employment by an employee of any public agency, in which case the property shall be sold at public auction.

CHAPTER 139

An act to amend Section 37982 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 7, 1992. Filed with Secretary of State July 8, 1992.]

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

SECTION 1. Section 37982 of the Food and Agricultural Code is amended to read:

37982. Reduced fat cheese shall meet all standards and requirements for the standard variety of the cheese used in the name of the reduced fat cheese except for the following:

(a) Reduced fat cheese shall achieve a milk fat reduction of at least 33 1/2 percent, as measured against the higher of the minimum milk fat required by statute or regulation for the referenced, standard variety of the cheese or the normal milk fat content of the referenced, standard variety of the cheese substantiated by a credible data base.

(b) Reduced fat cheese shall contain not more than 140 percent of the maximum moisture allowed in the referenced, standard cheese as determined by the Association of Official Analytical Chemists (AOAC) procedures.

(c) Reduced fat cheese may contain added vitamin A.
CHAPTER 140

An act to add Sections 26670 and 72116 to the Government Code, relating to counties.

[Approved by Governor July 7, 1992. Filed with Secretary of State July 8, 1992.]

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

SECTION 1. Section 26670 is added to the Government Code, to read:

26670. Notwithstanding any other provision of law, the Board of Supervisors of Shasta County may find, after holding a public hearing on the issue, that cost savings or efficiencies can be realized by consolidation of court-related services provided by the marshal and sheriff within that county. If this finding is made, an election shall be conducted among all of the judges of the superior and municipal courts of the county to determine the agency, either the marshal or the sheriff, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast by secret ballot, provided, that the total number of votes cast exceeds 50 percent of the number of superior and municipal court judges in the county, by at least one vote. The executive officer of the courts shall administer the election and tabulate the results. The presiding judges of the superior and municipal courts shall inform the board of supervisors of the results of the election within 15 days of the election. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by a majority of the judges of the superior and municipal courts in the election. If an election is not conducted within 90 days of notification of the board of supervisors' finding, or if the results of the election are evenly divided, the board of supervisors shall determine under which agency, either the marshal or the sheriff, court-related services shall be consolidated, and shall proceed to implement consolidation as if on the basis of a majority vote of the judges of the superior and municipal courts.

SEC. 2. Section 72116 is added to the Government Code, to read:

72116. (a) Notwithstanding any other provision of law, the board of supervisors of Shasta County may find, after holding a public hearing on the issue, that cost savings or efficiencies can be realized by consolidation of court-related services provided by the marshal and sheriff within that county. If this finding is made, an election shall be conducted among all of the judges of the superior and municipal courts of the county to determine the agency, either the marshal or the sheriff, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast by secret ballot, provided, that the total number of votes cast exceeds 50 percent of the number of superior and municipal
court judges in the county, by at least one vote. The executive officer of the courts shall administer the election and tabulate the results. The presiding judges of the superior and municipal courts shall inform the board of supervisors of the results of the election within 15 days of the election. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by a majority of the judges of the superior and municipal courts in the election. If an election is not conducted within 90 days of notification of the board of supervisors' finding, or if the results of the election are evenly divided, the board of supervisors shall determine under which agency, either the marshal or the sheriff, court-related services shall be consolidated, and shall proceed to implement consolidation as if on the basis of a majority vote of the judges of the superior and municipal courts.

(b) Except as provided in subdivision (f), all personnel of the marshal's office or personnel of the sheriff's office affected by a consolidation of court-related services under this section or Section 26670 shall become employees of that consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of the consolidated court-related services office for a period of four years following the consolidation.

(c) Permanent employees of the marshal's office or sheriff's office on the effective date of consolidation under this section or Section 26670 shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this section or Section 26670 shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

(d) All county service or service by employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this section or Section 26670 shall be counted toward seniority in that court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(e) No employee of the marshal's office or the sheriff's office on the effective date of a consolidation under this section or Section 26670 shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court-related services.

(f) In the event that court-related services are consolidated under the marshal's office, all sheriff's bailiffs affected by the consolidation shall be given the option of becoming employees of the marshal's office or of remaining with the sheriff's office. If a staffing shortage is created by the exercise of this option by these bailiffs, the marshal may accept qualified applicants from the sheriff's office under the provisions of subdivisions (b), (c), (d), and (e).

SEC. 3. Due to unique facts and circumstances applicable to
Shasta County, 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, necessarily applicable to only Shasta County.

CHAPTER 141

An act to amend Section 35012 of the Education Code, relating to school district governing boards.

[Approved by Governor July 7, 1992. Filed with Secretary of State July 8, 1992.]

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

SECTION 1. Section 35012 of the Education Code is amended to read:

35012. (a) Except as otherwise provided, the governing board of a school district shall consist of five members elected at large by the qualified voters of the district. The terms of the members shall, except as otherwise provided, be for four years and staggered so that as nearly as practicable one-half of the members shall be elected in each odd-numbered year.

(b) A unified school district formed pursuant to the provisions of Chapter 2 (commencing with Section 4200) of Part 3 may have a governing board of seven members in the event the proposal for unification has specified a governing board of seven members. The members of the board shall be elected at large or by trustee areas as designated in the proposal for unification and shall serve four-year terms of office.

(c) Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken.

(d) There may be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to appoint one or more nonvoting pupil members to the board pursuant to this section.

There may also be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to allow preferential voting for the pupil member or members of the board. This request may be made in the original petition for pupil representation on the board or in a separate petition after a pupil member or members have been
appointed to the board.

Whether for pupil representation or for preferential voting for the pupil member or members, the petition shall contain the signatures of either (a) not less than 500 pupils regularly enrolled in high schools of the district, or (b) not less than 10 percent of the number of pupils regularly enrolled in high schools of the district, whichever is less.

Upon receipt of a petition for pupil representation, the governing board shall, commencing July 1, 1976, and each year thereafter, order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one nonvoting pupil member. The board may order the inclusion of more than one nonvoting pupil member.

Upon receipt of a petition for preferential voting for the pupil member or members, the governing board shall allow preferential voting for the pupil member or members of the governing board.

Preferential voting, as used in the section, means a formal expression of opinion that is recorded in the minutes and cast prior to the official vote of the governing board. A preferential vote will not serve in determining the final numerical outcome of a vote. No preferential vote will be solicited on matters subject to closed session discussion.

The governing board may adopt a resolution authorizing the nonvoting or preferential voting pupil member or members to make motions that may be acted upon by the governing board, except on matters dealing with employer-employee relations pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

Each pupil member shall have the right to attend each and all meetings of the governing board, except executive sessions.

Any pupil selected to serve as a nonvoting or preferential voting member of the governing board shall be enrolled in a high school of the district, may be less than 18 years of age, and shall be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. The term of a pupil member shall be one year commencing on July 1 of each year.

A nonvoting or preferential voting pupil member shall be entitled to the mileage allowance to the same extent as regular members, but is not entitled to the compensation prescribed by Section 35120.

A nonvoting or preferential voting pupil member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

The nonvoting or preferential voting pupil member shall not be included in determining the vote required to carry any measure before the board.

The nonvoting or preferential voting pupil member shall not be liable for any acts of the governing board.
CHAPTER 142


[Approved by Governor July 7, 1992. Filed with Secretary of State July 8, 1992.]

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

SECTION 1. The Legislature finds that small claims judgments are sometimes inadequate to redress certain types of disputes, such as neighborhood disputes involving barking dogs or other disturbances. Specifically, the Legislature finds that when a small claims court believes that a conditional judgment is appropriate, the court should be empowered to order the performance or cessation of acts by a party, consistent with the equitable powers of the court, and to condition an award of damages on noncompliance with the court's order.

SEC. 2. Section 116.220 of the Code of Civil Procedure is amended to read:

116.220. (a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivision (c), for recovery of money, if the amount of the demand does not exceed five thousand dollars ($5,000).

(2) Except as provided in subdivision (c), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars ($5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars ($5,000).

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages. The court may issue a conditional judgment. The court shall retain jurisdiction until full payment and performance of any judgment or order.

(c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only if the demand does not exceed one thousand five hundred dollars ($1,500).

(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver shall not become operative until judgment.

SEC. 3. Section 116.610 of the Code of Civil Procedure is amended to read:

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116.610. (a) The small claims court shall give judgment for
damages, or equitable relief, or both damages and equitable relief,
within the jurisdictional limits stated in Sections 116.220 and 116.231,
and may make such orders as to time of payment or otherwise as the
court deems just and equitable for the resolution of the dispute.
(b) The court may, at its discretion or on request of any party,
continue the matter to a later date in order to permit and encourage
the parties to attempt resolution by informal or alternative means.
(c) The judgment shall include a determination whether the
judgment resulted from a motor vehicle accident on a California
highway caused by the defendant’s operation of a motor vehicle, or
by the operation by some other individual, of a motor vehicle
registered in the defendant’s name.
(d) If the defendant has filed a claim against the plaintiff, or if the
judgment is against two or more defendants, the judgment, and the
statement of decision if one is rendered, shall specify the basis for and
the character and amount of the liability of each of the parties,
including, in the case of multiple judgment debtors, whether the
liability of each is joint or several.
(e) In an action against several defendants, the court may, in its
discretion, render judgment against one or more of them, leaving the
action to proceed against the others, whenever a several judgment
is proper.
(f) The prevailing party is entitled to the costs of the action,
including the costs of serving the order for the appearance of the
defendant.
(g) When the court renders judgment, the clerk shall promptly
deliver or mail notice of entry of the judgment to the parties, and
shall execute a certificate of personal delivery or mailing and place
it in the file.
(h) The notice of entry of judgment shall be on a form approved
or adopted by the Judicial Council.

CHAPTER 143

An act to amend Section 104.17 of the Streets and Highways Code,
relating to state property.

[Approved by Governor July 7, 1992. Filed with
Secretary of State July 8, 1992.]

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

SECTION 1. Section 104.17 of the Streets and Highways Code is
amended to read:

104.17. (a) The department may provide information regarding,
and may lease, airspace under the interchange of Route 4 and Route
5 in San Joaquin County and on the northeast corner of Route 101 and
De La Vina Street in the County of Santa Barbara, to a city, county, or other political subdivision or another state agency for emergency shelter or feeding program purposes. Property may be leased pursuant to this section only if there is no buyer. The lease shall be for one dollar ($1) per month. The lease amount may be paid in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee.

Any lease executed pursuant to this section shall also provide for the cost of administering the lease.

The administrative fee shall not exceed five hundred dollars ($500) per year unless the department determines that a higher administrative fee is necessary.

(b) The Legislature finds and declares that the lease of real property pursuant to this section serves a public purpose.

(c) Any lease executed pursuant to subdivision (a) for airspace under the interchange of Route 4 and Route 5 in San Joaquin County shall provide for the rescission of existing leases of this airspace between the department and the City of Stockton and for the refunding of any rent paid pursuant to those leases for periods commencing on or after January 1, 1988. Upon the request of the City of Stockton, the department may renew the lease executed pursuant to subdivision (a) for the airspace described in this subdivision for the period requested by the city, but not to exceed 10 years, and may, subsequent to that renewal, agree to not more than two additional renewals of not more than 10 years each.

CHAPTER 144

An act to amend Sections 19567, 19605.7, 19605.71, 19612.1, 19612.2, and 19617.5 of, to repeal and add Section 19617.7 of, and to repeal Section 19617.6 of, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

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

19567. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a sum equal to 10 percent of the first money of every purse won by a California-bred horse at a horserace meeting shall be paid by the licensee conducting the meeting to the breeder of the horse. This section applies to any California-bred standardbred horse that is foaled on or after November 1, 1977, for all races, except the California standardbred
sires stakes races.

(b) Notwithstanding subdivision (a), a sum equal to 10 percent of the first and second place money of every purse won by a California-bred Appaloosa or Arabian horse for first or second place at a horserace meeting shall be paid by the licensee conducting the meeting to the breeder of the horse.

(c) This section does not apply to thoroughbred horses or thoroughbred racing.

(d) Moneys from quarter horse racing derived pursuant to this section shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7.

SEC. 2. Section 19605.7 of the Business and Professions Code, as amended by Section 4.5 of Chapter 484 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 deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7; 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. 3. Section 19605.71 of the Business and Professions Code, as amended by Section 5.5 of Chapter 484 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 deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7; 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. 4. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of more than seven hundred fifty thousand dollars ($750,000) which conducts a harness, quarter, Arabian, or Appaloosa horse meeting may deduct from the total amount handled in daily double, quiniela, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen, as additional purses, 40.5 percent.

(b) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7.

The board shall designate the official registering agency representing quarter horse horsemen to administer this subdivision and to distribute premiums. The agency may, with the approval of the board, make a deduction for expenses not to exceed 10 percent of the total awards fund.

(c) From the amount deducted for Appaloosa and Arabian horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-bred Appaloosa or Arabian horses winning or placing at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first money earned to persons owning California-bred Appaloosa or Arabian horses at the time of their wins or places in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred Appaloosa or Arabian horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. The board shall designate the officially recognized organization representing Appaloosa or Arabian horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(d) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

(e) In addition to the amounts otherwise deducted pursuant to this section, every harness racing association shall deduct an additional 2 percent of its exotic parimutuel pools to be distributed
equally as commissions and purses.

SEC. 5. Section 19612.2 of the Business and Professions Code is amended to read:

19612.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of seven hundred fifty thousand dollars ($750,000) or less, except an association subject to Section 19614.2, which conducts a harness, quarter, Arabian, or Appaloosa horse meeting may deduct from the total amount handled in its daily exotic parimutuel pool up to 3 percent thereof to be distributed as additional commissions and purses as follows:

(1) For quarter horse meetings conducted other than pursuant to Section 19612.6 and for Appaloosa horse meetings, as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(2) For harness and quarter horse meetings conducted pursuant to Section 19612.6, 50 percent as commissions and 50 percent as purses.

(b) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7.

The board shall designate the official registering agency representing quarter horse horsemen to administer this subdivision and to distribute premiums. The agency may, with the approval of the board, make a deduction for expenses not to exceed 10 percent of the total awards fund.

(c) From the amount deducted for Appaloosa and Arabian horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-bred Appaloosa or Arabian horses winning or placing at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first money earned to persons owning California-bred Appaloosa or Arabian horses at the time of their wins or places in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred Appaloosa or Arabian horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. The board shall designate the officially recognized organization representing Appaloosa or Arabian horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(d) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) and its distribution between commissions and purses. Except with the consent of the
board, the amount of the deduction and its distribution shall not be changed during the course of the meeting.

(e) In addition to any deductions pursuant to this section, every harness racing association shall also deduct an additional 2 percent of its daily exotic parimutuel pool to be distributed equally as commissions and purses.

SEC. 6. Section 19617.5 of the Business and Professions Code is amended to read:

19617.5. (a) Any association conducting a quarter horse or harness racing meeting shall pay the sums required to be paid by Section 19567 out of the amounts deducted from the parimutuel pool for license fees, commissions, and purses in the same proportion as the distribution of the license fees, commissions, and purses.

Those sums deducted for quarter horse meetings shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7.

(b) Notwithstanding subdivision (a), any association conducting a fair racing meeting other than a harness meeting or conducting a mixed breed meeting shall deduct an additional 0.34 of 1 percent of the total amount handled in its daily conventional and exotic parimutuel pools for all races for payment of breeder and stallion awards provided for in this chapter. Following the close of the meeting, the respective official registering agency or officially recognized horsemen's organization shall distribute the amounts so deducted as follows:

(1) With respect to thoroughbred races, the amounts deducted shall be paid as breeder awards, owners' premiums, and stallion awards as provided in Section 19617.

(2) With respect to quarter horse races, the amounts deducted shall be paid as breeder premiums, and owners' and stallion awards, as provided in Section 19617.7.

(3) With respect to Appaloosa and Arabian races, the amounts deducted shall be paid as breeder awards as provided in Section 19567 and the amount remaining shall be distributed as stallion awards as provided in Section 19617.8.

SEC. 7. Section 19617.6 of the Business and Professions Code is repealed.

SEC. 8. Section 19617.7 of the Business and Professions Code is repealed.

SEC. 9. Section 19617.7 is added to the Business and Professions Code, to read:

19617.7. (a) The following definitions govern the construction of this section:

(1) "Breeder" means a person who is registered as the owner of a California-bred quarter horse mare with the official registering agency and is named on the applicable Certificate of Registration issued by the American Quarter Horse Association at the time the mare foals.

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(2) "Eligible earnings" means the following:
   (A) In the case of breeder premiums, the annual amount earned by a California-bred quarter horse for finishing first or second in qualifying races.
   (B) In the case of owners' awards, the annual amount earned by a California-bred quarter horse for finishing first or second in qualifying races.
   (C) In the case of stallion awards, the annual amount earned by California-conceived or California-bred foals of an eligible quarter horse sire for finishing first or second in qualifying races.
   (D) In order for earnings from a qualifying race to be considered as eligible earnings, a California-bred quarter horse shall be registered as such with the official registering agency before the date entries were taken by the association for the qualifying race in which that horse earned purse money.
   (E) For purposes of this paragraph, the maximum purse considered earned in any qualifying race within this state is two hundred thousand dollars ($200,000) for a win, and eighty thousand dollars ($80,000) for a second place finish.
   (F) In determining the purse earned in any qualifying race which is a stakes race, the amount earned shall be based solely on the added money, with no consideration given to other sources of the purse, such as nomination, entry, or starting fees, bonuses, and sponsor contributions, or any combination thereof.
   (G) On or before February 1 of any year, the stallion owner shall advise the official registering agency of any and all purses earned during the preceding year to be considered in determining the amount of the stallion award to which the owner is entitled.

(3) "Eligible quarter horse sire" means a quarter horse stallion that was continuously present in this state from February 1 to July 15, inclusive, of the calendar year in which the qualifying race was conducted, and, if the sire left this state after July 15 of the calendar year in which the qualifying race was conducted, the sire returned to and was present in this state by February 1 of the following calendar year and thereafter remained until July 15 of that year. If a sire dies in this state and stood his last season at stud in this state, he shall thereafter continue to be considered an eligible quarter horse sire. Notwithstanding any other provision of law, a quarter horse stallion shall be considered an eligible quarter horse sire only if its owner has registered the stallion with the official registering agency for stallion awards on or before February 1 of the calendar year immediately following the calendar year for which the awards are being distributed.

(4) "Official registering agency" means the Pacific Coast Quarter Horse Racing Association.

(5) "Owner" means the person who is registered with the paymaster of purses on the date the qualifying race was conducted as the owner of the California-bred quarter horse earning purse money in that race.
“(6) “Qualifying race” means all quarter horse races in this state.
(7) “Stallion owner” means the person who is the owner of the eligible quarter horse sire as of December 31 of the calendar year in which that sire’s foals had eligible earnings or the person who owned the eligible quarter horse sire on the date that the sire died.
(b) Any association conducting a race meeting which includes quarter horse racing shall deposit with the official registering agency 0.2 of 1 percent of the total amount handled on track, and 0.4 of 1 percent of the total mount handled off track, in daily conventional and exotic parimutuel pools and a sum equal to 25 percent of those funds specified for purses in Section 19612.1, and the sums specified in Sections 19567 and 19617.5, resulting from quarter horse racing. The deposits shall be made at the following intervals:
(1) For any meeting of 20 racing days or less, the requisite deposit shall be made not later than seven days immediately following the last day of that meeting.
(2) For any meeting of more than 20 racing days, the initial deposit shall be made not later than 27 racing days after the commencement of that meeting and every 20 racing days thereafter, with a final deposit made not later than seven days following the last day of that meeting. The initial deposit for that meeting shall be based upon the applicable amount handled during the first 20 racing days of the meeting and deposits thereafter shall be based upon the applicable amount handled during the ensuing periods of 20 racing days with the last deposit being based upon the applicable amount handled from the end of the last 20-racing-day period for which a deposit has been made to the end of the meeting.
(c) After deducting a sum equal to 10 percent of the total deposits made pursuant to subdivision (b) and the total deposits made pursuant to other provisions of this chapter, including Sections 19612.1 and 19612.2, to compensate the official registering agency for its administrative costs, the official registering agency shall distribute annually the balance of the deposits in the following manner:
(1) Sixty percent to the breeder fund from which breeder premiums are to be paid.
(2) Twenty-five percent to the owner fund from which owners’ awards are to be paid.
(3) Fifteen percent to the stallion fund from which stallion awards are to be paid.
(d) The official registering agency shall make the following payments to the breeder, owner, and stallion owner to encourage agriculture and the breeding of high quality horses in this state:
(1) The breeder shall be paid a sum based on a prorated share of first and second place earnings from qualified races by a California-bred quarter horse.
(2) The owner shall be paid an owners’ award, a sum based on a prorated share of first and second place earnings from qualified races by a California-bred quarter horse.
(3) The stallion owner shall be paid a stallion award, a sum based
on a prorated share of first and second place earnings from qualified races by a California-bred quarter horse.

Stallion awards shall not be made to the owner of a sire which has been out of the state for breeding purposes during the calendar year.

(4) The breeder premium, and owners’ and stallion awards shall be paid not later than March 31 of the calendar year immediately following the calendar year for which the awards or premiums were earned.

(e) The amount remaining for distribution under this section, if any, after the payments are made under subdivision (d) shall be used for the payment of quarter horse breeder premiums and owners’ and stallion awards on a prorated percentage based on the win and second place shares of the purse, exclusive of all purse money not derived from the parimutuel pools, to the breeders, owners, and owners of sires of quarter horses who have been officially placed first or second in one or more qualifying races.

(f) If there are insufficient funds to make all of the distributions in this section, there shall be no assessments made against any association to fund the deficiencies.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure viable quarter horse racing meetings, and maintain and encourage the breeding and racing of quarter horses in California, it is necessary that this act take effect immediately.

CHAPTER 145

An act to amend Sections 1689.6 and 1689.7 of the Civil Code, relating to contracts.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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.
This subdivision shall not apply to a personal emergency response unit installed with, and as part of, a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, which shall instead be subject to subdivision (a).

(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, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act (Chapter 11.6 commencing with Section 7590) of Division 3 of the Business and Professions Code) which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, 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 seller’s 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, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, 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.

CHAPTER 146

An act to amend Section 29044 of the Food and Agricultural Code, relating to beekeepers.

[Approved by Governor July 8, 1992. Filed with
Secretary of State July 9, 1992]

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

SECTION 1. Section 29044 of the Food and Agricultural Code is amended to read:

29044. Each beekeeper, apiary owner, apiary operator, or person in possession of any apiary, shall pay, in addition to any other fees imposed under this chapter, an annual registration fee of ten dollars ($10) to the commissioner of the county where the bees reside on January 1, to cover the cost of apiary registration. The director shall by regulation adopt and periodically update a schedule of the fees, which shall include late fees for anyone who fails to register an apiary under Sections 29041 and 29042. The board of supervisors of any county may waive the registration fee for any beekeeper, apiary owner, apiary operator, or person, who is a hobbyist not in the business of beekeeping and who possesses nine or fewer colonies.
CHAPTER 147

An act to amend Sections 33761 and 33782 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992]

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

SECTION 1. Section 33761 of the Health and Safety Code is amended to read:

33761. An agency may issue revenue bonds for the purpose of financing residential construction authorized by this chapter and for the purpose of funding or refunding previously issued revenue bonds. An agency may also issue revenue bonds for the purpose of refunding bonds previously issued by another political subdivision of the state for the purpose of financing residential construction authorized by this chapter for projects within the jurisdiction of the agency. For the purposes of this section, "political subdivision" means a city, a housing authority, or a nonprofit corporation acting on behalf of a city or a housing authority, all of which operate within the jurisdiction of the agency. Any savings that accrue to the agency from refunding bonds previously issued by another political subdivision shall be limited to the expenditures authorized in subdivision (e) of Section 33334.2.

SEC. 2. Section 33782 of the Health and Safety Code is amended to read:

33782. Any agency may provide for the issuance of the revenue bonds of the agency for the purpose of refunding any revenue bonds of the agency then outstanding, or for the purpose of refunding any revenue bonds of another political subdivision of the state then outstanding pursuant to Section 33761, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of the bonds, and, if both (a) deemed advisable by the agency, and (b) projects financed with the bonds fall within the jurisdiction of the agency, for the additional purpose of paying all or any part of the cost of additional residential construction.

The proceeds of revenue bonds issued pursuant to this section may, in the discretion of the agency, be applied to the purchase or retirement at maturity or redemption of outstanding revenue bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and, pending that application, the portion of the proceeds allocated for that purpose may be placed in escrow, to be applied to the purchase or retirement at maturity or redemption on that date, as may be determined by the agency. Pending use for purchase, retirement at maturity, or
redemption of outstanding revenue bonds, any proceeds held in such an escrow may be invested and reinvested as provided in the resolution authorizing the issuance of the refunding bonds. Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and any interest or increment earned or realized from the investment thereof may be returned to the agency to be used by it for any lawful purpose under this chapter. That portion of the proceeds of any revenue bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional residential construction may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligation of, or guaranteed by, the United States of America, maturing not later than the time or times when the proceeds will be needed for the purpose of paying all or any part of the cost.

All revenue bonds issued pursuant to this section shall be subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

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:

So that redevelopment agencies, at the earliest possible time, may refinance mortgage revenue bonds at current, lower interest rates in order to achieve interest rate savings, it is necessary that this act go into immediate effect.

CHAPTER 148

An act to amend Section 827 of the Welfare and Institutions Code, relating to juvenile court proceedings.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

SECTION 1. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected
only by court personnel, the district attorney, or a city attorney or city prosecutor authorized to prosecute criminal or juvenile cases under state law the minor who is the subject of the proceeding, his or her parents or guardian, the attorneys for the parties, and any other person who may be designated by court order of the judge of the juvenile court upon filing a petition therefor. Child protective agencies, as defined in Section 11165.9 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any of those records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court records be as limited as possible, consistent with the need to work with a pupil in an appropriate fashion, and the need to protect potentially vulnerable school staff and other pupils over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 to 12, inclusive, has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisory or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the pupil in an appropriate fashion, to
avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b) the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.
(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

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CHAPTER 149

An act to amend Section 548 of the Code of Civil Procedure, relating to restraining orders.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992]

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

SECTION 1. Section 548 of the Code of Civil Procedure is amended to read:

548. (a) Any restraining order granted after notice and a hearing pursuant to this chapter, in the discretion of the court, shall have a duration of not more than three years, unless otherwise terminated or extended by further order of the court either on written stipulation filed with the court or on the motion of any party.

(b) The failure to state the expiration date on the face of the form shall create an order with a duration of three years from the date of issuance.

(c) Nothing in this section shall prohibit parties, by written stipulation, from creating domestic violence restraining orders arising under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) with a permanent duration.

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CHAPTER 150

An act to amend Section 6155 of the Business and Professions Code, relating to attorneys.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992]

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

SECTION 1. Section 6155 of the Business and Professions Code is amended to read:

6155. (a) An individual, partnership, corporation, association, or any other entity shall not operate for the direct or indirect purpose, in whole or in part, of referring potential clients to attorneys, as no attorney shall accept a referral of such potential clients, unless all of the following requirements are met:

(1) The service is registered with the State Bar of California and
(a) on July 1, 1988, is operated in conformity with minimum standards for a lawyer referral service established by the State Bar, or (b) upon approval by the Supreme Court of minimum standards for a lawyer referral service, is operated in conformity with those standards.

(2) The combined charges to the potential client by the referral service and the attorney to whom the potential client is referred do not exceed the total cost that the client would normally pay if no referral service were involved.

(b) A referral service shall not be owned or operated, in whole or in part, directly or indirectly, by those lawyers to whom, individually or collectively, more than 20 percent of referrals are made. For purposes of this subdivision, a referral service that is owned or operated by a bar association, as defined in the minimum standards, shall be deemed to be owned or operated by its governing committee so long as the governing committee is constituted and functions in the manner prescribed by the minimum standards.

(c) Neither of the following is a lawyer referral service:

(1) A plan of legal insurance as defined in Section 119.6 of the Insurance Code.

(2) A group or prepaid legal plan, whether operated by a union, trust, mutual benefit or aid association, public or private corporation, or other entity or person, which meets both of the following conditions:

(3) A program having as its purpose the referral of clients to attorneys for representation on a pro bono basis.

(A) It recommends, furnishes, or pays for legal services to its members or beneficiaries.

(B) It provides telephone advice or personal consultation.

(d) The following are in the public interest and do not constitute an unlawful restraint of trade or commerce:

(1) An agreement between a referral service and a participating attorney to eliminate or restrict the attorney’s fee for an initial office consultation for each potential client or to provide free or reduced fee services.

(2) Requirements by a referral service that attorneys meet reasonable participation requirements, including experience, education, and training requirements.

(3) Provisions of the minimum standards as approved by the Supreme Court.

(e) A violation or threatened violation of this section may be enjoined by any person.

(f) With the approval of the Supreme Court, the State Bar shall formulate and enforce rules and regulations for carrying out this section, including rules and regulations which do the following:

(1) Establish minimum standards for lawyer referral services. The minimum standards shall include provisions ensuring that panel membership shall be open to all attorneys practicing in the geographical area served who are qualified by virtue of suitable
experience, and limiting attorney registration and membership fees to reasonable sums which do not discourage widespread attorney membership.

(2) Require that an entity seeking to qualify as a lawyer referral service register with the State Bar and obtain from the State Bar a certificate of compliance with the minimum standards for lawyer referral services. A lawyer referral service that, on July 1, 1988, has been authorized by the State Bar shall have a reasonable period, not to exceed six months, after approval of the minimum standards by the Supreme Court to obtain a certificate of compliance.

(3) Require that the certificate may be obtained, maintained, suspended, or revoked pursuant to procedures set forth in the rules and regulations.

(4) Require the lawyer referral service to pay an application and renewal fee for the certificate in such reasonable amounts as may be determined by the State Bar. The State Bar shall adopt rules authorizing the waiver or reduction of the fees upon a demonstration of financial necessity.

(5) Require each lawyer who is a member of a certified lawyer referral service to possess a policy of errors and omissions insurance in an amount not less than one hundred thousand dollars ($100,000) for each occurrence and three hundred thousand dollars ($300,000) aggregate, per year. By rule, the State Bar may provide for alternative proof of financial responsibility to meet this requirement.

(g) The State Bar of California shall submit the proposed rules and regulations adopted pursuant to this section to the Supreme Court for approval no later than July 1, 1988.

(h) This section shall not be construed to prohibit attorneys from jointly advertising their services.

(i) This section 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 would become inoperative and would be repealed.

CHAPTER 151

An act to amend Section 9356 of the Public Resources Code, relating to resource conservation.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

SECTION 1. Section 9356 of the Public Resources Code is amended 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 an ordinance pursuant to this subdivision, the text of the proposed ordinance, including proposed division boundaries, shall be published pursuant to Section 6066 of the Government Code, together with notice of the hearing at which the ordinance 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 ordinance as proposed or as amended at the hearing. Directors in office at the time of adoption of the ordinance shall remain in office until the next general district election, at which a director shall be elected to each division established by the ordinance. 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 ordinance 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 ordinance 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.
CHAPTER 152

An act to amend Section 48916 of the Education Code, relating to pupils.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

SECTION 1. Section 48916 of the Education Code is amended to read:

48916. An expulsion order shall remain in effect until the governing board may, in the manner prescribed in this article, order the readmission of a pupil. At the time an expulsion of a pupil is ordered, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil may apply for readmission to a school maintained by the district.

The governing board may recommend a plan of rehabilitation for the pupil, which may include, but not be limited to, periodic review as well as assessment at the time of application for readmission. The plan may also include recommendations for counseling, employment, community service, or other rehabilitative programs.

The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission. Upon completion of the readmission process, the governing board shall not be required to readmit the pupil. A description of the procedure shall be made available to the pupil and the pupil’s parent or guardian at the time the expulsion order is entered.

CHAPTER 153

An act to amend Sections 5152.4, 5153, and 5153.5 of the Elections Code, relating to elections.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

SECTION 1. Section 5152.4 of the Elections Code is amended to read:

5152.4. After the publication or posting, or both, of the notice of intention and statement, the petition may be circulated among the voters of the district for signatures by any registered voter of the district. Each section of the petition shall bear a copy of the notice
of intention and statement.

SEC. 2. Section 5153 of the Elections Code is amended to read:
5153. (a) Except as provided in Section 5153.5, within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, the clerk of the district shall examine the petition, and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters. A certificate showing the results of this examination shall be attached to the petition.

(b) In determining the number of valid signatures, the clerk of the district may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(c) The clerk of the district shall notify the proponents of the petition as to the sufficiency or insufficiency of the petition.

(d) If the petition is found insufficient, no further action shall be taken. However, the failure to secure sufficient signatures, shall not preclude the filing of a new petition on the same subject, at a later date.

(e) If the petition is found sufficient, the clerk of the district shall certify the results of the examination to the governing board of the district at the next regular meeting of the board.

SEC. 3. Section 5153.5 of the Elections Code is amended to read:
5153.5. (a) Within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, if, from the examination of petitions pursuant to Section 5153, more than 500 signatures have been signed on the petition, the clerk of the district may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the clerk of the district shall be given an equal opportunity to be included in the sample. A random sampling shall include an examination of at least 500 or 3 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the clerk of the district shall examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the petition, the clerk of the district may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(d) The clerk of the district shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(e) If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect.
(f) If the petition is found to be sufficient, the clerk of the district shall certify the results of the examination to the governing board of the district at the next regular meeting of the board.

CHAPTER 154

An act to add Section 10231.3 to the Business and Professions Code, relating to real estate.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

SECTION 1. Section 10231.3 is added to the Business and Professions Code, to read:

10231.3. A real estate broker who satisfies the criteria of subdivision (a), (b), (c), or (d) during any calendar year shall within 30 days thereafter notify the department in writing of that fact on a form prescribed by the commissioner:

(a) Negotiates eight or more loans pursuant to subdivision (d) of Section 10131.

(b) Negotiates the sale or exchange of eight or more promissory notes pursuant to subdivision (e) of Section 10131.

(c) Collects payments on or performs services in connection with eight or more loans pursuant to subdivision (d) of Section 10131.

(d) Acts as a real estate broker pursuant to Section 10131.1 by acquiring for resale to the public, and not as an investment, eight or more promissory notes, or sells to or exchanges with the public eight or more promissory notes.

This section does not apply to a real estate broker who has filed a written notice with the department pursuant to subdivision (f) of Section 10232 if that prior written notice is still effective.

CHAPTER 155

An act to amend Section 2 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), relating to the Orange County Flood Control District.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

SECTION 1. Section 2 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:
Sec. 2. (a) The purposes of this act are to provide for the control of the flood and storm waters of the district, and the flood and storm waters of streams that have their source outside of the district, but which flow into the district, and to conserve those waters for beneficial and useful purposes by spreading, storing, retaining, and causing them to percolate into the soil within the district, or outside the district, or to save or conserve in any manner all or any of those waters and protect from damage from those flood or storm waters, the harbors, waterways, public highways, and property in the district.

(b) The Orange County Flood Control District is hereby declared to be a body corporate and politic and has all of the following powers:

(1) To have perpetual succession.

(2) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(3) To adopt a seal and alter it at pleasure.

(4) To take by grant, purchase, gift, devise, or lease, and to hold, use, enjoy, and to sell, lease, exchange, or dispose of real or personal property of every kind, within or outside the district, necessary to the full exercise of its powers.

(5) To acquire, or contract to acquire, lands, rights-of-way, easements, privileges and property of every kind, and to construct, maintain, and operate any and all works or improvements within or outside the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as authorized in this act.

(6) To exercise the right of eminent domain, either within or outside the district, to take any property necessary to carry out any of the objects or purposes of this act.

(7) To incur indebtedness, and to issue bonds in the manner provided in this act.

(8) To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district in the manner provided in this act.

(9) To make contracts, and to employ labor, and to do all acts necessary for the full exercise of the powers of the district, or any of the officers thereof, by this act.

(10) To grant or otherwise convey to counties, cities and counties, cities, or towns, easements for street and highway purposes, over, along, in, through, across, or under any real property owned by the district.

(11) To remove, carry away, and dispose of any rubbish, trash, debris, or other inconvenient matter that may be dislodged, transported, conveyed, or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of the district or elsewhere.

(12) To sell or dispose of any property (or any interest therein) or, subject to paragraph (13), lease or rent any property (or any
interest therein) whenever, in the judgment of the board of
supervisors, the property, or any interest therein or part thereof, is
not required for the purposes of the district, or property may be
leased, or included in community leases embracing adjoining lands,
for any purpose, including leases for mining or extracting oil, gas,
hydrocarbon substances, or other minerals, without interfering with
the use of the property for the purposes of the district. If it appears
that wells drilled upon private lands are draining or may drain oil,
gas, or other hydrocarbon substances from lands owned by the
district and operations for the production of oil, gas, or other
hydrocarbons on land owned by the district might interfere with the
use of that land for the purposes of the district, the district may enter
into agreements with the owners or operators of the wells for the
payment of compensation to the district for drainage in lieu of
drilling offset wells upon the land owned by the district, and to pay
any compensation received into the general fund of the district and
use the compensation for the purposes of this act. However, nothing
in this section authorizes the board of supervisors, or other governing
body of the district, or any officer thereof, to sell, lease, or otherwise
dispose of any water, water right, reservoir space, or storage capacity,
or any interest or space therein, except as provided by Section 17.
The district may also grant to the United States of America, or any
agency thereof authorized to accept and pay for land which lies
within any channel, dam, or reservoir site, improved or constructed,
in whole or in part, with federal funds, upon the payment to the
district of the actual cost thereof as determined by the board of
supervisors of the district. The district, by and through its board of
supervisors, may warrant and guarantee the title of all lands so
transferred to the United States under this section.

(13) Pursuant to paragraph (12), to lease or rent any property if
the board adopts a resolution that meets both of the following
requirements, as applicable:

(A) Includes all of the following findings, based on substantial
evidence set forth in the minutes of the meeting:

(i) The property was not acquired through eminent domain.

(ii) In the case of a lease, the property is no longer needed for
district purposes, including, but not limited to, flood protection and
water conservation. In the case of a rental, the rental use will not
conflict with the uses and purposes of the district.

(iii) The lease or rental is consistent with 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.

(iv) The lease or rental is consistent with the city or county zoning
ordinances, regulations, and policies adopted for the area within
which the property is located.

(v) The lease or rental is consistent with the city or county
building regulations and policies adopted for the area within which
the property is located.

(B) In the case of a rental, specifies the rental period and the date on which the property will be needed for the uses and purposes of the district.

(14) To monitor, test, or inspect drainage, flood, storm, or other waters within the district for the purpose of recording, determining, and reporting the quality of the waters to appropriate regional water quality control boards.

(15) To assist the County of Orange and any city within the county in emergency operations to control or mitigate the effect of tides, waves, and ocean currents on the Orange County shoreline.

(16) To carry on technical and other investigations, examinations, or tests of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, control of floods, use of water, water quality, nuisance, pollution, waste, and contamination of water, both within and outside the district.

(17) To regulate, prohibit, or control the discharge of pollutants, waste, or any other material into the district's facilities by requiring dischargers to obtain a permit from the district prior to any discharge and by prohibiting the discharge of pollutants or other material which does or may cause a nuisance into the district's facilities without first obtaining a permit from the district, but, if a federal permit has been issued for the discharge, a permit may be issued by the district at no fee to the discharger; except as provided in this act, to require a fee to be collected prior to the issuance of a discharge permit, if the amount of the fee does not exceed the cost of issuing the permit; to require all permit holders to indemnify the district from any and all damages, penalties, or other expenses imposed on or required of the district by state or federal agencies due to any discharge by the permit holders into the district facilities.

(18) To establish compliance with any federal, state, or local law, order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material into the district's facilities. For this purpose, any authorized representative of the district, upon presentation of his or her credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, has the right of entry to any premises on which a water pollution, waste, or contamination source is located for the purpose of inspecting the source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.
An act to amend Sections 6180.1, 6180.5, 6180.6, 6180.7, and 6190.34 of the Business and Professions Code, relating to attorneys.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992.]

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

SECTION 1. Section 6180.1 of the Business and Professions Code is amended to read:

6180.1. The notice shall contain any information that may be required by any order of disbarment, suspension, or of acceptance of the attorneys' resignation, by any rule of the Supreme Court, Judicial Council, or the State Bar, and by any order of a court of the state having jurisdiction pursuant to this article or Article 12 (commencing with Section 6190) of this chapter. It shall be mailed to all persons who are then clients, to opposing counsel, to courts and agencies in which the attorney then had pending matters with an identification of the matter, to any errors and omissions insurer, to the Office of the Chief Trial Counsel of the State Bar and to any other person or entity having reason to be informed of the death, change of status or discontinuance or interruption of law practice. In the event of the death or incompetency of the attorney, the notice shall be given by the personal representative or guardian or conservator of the attorney or, if none, by the person having custody or control of the files and records of the attorney. In other cases, the notice shall be given by the attorney or a person authorized by the attorney or by the person having custody and control of the files and records.

SEC. 2. Section 6180.5 of the Business and Professions Code is amended to read:

6180.5. If the court finds that one or more of the events stated in Section 6180 has occurred, and that supervision of the courts is warranted because the affected attorney has left an unfinished client matter for which no other active member of the State Bar has with consent of the client agreed to assume responsibility, or that the interest of one or more of the clients of the attorney or one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained, it may make an order assuming jurisdiction over the attorney's practice pursuant to this article. If the person to whom the order to show cause is directed does not appear the court may make its order upon the verified application or such proof as it may require. Thereupon the court shall appoint one or more active members of the State Bar to act under its direction to mail a notice of cessation of law practice pursuant to Section 6180.1 and may order such appointed attorneys to do one or more of the following:

(a) Examine the files and records of the law practice, and obtain
information as to any pending matters which may require attention.

(b) Notify persons and entities who appear to be clients of the attorney of the occurrence of the event or events stated in Section 6180 and inform them that it may be to their best interest to obtain other legal counsel.

(c) Apply for an extension of time pending employment of such other counsel by the client.

(d) With the consent of the client, file notices, motions and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.

(e) Give notice to the depositor and appropriate persons and entities who may be affected, other than clients, of the occurrence of such event or events.

(f) Arrange for the surrender or delivery of clients' papers or property.

(g) Arrange for the appointment of a receiver, where applicable, to take possession and control of any and all bank accounts relating to the affected attorney's practice of law, including the general or office account and the clients' trust account.

(h) Do such other acts as the court may direct to carry out the purposes of this article.

The court shall have jurisdiction over the files and records and law practice of the affected attorney for the limited purposes of this section, and may make all orders necessary or appropriate to exercise this jurisdiction. The court shall provide a copy of any order issued pursuant to this article to the Office of the Chief Trial Counsel of the State Bar.

SEC. 3. Section 6180.6 of the Business and Professions Code is amended to read:

6180.6. Nothing in this article shall authorize the court or an attorney appointed by it pursuant to this article to approve or disapprove of the employment of legal counsel, fix terms of legal employment, fix the compensation which may have been earned by the affected attorney, or supervise or in any way to undertake to conduct the law practice except to the limited extent provided by subdivisions (c) and (d) of Section 6180.5.

SEC. 4. Section 6180.7 of the Business and Professions Code is amended to read:

6180.7. Unless court approval is first obtained, neither the attorney appointed pursuant to this article nor his corporation nor any partners or associates of the attorney shall accept employment as an attorney by any client of the affected attorney on any matter pending at the time of the appointment. Action taken pursuant to subdivisions (c) and (d) of Section 6180.5 shall not be deemed such employment.

SEC. 5. Section 6190.34 of the Business and Professions Code is amended to read:

6190.34. If the court finds that (a) the facts set forth in Section 6190 have occurred and, (b) that the interests of the client, or of an
interested person or entity will be prejudiced if the proceeding
provided herein is not maintained, the court shall order the applicant
to mail a notice of cessation of law practice pursuant to Section 6180.1
and may make all orders provided for by the provisions of Article 11
(commencing with Section 6180) of Chapter 4 of Division 3. The
court shall provide a copy of any order issued pursuant to this article
to the Office of the Chief Trial Counsel of the State Bar.

CHAPTER 157

An act to amend Sections 8802, 8804, 8805, 8806, and 44795 of the
Education Code, relating to education, and declaring the urgency
thereof, to take effect immediately.

[Approved by Governor July 8, 1992. Filed with
Secretary of State July 9, 1992.]

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

SECTION 1. Section 8802 of the Education Code is amended to
read:

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) "Lead agency" means the State Department of Education.
(e) "Local educational agency" means a school district or county
office of education.
(f) "Private partner" means a private business or foundation that
provides financial assistance or otherwise assists a support services
program operated under this chapter.
(g) "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

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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.

(h) "Secretary" means the Secretary of Child Development and Education.

(i) "Agency secretary" means the Secretary of the Health and Welfare Agency.

(j) "Superintendent" means the Superintendent of Public Instruction.

(k) "Support services" means services that will enhance the physical, social, emotional, and intellectual development of children and their families.

SEC. 2. Section 8804 of the Education Code is amended to read:

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 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 than 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) Until January 1, 1995, no more than 300 local educational agencies or consortia shall be selected to participate in the Healthy Start Support Services for Children Grant Program.

(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 pupils from low-income families.
2. Will assist families in responding to support services needs of pupils.
3. Has established the local agency collaboration process described in Article 4 (commencing with Section 8806), 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) Involves parents or guardians and teachers in the process of identifying pupils' service needs and in the planning for and provision of support services.

(f) 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.

(g) 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 pupils and their families.

(h) 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 all of the following:

(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.

(i) 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).

(j) 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.

(k) 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.

SEC. 3. Section 8805 of the Education Code is amended to read: 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 pupils.

(4) The number of 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 pupils who receive support services.

(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

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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.

SEC. 4. Section 8806 of the Education Code is amended to read:

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 pupils of qualifying schools 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.

SEC. 5. Section 44795 of the Education Code is amended to read:

44795. This chapter 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.

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 expeditiously implement the Healthy Start Support Services for Children Act, so as to create learning environments that are optimally responsive to the physical, emotional, and intellectual needs of individual schoolchildren, and to provide for the continuation of an ethics and civic values grant program on a basis that will permit advance planning on the part of school districts and other public and private entities, it is necessary that this act take effect immediately.

CHAPTER 158

An act to add Section 10233.2 to the Business and Professions Code, relating to real estate.

[Approved by Governor July 8, 1992. Filed with Secretary of State July 9, 1992]

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

SECTION 1. Section 10233.2 is added to the Business and Professions Code, to read:

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10233.2. For the purposes of Division 3 (commencing with Section 3101) and Division 9 (commencing with Section 9101) of the Commercial Code, when a broker, acting within the meaning of subdivision (d) or (e) of Section 10131 or Section 10131.1, has arranged a loan or sold a promissory note or any interest therein, and thereafter undertakes to service the promissory note on behalf of the lender or purchaser in accordance with Section 10233, delivery, transfer, and perfection shall be deemed complete even if the broker retains possession of the note or collateral instruments and documents, provided that the deed of trust or an assignment of the deed of trust or collateral documents in favor of the lender or purchaser is recorded in the office of the county recorder in the county in which the security property is located, and the note is made payable to the lender or is endorsed or assigned to the purchaser.

CHAPTER 159

An act to amend Section 4800.6 of the Civil Code, relating to marriage.

[Approved by Governor July 10, 1992. Filed with Secretary of State July 10, 1992]

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

SECTION 1. Section 4800.6 of the Civil Code is amended to read:

4800.6. (a) A petition for nullity, dissolution of marriage, or legal separation, or a joint petition for summary dissolution of marriage shall contain the following notice: “Please review your will, insurance policies, retirement benefit plans, credit cards, other credit accounts and credit reports, and other matters you may want to change in view of the dissolution or annulment of your marriage, or your legal separation. However, some changes may require the agreement of your spouse or a court order (see Section 412.21 of the Code of Civil Procedure).”

(b) A judgment of nullity, a judgment of dissolution of marriage, or a judgment of legal separation shall contain the following notice: “Please review your will, insurance policies, retirement benefit plans, credit cards, other credit accounts and credit reports, and other matters you may want to change in view of the dissolution or annulment of your marriage, or your legal separation.”
An act to amend Section 798.41 of the Civil Code, relating to mobilehome parks.

[Approved by Governor July 10, 1992. Filed with Secretary of State July 10, 1992.]

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

SECTION 1. Section 798.41 of the Civil Code is amended to read: 798.41. (a) Where a rental agreement, including a rental agreement specified in Section 798.17, does not specifically provide otherwise, the park management may elect to bill a homeowner separately for utility service fees and charges assessed by the utility for services provided to or for spaces in the park. Any separately billed utility fees and charges shall not be deemed to be included in the rent charged for those spaces under the rental agreement, and shall not be deemed to be rent or a rent increase for purposes of any ordinance, rule, regulation, or initiative measure adopted or enforced by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent, provided that at the time of the initial separate billing of any utility fees and charges the rent chargeable under the rental agreement or the base rent chargeable under the terms of a local rent control provision is simultaneously reduced by an amount equal to the fees and charges separately billed. The amount of this reduction shall be equal to the average amount charged to the park management for that utility service for that space during the 12 months immediately preceding notice of the commencement of the separate billing for that utility service.

Utility services to which this section applies are natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service, and sewer service.

(b) This section does not apply to rental agreements entered into prior to January 1, 1991, until extended or renewed on or after that date.

(c) Nothing in this section shall require rental agreements to provide for separate billing to homeowners of fees and charges specified in subdivision (a).
CHAPTER 161

An act relating to contingencies, emergencies, and deficiencies, making an appropriation in augmentation of Items 9840-001-001, 9840-001-494, and 9840-001-988 of Section 2.00 of the Budget Act of 1991, to take effect immediately, usual current expenses.

[Approved by Governor July 10, 1992. Filed with Secretary of State July 10, 1992.]

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

SECTION 1. (a) The sum of four hundred eleven million one hundred sixty-four thousand dollars ($411,164,000) is hereby appropriated for expenditure in the 1991-92 fiscal year in augmentation of, and for the purposes of, contingencies or emergencies as provided in Items 9840-001-001, 9840-001-494, and 9840-001-988 of Section 2.00 of the Budget Act of 1991, in accordance with the following schedule:

1. Three hundred seventy million four hundred eighty-four thousand dollars ($370,484,000) for purposes not related to Proposition 98 from the General Fund to the Reserve for Contingencies or Emergencies in Item 9840-001-001.

2. Thirty-six million five hundred thousand dollars ($36,590,000) from unallocated special funds to the Reserve for Contingencies or Emergencies in Item 9840-001-494.

3. Four million ninety thousand dollars ($4,090,000) from unallocated nongovernmental cost funds to the Reserve for Contingencies or Emergencies in Item 9840-001-988.

(b) The Director of Finance may withhold authorization for the expenditure of funds provided in this section until such time as, and to the extent that, preliminary estimates of potential deficiencies are verified.

SEC. 2. (a) The amounts scheduled in the following items of appropriation shall be transferred by the Controller to, and in augmentation of, the items of appropriation set forth in subdivision (b) for the purpose of paying deficiencies:

1. Thirteen million four hundred ninety-three thousand one hundred thirty-one dollars ($13,493,131) from Item 6110-114-001 of Section 2.00 of the Budget Act of 1990.

2. Thirteen million five hundred thousand dollars ($13,500,000) from Item 6110-101-001 of Section 2.00 of the Budget Act of 1991.

3. Nine million sixty-three thousand one hundred eighty-nine dollars ($9,063,189) from Item 6110-114-001 of Section 2.00 of the Budget Act of 1991.

4. Twenty-four million seven hundred twenty-four thousand eight hundred twenty-four dollars ($24,724,824) from Item 6110-224-001 of Section 2.00 of the Budget Act of 1991.

5. Six million one hundred eight thousand eight hundred fifteen
dollars ($6,108,815) from Category () of Item 6110-196-001 of Section 2.00 of the Budget Act of 1991.

(b) The amount transferred pursuant to subdivision (a) shall be allocated by the Controller in accordance with the following schedule:

(1) One hundred eighteen thousand dollars ($118,000) to Item 6110-106-001 of Section 2.00 of the Budget Act of 1991.

(2) Four hundred twenty-four thousand nine hundred fifty-nine dollars ($424,959) to Category (a) of Item 6110-158-001 of Section 2.00 of the Budget Act of 1991.

(3) Forty-six million nine hundred sixty-six thousand dollars ($46,966,000) to Schedule (a) of Item 6110-161-001 of Section 2.00 of the Budget Act of 1991.

(4) Eighteen million seven hundred ninety-three thousand dollars ($18,793,000) to Schedule (b) of Item 6110-161-001 of Section 2.00 of the Budget Act of 1991.

(5) Five hundred eighty-eight thousand dollars ($588,000) to Category (aa) of Item 6110-191-001 of Section 2.00 of the Budget Act of 1991.

(c) In the event the amount transferred pursuant to subdivision (a) is insufficient to ensure the full funding of actual deficiencies in the items set forth in subdivision (b), the Director of Finance, with 30 days’ advance written notice provided to the Joint Legislative Budget Committee, may order necessary changes in the amounts to be transferred from the items of appropriation set forth in subdivision (a) to the items of appropriation set forth in subdivision (b).

SEC. 3. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 162*

An act to repeal Part 2.7 (commencing with Section 60) and Part 3 (commencing with Section 196) of Division 1 of, and to repeal Part 5 (commencing with Section 4000) and Part 7 (commencing with Section 7000) of Division 4 of, the Civil Code, to repeal Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of, to repeal Title 10a (commencing with Section 1650) and Title 11.5 (commencing with Section 1730) of Part 3 of, the Code of Civil Procedure, to repeal Section 621 of, and to repeal Chapter 2 (commencing with Section 890) of Division 7 of, the Evidence Code, to enact the Family Code, and to repeal Sections 3301 and 3302 of the Probate Code, relating to family law.

* A cross-reference table showing the origin of each section appears in the Appendix.
The people of the State of California do enact as follows:

SECTION 1. Part 2.7 (commencing with Section 60) of Division 1 of the Civil Code is repealed.
SEC. 2. Part 3 (commencing with Section 196) of Division 1 of the Civil Code is repealed.
SEC. 3. Part 5 (commencing with Section 4000) of Division 4 of the Civil Code is repealed.
SEC. 4. Part 7 (commencing with Section 7000) of Division 4 of the Civil Code is repealed.
SEC. 5. Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure is repealed.
SEC. 6. Title 10a (commencing with Section 1650) of Part 3 of the Code of Civil Procedure is repealed.
SEC. 7. Title 11.5 (commencing with Section 1730) of Part 3 of the Code of Civil Procedure is repealed.
SEC. 8. Section 621 of the Evidence Code is repealed.
SEC. 9. Chapter 2 (commencing with Section 890) of Division 7 of the Evidence Code is repealed.
SEC. 10. The Family Code is enacted, to read:

FAMILY CODE

DIVISION 1. PRELIMINARY PROVISIONS AND DEFINITIONS

PART 1. PRELIMINARY PROVISIONS

1. This code shall be known as the Family Code.
2. A provision of this code, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment.
3. A provision of this code, insofar as it is the same in substance as a provision of a uniform act, shall be construed to effectuate the general purpose to make uniform the law in those states which enact that provision.
4. (a) As used in this section:
   (1) "New law" means either of the following, as the case may be:
      (A) The act that enacted this code.
      (B) The act that makes a change in this code, whether effectuated by amendment, addition, or repeal of a provision of this code.
   (2) "Old law" means the applicable law in effect before the operative date of the new law.
   (3) "Operative date" means the operative date of the new law.
   (b) This section governs the application of the new law except to
the extent otherwise expressly provided in the new law.

(c) Subject to the limitations provided in this section, the new law applies on the operative date to all matters governed by the new law, regardless of whether an event occurred or circumstance existed before, on, or after the operative date, including, but not limited to, commencement of a proceeding, making of an order, or taking of an action.

(d) If a document or paper is filed before the operative date, the contents, execution, and notice thereof are governed by the old law and not by the new law; but subsequent proceedings taken after the operative date concerning the document or paper, including an objection or response, a hearing, an order, or other matter relating thereto is governed by the new law and not by the old law.

(e) If an order is made before the operative date, or an action on an order is taken before the operative date, the validity of the order or action is governed by the old law and not by the new law. Nothing in this subdivision precludes proceedings after the operative date to modify an order made, or alter a course of action commenced, before the operative date to the extent proceedings for modification of an order or alteration of a course of action of that type are otherwise provided in the new law.

(f) No person is liable for an action taken before the operative date that was proper at the time the action was taken, even though the action would be improper if taken on or after the operative date, and the person has no duty, as a result of the enactment of the new law, to take any step to alter the course of action or its consequences.

(g) If the new law does not apply to a matter that occurred before the operative date, the old law continues to govern the matter notwithstanding its repeal or amendment by the new law.

(h) If a party shows, and the court determines, that application of a particular provision of the new law or of the old law in the manner required by this section or by the new law would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons in connection with an event that occurred or circumstance that existed before the operative date, the court may, notwithstanding this section or the new law, apply either the new law or the old law to the extent reasonably necessary to mitigate the substantial interference.

5. Division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this code.

6. Unless the provision or context otherwise requires, the general provisions and rules of construction in this part govern the construction of this code.

7. Whenever a reference is made to a portion of this code or to another law, the reference applies to all amendments and additions regardless of when made.

8. Unless otherwise expressly stated:
   (a) "Division" means a division of this code.
   (b) "Part" means a part of the division in which that term occurs.
(c) "Chapter" means a chapter of the division or part, as the case may be, in which that term occurs.
(d) "Article" means an article of the chapter in which that term occurs.
(e) "Section" means a section of this code.
(f) "Subdivision" means a subdivision of the section in which that term occurs.
(g) "Paragraph" means a paragraph of the subdivision in which that term occurs.
(h) "Subparagraph" means a subparagraph of the paragraph in which that term occurs.

9. The present tense includes the past and future tenses, and the future, the present.
10. The singular number includes the plural, and the plural, the singular.
11. A reference to "husband" and "wife," "spouses," or "married persons," or a comparable term, includes persons who are lawfully married to each other and persons who were previously lawfully married to each other, as is appropriate under the circumstances of the particular case.
12. "Shall" is mandatory and "may" is permissive. "Shall not" and "may not" are prohibitory.
13. If a provision or clause of this code or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are severable.

PART 2. DEFINITIONS

50. Unless the provision or context otherwise requires, the definitions and rules of construction in this part govern the construction of this code.
55. "Abuse" means intentionally or recklessly to cause or attempt to cause bodily injury, or sexual assault, or to place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.
57. "Affinity," when applied to the marriage relation, signifies the connection existing in consequence of marriage between each of the married persons and the blood relatives of the other.
60. "Cohabitant" means a person who regularly resides in the household. "Former cohabitant" means a person who formerly regularly resided in the household.
65. "Community property" is property that is community property under Part 2 (commencing with Section 760) of Division 4.
67. "County" includes city and county.
70. "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 parent pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

75. "Domestic violence prevention order" means any of the following:

(a) An order made pursuant to subdivision (b), (c), or (d) of Section 2035 (order in pending dissolution, nullity, or legal separation proceeding).

(b) An order made pursuant to Section 2045 (order in judgment in dissolution, nullity, or legal separation proceeding).

(c) An order described in subdivision (b), (c), or (d) of Section 2035 made pursuant to subdivision (a) or (b) of Section 5550 (ex parte order under Domestic Violence Prevention Act).

(d) An order issued under Part 4 (commencing with Section 5600) of Division 10 (ex parte emergency protective order under Domestic Violence Prevention Act).

(e) An order described in subdivision (b), (c), or (d) of Section 2035 made pursuant to subdivision (a) or (b) of Section 5750 (order after notice and hearing made under Domestic Violence Prevention Act).

(f) An order made pursuant to subdivision (a), (b), or (c) of Section 7710 (ex parte order under Uniform Parentage Act).

(g) An order described in subdivision (a), (b), or (c) of Section 7710 made pursuant to Section 7720 (order after notice and hearing under Uniform Parentage Act).

(h) An order included in the judgment pursuant to Section 7750 (Uniform Parentage Act).

80. "Employee pension benefit plan" includes public and private retirement, pension, profit sharing, stock bonus, thrift, and similar plans of deferred compensation, whether of the defined contribution or defined benefit type.

92. "Family support" means an agreement between the parents, or an order or judgment, that combines child support and spousal support without designating the amount to be paid for child support and the amount to be paid for spousal support.

95. "Income and expense declaration" means the form for an income and expense declaration in family law matters adopted by the Judicial Council.

100. "Judgment" and "order" include a decree, as appropriate under the circumstances.

115. "Property declaration" means the form for a property declaration in family law matters adopted by the Judicial Council.

125. "Quasi-community property" means all real or personal property, wherever situated, acquired before or after the operative date of this code in any of the following ways:
(a) By either spouse while domiciled elsewhere which would have been community property if the spouse who acquired the property had been domiciled in this state at the time of its acquisition.

(b) In exchange for real or personal property, wherever situated, which would have been community property if the spouse who acquired the property so exchanged had been domiciled in this state at the time of its acquisition.

127. "Respondent" includes defendant, where appropriate.

130. "Separate property" is property that is separate property under Part 2 (commencing with Section 760) of Division 4.

142. "Spousal support" means support of the spouse of the obligor.

145. "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.

150. "Support" refers to a support obligation owing on behalf of a child, spouse, or family, or an amount owing pursuant to Section 11350 of the Welfare and Institutions Code. It also includes past due support or arrearage when it exists. "Support," when used with reference to a minor child, includes maintenance and education.

155. "Support order" means a judgment or order of support in favor of an obligee, whether temporary or final, or subject to modification, termination, or remission, regardless of the kind of action or proceeding in which it is entered.

DIVISION 2. GENERAL PROVISIONS

PART 1. JURISDICTION

200. The superior court has jurisdiction in proceedings under this code.

PART 2. GENERAL PROCEDURAL PROVISIONS

210. Except to the extent that any other statute or rules adopted by the Judicial Council provide applicable rules, the rules of practice and procedure applicable to civil actions generally apply to, and constitute the rules of practice and procedure in, proceedings under this code.

211. Notwithstanding any other provision of law, the Judicial Council may provide by rule for the practice and procedure in proceedings under this code.

212. A petition, response, application, opposition, or other pleading filed with the court under this code shall be verified.

213. (a) In a hearing on an order to show cause, or on a modification thereof, or in a hearing on a motion, other than for contempt, the responding party may seek affirmative relief alternative to that requested by the moving party, on the same issues
raised by the moving party, by filing a responsive declaration within the time set by statute or rules of court.

(b) This section applies in any of the following proceedings:
(1) A proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties.
(2) A proceeding relating to a domestic violence prevention order.
(3) Any other proceeding in which there is at issue the visitation, custody, or support of a minor child.

214. Except as otherwise provided in this code or by court rule, the court may, when it considers it necessary in the interests of justice and the persons involved, direct the trial of any issue of fact joined in a proceeding under this code to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel.

215. After entry of a judgment of dissolution of marriage, nullity of marriage, or legal separation of the parties, or after a permanent order in any other proceeding in which there was at issue the visitation, custody, or support of a minor child, no modification of the judgment or order, and no subsequent order in the proceedings, is valid unless any prior notice otherwise required to be given to a party to the proceeding is served, in the same manner as the notice is otherwise permitted by law to be served, upon the party. For the purposes of this section, service upon the attorney of record is not sufficient.

PART 3. TEMPORARY RESTRAINING ORDER IN SUMMONS

231. This part applies to a temporary restraining order in a summons issued under any of the following provisions:
(a) Section 2030 (proceeding for dissolution, nullity, or legal separation).
(b) Section 7700 (proceeding under Uniform Parentage Act).

232. The summons shall state on its face that the order is enforceable in any place in this state by any law enforcement agency that has received mailed notice of the order or has otherwise received a copy of the order and any officer who has been shown a copy of the order.

233. (a) Upon filing the petition and issuance of the summons and upon personal service of the petition and summons on the respondent or upon waiver and acceptance of service by the respondent, the temporary restraining order under this part shall be in effect against the parties until the final judgment is entered or the petition is dismissed, or until further order of the court.

(b) The temporary restraining order is enforceable in any place in this state, but is not enforceable by a law enforcement agency of a political subdivision unless that law enforcement agency has received mailed notice of the order or has otherwise received a copy of the order or the officer enforcing the order has been shown a copy
of the order.

(c) A willful and knowing violation of the order included in the summons by removing a child from the state without the written consent of the other party or an order of the court is punishable as provided in Section 278.5 of the Penal Code. A willful and knowing violation of any of the other orders included in the summons is punishable as provided in Section 273.6 of the Penal Code.

234. The automatic granting of the ex parte temporary restraining order under this part is not a court determination or competent evidence in any proceeding of any prior history of the conduct so proscribed occurring between the parties.

235. Nothing in this part precludes either party from applying to the court for modification or revocation of the temporary restraining order provided for in this part or for further temporary orders or an expanded temporary ex parte order.

PART 4. TEMPORARY RESTRAINING ORDERS AND SUPPORT ORDERS ISSUED WITHOUT NOTICE

240. Except as otherwise provided by law, this part applies to an order under any of the following provisions:

(a) Article 2 (commencing with Section 2035) of Chapter 4 of Part 1 of Division 6 (ex parte protective orders in proceedings for dissolution, nullity, or legal separation).

(b) Chapter 4 (commencing with Section 3600) of Part 1 of Division 9 (spousal and child support during pendency of proceeding).

(c) Part 3 (commencing with Section 5530) of Division 10 (Domestic Violence Prevention Act).

(d) Chapter 6 (commencing with Section 7700) of Part 3 of Division 12 (Uniform Parentage Act).

241. Except as provided in Section 5530, no order described in Section 240 shall be granted without notice to the respondent unless it appears from facts shown by the affidavit in support of the application for the order, or in the application for the order, that great or irreparable injury would result to the applicant before the matter can be heard on notice.

242. (a) Except as provided in subdivision (b), if an order described in Section 240 is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why a permanent order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date of the order.

(b) The matter shall be made returnable not later than 20 days or, if good cause appears to the court, 25 days from the date of the order, in an order under:

(1) Article 2 (commencing with Section 2035) of Chapter 4 of Part 1 of Division 6.

(2) Division 10 (commencing with Section 5500).
(3) Article 2 (commencing with Section 7710) of Chapter 6 of Part 3 of Division 12.

(c) The court may on motion of the applicant or on its own motion shorten the time for service on the respondent of the order to show cause in an order under:

(1) Division 10 (commencing with Section 5500).
(2) Article 2 (commencing with Section 7710) of Chapter 6 of Part 3 of Division 12.

243. (a) When the matter first comes up for hearing, the applicant must be ready to proceed and must have served on the respondent, at least two days before the hearing, a copy of the application and of any affidavits to be used in the application and a copy of the points and authorities in support of the application. If the applicant fails to comply with this subdivision, the court shall dissolve the order.

(b) The respondent is entitled, as of course, to one continuance for a reasonable period, to respond to the application for the order. The respondent may, in response to the order to show cause, present affidavits relating to the granting of the order, and if the affidavits are served on the applicant at least two days before the hearing, the applicant is not entitled to a continuance on account of the affidavits.

244. (a) On the day upon which the order is made returnable, the hearing shall take precedence over all other matters on the calendar of the day, except older matters of the same character, and matters to which special precedence may be given by law.

(b) When the cause is at issue it shall be set for trial at the earliest possible date and shall take precedence over all other cases, except older matters of the same character, and matters to which special precedence may be given by law.

245. (a) The court may, upon the filing of an affidavit by the applicant that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent.

(b) The reissued order shall state on its face the date of expiration of the order.

(c) No fee shall be charged for the reissuance of the order unless the order had been dissolved three times previously.

PART 5. PROVISIONS FOR ATTORNEY'S FEES AND COSTS

270. (a) During the pendency of a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court may, 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 the party's rights, order any party, except a governmental entity, to pay the amount 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.

(b) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(c) For services rendered or costs incurred after entry of judgment, the court may award the costs and attorney's fees reasonably necessary to maintain or defend any subsequent proceeding, and may augment or modify an award so made, including after an appeal has been concluded.

(d) 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.

271. (a) Except as provided in subdivision (b), during the pendency of a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, 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.

(b) An order described in subdivision (a) may be made without notice by an oral motion in open court at any of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure.

272. (a) The court may make an award of attorney's fees and costs under Section 270 or 271 where the making of the award, and the amount of the award, are just and reasonable under the relative circumstances of the respective parties.

(b) In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately, taking into consideration, to the extent relevant, the circumstances of the respective parties described in Section 4320. The fact that the party requesting an award of attorney's fees and costs has resources from which the party could pay the party's own attorney's fees and costs is not itself a bar to an order that the other party pay part or all of the fees and costs requested. Financial resources are only one factor for the court to consider in determining how to apportion the overall cost of the litigation equitably between the parties under their relative circumstances.

(c) The court may order payment of an award from any type of property, whether community or separate, principal or income.

273. 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 the party's rights, shall award reasonable attorney's fees to:

(a) A custodial parent or other person to whom payments should be made in any action to enforce any of the following:

1. An existing order for child support.

2. A penalty incurred pursuant to Chapter 5 (commencing with Section 4720) of Part 5 of Division 9.

(b) A supported spouse in an action to enforce an existing order for spousal support.

274. (a) Notwithstanding Sections 270 to 273, inclusive, the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction. In making an award pursuant to this section, the court shall take into consideration all evidence concerning the parties' incomes, assets, and abilities. The court shall not impose a sanction pursuant to this section that imposes an unreasonable financial burden upon the party against whom the sanction is imposed. In order to obtain an award under this section, the party requesting an award of attorney's fees and costs is not required to demonstrate any financial need for the award.

(b) An award of fees and costs as a sanction pursuant to this section shall be imposed only after notice to the party against whom the sanction is proposed to be imposed and opportunity for that party to be heard.

(c) An award of fees and costs as a sanction pursuant to this section shall be payable only from the property or income of the party against whom the sanction is imposed, except that the award may be against the sanctioned party's share of the community property.

275. (a) When the court orders one of the parties to pay costs and attorney's fees for the benefit of the other party, those costs and fees may, in the discretion of the court, be made payable in whole or in part to the attorney entitled thereto.

(b) Subject to subdivision (c), the order providing for payment of the costs and attorney's fees may be enforced directly by the attorney in the attorney's own name or by the party in whose behalf the order was made.

(c) If the attorney has ceased to be the attorney for the party in whose behalf the order was made, the attorney may enforce the order only if it appears of record that the attorney has given to the former client or successor counsel 10 days' written notice of the application for enforcement of the order. During the 10-day period, the client may file in the proceeding a motion directed to the former attorney for partial or total reallocation of fees and costs to cover the services and cost of successor counsel. Upon the filing of the motion,
the enforcement of the order by the former attorney shall be stayed until the court has resolved the motion.

PART 6. ENFORCEMENT OF JUDGMENTS AND ORDERS

290. A judgment or order made or entered pursuant to this code may be enforced by the court by execution, the appointment of a receiver, or contempt, or by such other order as the court in its discretion determines from time to time to be necessary.

291. The lack of diligence for more than the period specified in Chapter 7 (commencing with Section 5100) of Part 5 of Division 9 in seeking enforcement of a judgment or order made, entered, or enforceable pursuant to this code that requires the payment of money shall be considered by the court in determining whether to permit enforcement of the judgment or order under Section 290.

PART 7. TRIBAL MARRIAGES AND DIVORCES

295. (a) For the purpose of application of the laws of succession set forth in the Probate Code to a decedent, and for the purpose of determining the validity of a marriage under the laws of this state, an alliance entered into before 1958, which, by custom of the Indian tribe, band, or group of which the parties to the alliance, or either of them, are members, is commonly recognized in the tribe, band, or group as marriage, is deemed a valid marriage under the laws of this state.

(b) In the case of these marriages and for the purposes described in subdivision (a), a separation, which, by custom of the Indian tribe, band, or group of which the separating parties, or either of them, are members, is commonly recognized in the tribe, band, or group as a dissolution of marriage, is deemed a valid divorce under the laws of this state.

DIVISION 3. MARRIAGE

PART 1. VALIDITY OF MARRIAGE

300. Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of the parties capable of making that contract is necessary. Consent alone does not constitute marriage. Consent must be followed by the issuance of a license and solemnization as authorized by this division, except as provided by Part 4 (commencing with Section 500).

301. An unmarried male of the age of 18 years or older, and an unmarried female of the age of 18 years or older, and not otherwise disqualified, are capable of consenting to and consummating marriage.

302. An unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage if each of the
following documents is filed with the county clerk issuing the marriage license:

(a) The written consent of the parents of each underage person, or of one of the parents or the guardian of each underage person.

(b) A court order granting permission to the underage person to marry, obtained on the showing the court requires.

303. If it appears to the satisfaction of the court by application of a minor that the minor requires a written consent to marry and that the minor has no parent or has no parent capable of consenting, the court may make an order consenting to the issuance of a marriage license and granting permission to the minor to marry. The order shall be filed with the county clerk at the time the license is issued.

304. As part of the court order granting permission to marry under Section 302 or 303, the court shall require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if the court considers the counseling to be necessary. The parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of any premarital counseling provided by the county. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

305. Consent to and solemnization of marriage may be proved under the same general rules of evidence as facts are proved in other cases.

306. Except as provided in Section 307, marriage must be licensed, solemnized, and authenticated, and the certificate of registry of marriage must be filed as provided in this part; but noncompliance with this part by a nonparty to the marriage does not invalidate the marriage.

307. This division, so far as it relates to the solemnizing of marriage, is not applicable to members of a particular religious society or denomination not having clergy for the purpose of solemnizing marriage or entering the marriage relation, if all of the following requirements are met:

(a) The parties to the marriage make, sign, and endorse on or attach to the license a statement, in the form prescribed by the State Department of Health Services, showing all of the following:

(1) The fact, time, and place of entering into the marriage.

(2) The signatures and places of residence of two witnesses to the ceremony.

(3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement of the parties to the marriage that the marriage was
entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true.

(b) The License and Certificate of Declaration of Marriage, endorsed pursuant to subdivision (a), is filed with the local registrar of marriages of the county in which the license was issued within four days after the ceremony.

308. A marriage contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state.

309. If either party to a marriage denies the marriage, or refuses to join in a declaration of the marriage, the other party may proceed, by action, to have the validity of the marriage determined and declared.

310. Marriage is dissolved only by one of the following:
(a) The death of one of the parties.
(b) A judgment of dissolution of marriage.
(c) A judgment of nullity of marriage.

PART 2. MARRIAGE LICENSE AND CERTIFICATE OF REGISTRY

350. Before entering a marriage, or declaring a marriage pursuant to Section 425, the parties shall first obtain a marriage license from a county clerk.

351. The marriage license shall show all of the following:
(a) The identity of the parties to the marriage.
(b) The parties’ real and full names, and places of residence.
(c) The parties’ ages.

352. No marriage license shall be granted if either of the applicants lacks the capacity to enter into a valid marriage or is, at the time of making the application for the license, under the influence of an intoxicating liquor or narcotic drug.

353. If an applicant for a marriage license is under the age of 18 years, the license may be granted only if both parties are capable of consenting to and consummating marriage as provided for in Section 302, and the consent or court order required by Section 303 are filed with the county clerk.

354. (a) Each applicant for a marriage license may be required to present authentic identification as to name.
(b) For the purpose of ascertaining the facts mentioned or required in this part, if the clerk deems it necessary, the clerk may examine the applicants for a marriage license on oath at the time of the application. The clerk shall reduce the examination to writing and the applicants shall sign it.
(c) If necessary, the clerk may request additional documentary proof as to the accuracy of the facts stated.
(d) Applicants for a marriage license shall not be required to state, for any purpose, their race or color.
355. (a) The forms for the application for a marriage license and the marriage license shall be prescribed by the State Department of Health Services, and shall be adapted to set forth the facts required in this part.

(b) The form for the application for a marriage license shall include an affidavit on the back, which the applicants shall sign, affirming that they have received the brochure provided for in Section 358.

(c) The affidavit required by subdivision (b) shall state:

AFFIDAVIT

I acknowledge that I have received the brochure titled

______________________________
Signature of Bride

______________________________
Signature of Groom

______________________________
Date

______________________________
Date

356. A marriage license issued pursuant to this part expires 90 days after its issuance. The calendar date of expiration shall be clearly noted on the face of the license.

357. (a) The county clerk shall number each marriage license issued and shall transmit at periodic intervals to the county recorder a list of the licenses issued.

(b) Not later than 60 days after the date of issuance, the county recorder shall notify licenseholders whose certificate of registry has not been filed of that fact and that the marriage license will automatically expire on the date shown on its face.

(c) The county recorder shall notify the licenseholders of the obligation of the person solemnizing their marriage to return the certificate of registry and endorsed license to the recorder's office within four days after the ceremony.

358. (a) The State Department of Health Services shall prepare and publish a brochure which shall contain the following:

1. Information concerning the possibilities of genetic defects and diseases and contain a listing of centers available for the testing and treatment of genetic defects and diseases.

2. Information concerning acquired immune deficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(b) The State Department of Health Services shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notary publics receiving a confidential marriage license pursuant to Section 503.

(c) Each notary public authorizing a confidential marriage under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.
(d) To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

359. (a) Applicants for a marriage license shall obtain from the county clerk issuing the license, a certificate of registry of marriage.

(b) The contents of the certificate of registry are as provided in Division 9 (commencing with Section 10000) of the Health and Safety Code.

(c) The certificate of registry shall be filled out by the applicants, in the presence of the county clerk issuing the marriage license, and shall be presented to the person solemnizing the marriage.

(d) The person solemnizing the marriage shall complete the certificate of registry and shall cause to be entered on the certificate of registry the signature and address of one witness to the marriage ceremony.

(e) The certificate of registry shall be filed by the person solemnizing the marriage with the county recorder of the county in which the license was issued within four days after the ceremony.

360. (a) If a certificate of registry of marriage is lost or destroyed after the marriage ceremony but before filing with the county recorder, the person solemnizing the marriage, in order to comply with Section 359, shall obtain a duplicate certificate of registry by filing an affidavit setting forth the facts with the county clerk of the county in which the license was issued.

(b) The fee for issuing the duplicate marriage license and certificate of registry is five dollars ($5).

PART 3. SOLEMNIZATION OF MARRIAGE

CHAPTER 1. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

400. Marriage may be solemnized by any of the following who is of the age of 18 years or older:

(a) A priest, minister, or rabbi of any religious denomination.

(b) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record or justice court in this state.

(c) A judge or magistrate who has resigned from office.

(d) Any of the following judges or magistrates of the United States:

1. A justice or retired justice of the United States Supreme Court.

2. A judge or retired judge of a court of appeals, a district court, or a court created by an act of Congress the judges of which are entitled to hold office during good behavior.

3. A judge or retired judge of a bankruptcy court or a tax court.

4. A United States magistrate or retired magistrate.

401. (a) For each county, the county clerk is designated as a commissioner of civil marriages.
(b) The commissioner of civil marriages may appoint deputy commissioners of civil marriages who may solemnize marriages under the direction of the commissioner of civil marriages and shall perform other duties directed by the commissioner.

402. In addition to the persons permitted to solemnize marriages under Section 400, a county may license officials of a nonprofit religious institution, whose articles of incorporation are registered with the Secretary of State, to solemnize the marriages of persons who are affiliated with or are members of the religious institution. The licensee shall possess the degree of doctor of philosophy and must perform religious services or rites for the institution on a regular basis. The marriages shall be performed without fee to the parties.

CHAPTER 2. SOLEMNIZATION OF MARRIAGE

420. (a) No particular form for the ceremony of marriage is required for solemnization of the marriage, but the parties must declare, in the presence of the person solemnizing the marriage, that they take each other as husband and wife.

(b) No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

421. Before solemnizing a marriage, the person solemnizing the marriage shall require the presentation of the marriage license. If the person solemnizing the marriage has reason to doubt the correctness of the statement of facts in the marriage license, the person must be satisfied as to the correctness of the statement of facts before solemnizing the marriage. For this purpose, the person may administer oaths and examine the parties and witnesses in the same manner as the county clerk does before issuing the license.

422. The person solemnizing a marriage shall make, sign, and endorse upon or attach to the marriage license a statement, in the form prescribed by the State Department of Health Services, showing all of the following:

(a) The fact, time, and place of solemnization.

(b) The names and places of residence of one or more witnesses to the ceremony.

(c) The official position of the person solemnizing the marriage, or of the denomination of which that person is a priest, minister, rabbi, or member of the clergy.

(d) The person solemnizing the marriage shall also type or print the person’s name and address.

423. The person solemnizing the marriage shall return the marriage license, endorsed as required in Section 422, to the local registrar of marriages of the county in which the license was issued within four days after the ceremony.

424. At the request of, and for, either party to a marriage, the person solemnizing the marriage shall issue a marriage certificate
showing the facts specified in Section 422.

425. If no record of the solemnization of a marriage previously contracted is known to exist, the parties may purchase a License and Certificate of Declaration of Marriage from the county clerk in the parties' county of residence. The license and certificate shall be filed with the local registrar of marriages of the county in which the license was issued.

PART 4. CONFIDENTIAL MARRIAGE

CHAPTER 1. GENERAL PROVISIONS

500. When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife, they may be married pursuant to this chapter by a person authorized to solemnize a marriage under Chapter 1 (commencing with Section 400) of Part 3, without the necessity of first obtaining health certificates.

501. Except as provided in Section 502, a confidential marriage license shall be issued by the county clerk upon the personal appearance of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code.

502. If, for any reason, either or both of the parties to be married is physically unable to appear in person before the county clerk, a confidential marriage license shall be issued by the county clerk to the person solemnizing the marriage upon that person's presenting an affidavit to the county clerk, signed by the person and the parties to be married, explaining the reason for the inability to appear.

503. The county clerk shall issue a confidential marriage license upon the request of a notary public approved by the county clerk to authorize confidential marriages pursuant to Chapter 2 (commencing with Section 530) and upon payment by the notary public of the fees specified in Sections 26840.1 and 26840.8 of the Government Code. The parties shall reimburse a notary public who authorizes a confidential marriage for the amount of the fees.

504. A confidential marriage license is valid only for a period of 90 days after its issuance by the county clerk and may only be used in the county in which it was issued.

505. (a) The form of the confidential marriage license shall be prescribed by the State Registrar of Vital Statistics.

(b) The form shall be designed to require that the parties to be married declare or affirm that they meet all of the requirements of this chapter.

(c) The form shall include a certificate of marriage, which shall be filled out by the parties upon performance of the marriage and be authenticated by the person solemnizing the marriage.

(d) The form shall include an affidavit on the back, which the husband and wife shall sign, affirming that they have received the
brochure provided for in Section 358.
(e) The affidavit required by subdivision (d) shall state:

AFFIDAVIT

I acknowledge that I have received the brochure titled

________________________________________  _________________________
Signature of Wife                                      Date

________________________________________  _________________________
Signature of Husband                                  Date

506. (a) The confidential marriage license shall be presented to
the person solemnizing the marriage.
(b) Upon performance of the ceremony, the confidential marriage
certificate shall be filled out by the parties to the marriage and
authenticated by the person solemnizing the marriage.
(c) The certificate shall be filed by the person solemnizing the
marriage with the office of the county clerk in the county in which
the license was issued within four days after the ceremony.

507. Upon performance of the ceremony, the person solemnizing
the marriage shall give a copy of the confidential marriage certificate
to the parties who were married.

508. The person solemnizing the marriage shall provide the
parties who were married with an application for a certified copy of
the confidential marriage certificate which shall be filled out by the
parties and sent by the person solemnizing the marriage to the
county clerk.

509. (a) A party to a confidential marriage may obtain a certified
copy of the confidential marriage certificate from the county clerk
of the county in which the certificate is filed in any of the following
ways:
(1) By submitting the application for a certified copy of the
confidential marriage certificate provided to the parties at the time
of the marriage pursuant to Section 508.
(2) By personally appearing before a notary public or at the
county clerk’s office in the party’s county of residence, producing
proper identification, obtaining a certificate attesting to the party’s
identity from the notary public or county clerk, and transmitting that
certificate, together with a request for the certified copy of the
confidential marriage certificate, to the county clerk of the county
with which the certificate is filed.
(3) By personally appearing at the county clerk’s office where the
certificate is filed and producing proper identification.
(b) Copies of a confidential marriage certificate may be issued to
the parties to the marriage upon the payment of a fee equivalent to
that charged for copies of a certificate of marriage.

510. If a confidential marriage certificate is lost, damaged, or
destroyed after the performance of the marriage and before it is
filed, the county clerk may issue a replacement upon the payment of a fee of five dollars ($5).

511. (a) Except as provided in subdivision (b), the county clerk shall maintain confidential marriage certificates filed pursuant to Section 506 as permanent records which shall not be open to public inspection except upon order of the court issued upon a showing of good cause.

(b) The county clerk shall keep all original certificates of confidential marriages for one year from the date of filing. After one year, the clerk may microfilm the certificates and dispose of the original certificates. The county clerk shall promptly seal and store at least one original negative of each microphotographic film made in a manner and place as reasonable to ensure its preservation indefinitely against loss, theft, defacement, or destruction. The microphotograph shall be made in a manner and on paper that complies with the minimum standards of quality approved by the National Bureau of Standards. Every reproduction shall be deemed and considered an original. A certified copy of any reproduction shall be deemed and considered a certified copy of the original.

(c) The county clerk may conduct a search for a confidential marriage certificate for the purpose of confirming the existence of a marriage, but the date of the marriage and any other information contained in the certificate shall not be disclosed except upon order of the court.

(d) The county clerk shall, not less than quarterly, transmit copies of all confidential marriage certificates to the State Registrar of Vital Statistics. The registrar may destroy the copies so transmitted after they have been indexed. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this chapter, but shall not disclose the date of the marriage.

CHAPTER 2. APPROVAL OF NOTARIES TO AUTHORIZE CONFIDENTIAL MARRIAGES

530. (a) No notary public shall authorize a confidential marriage pursuant to this part unless the notary public is approved by the county clerk to authorize confidential marriages pursuant to this chapter.

(b) A violation of subdivision (a) is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or six months in jail.

531. (a) An application for approval to authorize confidential marriages pursuant to this part shall be submitted to the county clerk in the county in which the notary public who is applying for the approval resides.

(b) The application shall include all of the following:

(1) The full name of the applicant.
(2) The date of birth of the applicant.
(3) The applicant’s current residential address and telephone
number.

(4) The address and telephone number of the place where the applicant will issue authorizations for the performance of a marriage.

(5) The full name of the applicant's employer if the applicant is employed by another person.

(6) Whether or not the applicant has engaged in any of the acts specified in Section 8214.1 of the Government Code.

(c) The application shall be accompanied by the fee provided for in Section 536.

532. No approval shall be granted pursuant to this chapter unless the notary public shows evidence of successful completion of a course of instruction concerning the authorization of confidential marriages that shall be conducted by the county clerk. The course of instruction shall not exceed two hours in duration.

533. An approval to authorize confidential marriages pursuant to this chapter is valid for one year. The approval may be renewed for additional one-year periods upon payment of the renewal fee provided for in Section 536.

534. (a) The county clerk shall maintain a list of the notaries public who are approved to authorize confidential marriages. The list shall be available for inspection by the public.

(b) It is the responsibility of a notary public approved to authorize confidential marriages pursuant to this chapter to keep current the information required in paragraphs (1), (3), (4), and (5) of subdivision (b) of Section 531. This information shall be used by the county clerk to update the list required to be maintained by this section.

535. (a) If, after an approval to authorize confidential marriages is granted pursuant to this chapter, it is discovered that the notary public has engaged in any of the actions specified in Section 8214.1 of the Government Code, the approval shall be revoked, and any fees paid by the notary public may be retained by the county clerk.

(b) If a notary public who is approved to authorize confidential marriages pursuant to this chapter is alleged to have violated a provision of this division, the county clerk shall conduct a hearing to determine if the approval of the notary public should be suspended or revoked. The notary public may present such evidence as is necessary in the notary public's defense. If the county clerk determines that the notary public has violated a provision of this division, the county clerk may place the notary public on probation or suspend or revoke the notary public's registration, and any fees paid by the notary public may be retained by the county clerk. The county clerk shall report the findings of the hearing to the Secretary of State for whatever action the Secretary of State deems appropriate.

536. (a) The fee for an application for approval to authorize confidential marriages pursuant to this chapter is one hundred seventy-five dollars ($175).

(b) The fee for a renewal of an approval is one hundred
seventy-five dollars ($175).

(c) Fees received pursuant to this chapter shall be deposited in a trust fund established by the county clerk. The money in the trust fund shall be used exclusively for the administration of the program described in this chapter.

PART 5. PREMARITAL EXAMINATION

580. Before a person authorized to issue marriage licenses issues a license, each applicant for the license shall file with the person a certificate from a licensed physician and surgeon that satisfies the requirements of this part.

581. The certificate shall contain a statement that the applicant has been given the examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than 30 days before the date of issuance of the license, and that, in the opinion of the physician and surgeon, the person either is not infected with syphilis, or if so infected, is not in a stage of that disease which is or may become communicable to the marital partner.

582. (a) Except as provided in subdivision (b), the certificate shall contain a statement whether the female applicant has laboratory evidence of immunological response to rubella (German measles).

(b) The certificate shall not contain evidence of response to rubella where the female applicant (1) is over 50 years of age, or (2) has had a surgical sterilization, or (3) presents laboratory evidence of a prior test declaring her immunity to rubella.

583. (a) The certificate shall indicate that an HIV test, as defined in Section 26 of the Health and Safety Code, including any appropriate confirmatory tests for positive reactors, was offered. It is the intention of the Legislature that the results of the tests shall be transmitted to the marriage license applicant, and that followup counseling by a knowledgeable and experienced person shall be made available.

(b) Disclosure of the results of any test performed in accordance with subdivision (a) shall not be made except as provided in Chapter 1.11 (commencing with Section 199.20) of Part 1 of Division 1 of the Health and Safety Code.

584. A person who by law is validly able to obtain a marriage license in this state is validly able to give consent to any examinations and tests required by this part.

585. In submitting the blood specimen to the laboratory the physician and surgeon shall designate that this is a premarital test.

586. The certificate shall be accompanied by a statement from the person in charge of the laboratory making the test, or from some other person authorized to make the report, setting forth all of the following:

(a) The name of the test.

(b) The date the test was made.
(c) The name and address of the physician and surgeon to whom
the test was sent.

(d) The name and address of the person whose blood was tested.

587. (a) Certificate forms provided by other states having
comparable laws will be accepted for persons who have been
examined and who have received serological tests for syphilis outside
this state if the examinations and tests were performed not more
than 30 days before the issuance of the marriage license.

(b) Certificate forms provided by other states not having
comparable laws will be accepted for persons who have been
examined by a physician and surgeon licensed in that state and who
have received serological tests for syphilis performed by the official
state public health laboratory in that state if the certificate states that
the examination and tests were performed not more than 30 days
before issuance of the marriage license.

588. Certificates provided by the armed forces of the United
States will be accepted for military personnel if the certificate is
signed by a medical officer commissioned in the armed forces and
the certificate states the examinations and serological tests for
syphilis were performed not more than 30 days before the issuance
of the marriage license.

589. (a) For the purpose of this part, a standard serological test
is a test for syphilis approved by the State Department of Health
Services made by an approved laboratory.

(b) An approved laboratory is any of the following:

(1) The laboratory of the State Department of Health Services.

(2) A laboratory approved by the State Department of Health
Services.

(3) Any other laboratory the director of which is licensed by the
State Department of Health Services according to law.

(c) In case of question concerning accuracy of tests prescribed in
this part, the State Department of Health Services shall accept
specimens for checking purposes from any place in the state.

590. The laboratory shall submit such laboratory reports or
records to the State Department of Health Services as are required
by regulation. The health officer may destroy copies of reports that
have been retained pursuant to this section for a period of two years.

591. (a) The judge of the superior court in the county in which
the marriage license is to be issued, on joint application by both
parties to the marriage, may waive the requirements as to medical
examinations, laboratory tests, and certificates, and may order the
licensing authority to issue the license applied for, if (1) all other
requirements of the marriage laws have been complied with and (2)
the judge is satisfied by affidavit or other proof that an emergency
or other sufficient cause for making the order exists and that the
public health and welfare will not be injuriously affected by making
the order.

(b) If the examinations and tests have been made and a certificate
has been refused because one or both of the applicants have been
found to be infected with syphilis, the judge of the superior court in
the county in which the marriage license is to be issued nevertheless
may, on application of both parties to the marriage, order the
licensing authority to issue the license if (1) all other requirements
of the marriage laws have been complied with and (2) the judge is
satisfied by affidavit or other proof that an emergency or other
sufficient cause for making the order exists and that the public health
and welfare will not be injuriously affected by making the order.

(c) The court order shall be filed by the licensing authority in lieu
of the certificate form.

(d) The court clerk shall transmit to the State Department of
Health Services a transcript of the record and the order for such
followup by the department as is required by law or deemed
necessary by the department for the protection of the public health.

(e) The court when it is deemed necessary may, to the extent
authorized by law or rules of court, order all proceedings instituted
under this part to be confidential and private. There shall be no fee
for these court proceedings.

592. The certificate forms and the court orders under this part
shall be filed in the office of the county clerk. They shall be preserved
for one year from the date of filing after which date they may be
destroyed.

593. (a) An applicant for a marriage license, physician and
surgeon, or representative of a laboratory, who misrepresents his or
her identity or a fact called for by the certificate form prescribed by
this part is guilty of a misdemeanor.

(b) A licensing officer who issues a marriage license without
having received the certificate form or an order from the court, or
who has reason to believe that a fact on the certificate form has been
misrepresented but nevertheless issues a marriage license, is guilty
of a misdemeanor.

(c) A person who otherwise fails to comply with this part is guilty
of a misdemeanor.

594. (a) Certificates, laboratory statements or reports,
applications, and court orders, referred to in this part, and the
information therein contained, is confidential and shall not be
divulged to or be open to inspection by any person other than state
or local health officers or their authorized representatives.

(b) A person who opens to inspection the certificates, laboratory
statements or reports, applications, or court orders referred to in this
part, or divulges any information therein contained, without
authority, to a person not by law entitled to the same is guilty of a
misdemeanor.

DIVISION 4. RIGHTS AND OBLIGATIONS DURING
MARRIAGE

PART 1. GENERAL PROVISIONS
CHAPTER 1. DEFINITIONS

700. For the purposes of this division, a leasehold interest in real property is real property, not personal property.

CHAPTER 2. RELATION OF HUSBAND AND WIFE

720. Husband and wife contract toward each other obligations of mutual respect, fidelity, and support.

721. (a) Subject to subdivision (b), either husband or wife may enter into any transaction with the other, or with any other person, respecting property, which either might if unmarried.

(b) Except as provided in Sections 143, 144, 146, and 16040 of the Probate Code, in transactions between themselves, a husband and wife are subject to the general rules governing fiduciary relationships which control the actions of persons occupying confidential relations with each other. This confidential relationship imposes a duty of the highest good faith and fair dealing on each spouse, and neither shall take any unfair advantage of the other. This confidential relationship is a fiduciary relationship subject to the same rights and duties of nonmarital business partners, as provided in Sections 15019, 15020, 15021, and 15022 of the Corporations Code, including the following:

(1) Providing each spouse access at all times to any books kept regarding a transaction for the purposes of inspection and copying.

(2) Rendering upon request, true and full information of all things affecting any transaction which concerns the community property. Nothing in this section is intended to impose a duty for either spouse to keep detailed books and records of community property transactions.

(3) Accounting to the spouse, and holding as a trustee, any benefit or profit derived from any transaction by one spouse without the consent of the other spouse which concerns the community property.

CHAPTER 3. PROPERTY RIGHTS DURING MARRIAGE

750. A husband and wife may hold property as joint tenants or tenants in common, or as community property.

751. The respective interests of the husband and wife in community property during continuance of the marriage relation are present, existing, and equal interests.

752. Except as otherwise provided by statute, neither husband nor wife has any interest in the separate property of the other.

753. Notwithstanding Section 752, except as provided in Article 2 (commencing with Section 2035) of Chapter 4 of Part 1 of Division 6, neither spouse may be excluded from the other's dwelling.

754. If notice of the pendency of a proceeding for dissolution of the marriage, for nullity of the marriage, or for legal separation of the
parties is recorded in any county in which the husband or wife resides on real property that is the separate property of the other, the real property shall not for a period of three months thereafter be transferred, encumbered, or otherwise disposed of voluntarily or involuntarily without the joinder of both spouses, unless the court otherwise orders.

755. (a) The terms "participant," "beneficiary," "employee benefit plan," "employer," "fiduciary," and "administrator," as used in subdivision (b), have the same meaning as provided in Section 3 of the Employee Retirement Income Security Act of 1974 (P.L. 93-406), as amended.

(b) Notwithstanding Sections 751 and 1100, if payment or refund is made to a participant or the participant's beneficiary or estate pursuant to a written employee benefit plan governed by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), as amended, the payment or refund fully discharges the employer and the administrator, fiduciary, or insurance company making the payment or refund from all adverse claims thereto unless, before the payment or refund is made, the administrator of the plan has received at its principal place of business within this state, written notice by or on behalf of some other person that the other person claims to be entitled to the payment or refund or some part thereof. Nothing in this subdivision affects a claim or right to the payment or refund or part thereof as between persons other than the employer and the fiduciary or insurance company making the payment or refund.

(c) Notwithstanding Sections 751 and 1100, if payment or refund is made to an employee, former employee, or the beneficiary or estate of the employee or former employee pursuant to a written retirement, death, or other employee benefit plan or savings plan, other than a plan governed by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), as amended, the payment or refund fully discharges the employer and the trustee or insurance company making the payment or refund from all adverse claims thereto unless, before the payment or refund is made, the employer or former employer has received at its principal place of business within this state, written notice by or on behalf of some other person that the other person claims to be entitled to the payment or refund or some part thereof. Nothing in this subdivision affects a claim or right to the payment or refund or part thereof as between persons other than the employer and the trustee or insurance company making the payment or refund.

PART 2. CHARACTERIZATION OF MARITAL PROPERTY

CHAPTER 1. COMMUNITY PROPERTY

760. Except as otherwise provided by statute, all property, real or personal, wherever situated, acquired by a married person during
the marriage while domiciled in this state is community property.

761. (a) Unless the trust instrument or the instrument of transfer expressly provides otherwise, community property that is transferred in trust remains community property during the marriage, regardless of the identity of the trustee, if the trust, originally or as amended before or after the transfer, provides that the trust is revocable as to that property during the marriage and the power, if any, to modify the trust as to the rights and interests in that property during the marriage may be exercised only with the joinder or consent of both spouses.

(b) Unless the trust instrument expressly provides otherwise, a power to revoke as to community property may be exercised by either spouse acting alone. Community property, including any income or appreciation, that is distributed or withdrawn from a trust by revocation, power of withdrawal, or otherwise, remains community property unless there is a valid transmutation of the property at the time of distribution or withdrawal.

(c) The trustee may convey and otherwise manage and control the trust property in accordance with the provisions of the trust without the joinder or consent of the husband or wife unless the trust expressly requires the joinder or consent of one or both spouses.

(d) This section applies to a transfer made before, on, or after July 1, 1987.

(e) Nothing in this section affects the community character of property that is transferred before, on, or after July 1, 1987, in any manner or to a trust other than described in this section.

CHAPTER 2. SEPARATE PROPERTY

770. (a) Separate property of a married person includes all of the following:

1. All property owned by the person before marriage.
2. All property acquired by the person after marriage by gift, bequest, devise, or descent.
3. The rents, issues, and profits of the property described in this section.

(b) A married person may, without the consent of the person's spouse, convey the person's separate property.

771. The earnings and accumulations of a spouse and the minor children living with, or in the custody of, the spouse, while living separate and apart from the other spouse, are the separate property of the spouse.

772. After entry of a judgment of legal separation of the parties, the earnings or accumulations of each party are the separate property of the party acquiring the earnings or accumulations.
CHAPTER 3. DAMAGES FOR INJURIES TO MARRIED PERSON

780. Except as provided in Section 781 and subject to the rules of allocation set forth in Section 2603, money and other property received or to be received by a married person in satisfaction of a judgment for damages for personal injuries, or pursuant to an agreement for the settlement or compromise of a claim for such damages, is community property if the cause of action for the damages arose during the marriage.

781. (a) Money or other property received or to be received by a married person in satisfaction of a judgment for damages for personal injuries, or pursuant to an agreement for the settlement or compromise of a claim for those damages, is the separate property of the injured person if the cause of action for the damages arose as follows:

(1) After the entry of a judgment of dissolution of a marriage or legal separation of the parties.

(2) While either spouse, if he or she is the injured person, is living separate from the other spouse.

(b) Notwithstanding subdivision (a), if the spouse of the injured person has paid expenses by reason of the personal injuries from separate property or from the community property, the spouse is entitled to reimbursement of the separate property or the community property for those expenses from the separate property received by the injured person under subdivision (a).

(c) Notwithstanding subdivision (a), if one spouse has a cause of action against the other spouse which arose during the marriage of the parties, money or property paid or to be paid by or on behalf of a party to the party's spouse of that marriage in satisfaction of a judgment for damages for personal injuries to that spouse, or pursuant to an agreement for the settlement or compromise of a claim for the damages, is the separate property of the injured spouse.

782. (a) Where an injury to a married person is caused in whole or in part by the negligent or wrongful act or omission of the person's spouse, the community property may not be used to discharge the liability of the tortfeasor spouse to the injured spouse or the liability to make contribution to a joint tortfeasor until the separate property of the tortfeasor spouse, not exempt from enforcement of a money judgment, is exhausted.

(b) This section does not prevent the use of community property to discharge a liability referred to in subdivision (a) if the injured spouse gives written consent thereto after the occurrence of the injury.

(c) This section does not affect the right to indemnity provided by an insurance or other contract to discharge the tortfeasor spouse's liability, whether or not the consideration given for the contract consisted of community property.

783. If a married person is injured by the negligent or wrongful act or omission of a person other than the married person's spouse,
the fact that the negligent or wrongful act or omission of the spouse of the injured person was a concurring cause of the injury is not a defense in an action brought by the injured person to recover damages for the injury except in cases where the concurring negligent or wrongful act or omission would be a defense if the marriage did not exist.

CHAPTER 4. PRESUMPTIONS CONCERNING NATURE OF PROPERTY

802. The presumption that property acquired during marriage is community property does not apply to any property to which legal or equitable title is held by a person at the time of the person’s death if the marriage during which the property was acquired was terminated by dissolution of marriage more than four years before the death.

803. Notwithstanding any other provision of this part, whenever any real or personal property, or any interest therein or encumbrance thereon, was acquired before January 1, 1975, by a married woman by an instrument in writing, the following presumptions apply, and are conclusive in favor of any person dealing in good faith and for a valuable consideration with the married woman or her legal representatives or successors in interest, regardless of any change in her marital status after acquisition of the property:

(a) If acquired by the married woman, the presumption is that the property is the married woman’s separate property.

(b) If acquired by the married woman and any other person, the presumption is that the married woman takes the part acquired by her as tenant in common, unless a different intention is expressed in the instrument.

(c) If acquired by husband and wife by an instrument in which they are described as husband and wife, the presumption is that the property is the community property of the husband and wife, unless a different intention is expressed in the instrument.

CHAPTER 5. TRANSMUTATION OF PROPERTY

850. Subject to Sections 851 to 853, inclusive, married persons may by agreement or transfer, with or without consideration, do any of the following:

(a) Transmute community property to separate property of either spouse.

(b) Transmute separate property of either spouse to community property.

(c) Transmute separate property of one spouse to separate property of the other spouse.

851. A transmutation is subject to the laws governing fraudulent transfers.
852. (a) A transmutation of real or personal property is not valid unless made in writing by an express declaration that is made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected.
   (b) A transmutation of real property is not effective as to third parties without notice thereof unless recorded.
   (c) This section does not apply to a gift between the spouses of clothing, wearing apparel, jewelry, or other tangible articles of a personal nature that is used solely or principally by the spouse to whom the gift is made and that is not substantial in value taking into account the circumstances of the marriage.
   (d) Nothing in this section affects the law governing characterization of property in which separate property and community property are commingled or otherwise combined.
   (e) This section does not apply to or affect a transmutation of property made before January 1, 1985, and the law that would otherwise be applicable to that transmutation shall continue to apply.

853. A statement in a will of the character of property is not admissible as evidence of a transmutation of the property in a proceeding commenced before the death of the person who made the will.

PART 3. LIABILITY OF MARITAL PROPERTY

CHAPTER 1. DEFINITIONS

900. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this part.
   901. "Community estate" includes both the community property and the quasi-community property.
   902. "Debt" means an obligation incurred by a married person before or during marriage, whether based on contract, tort, or otherwise.
   903. A debt is "incurred" at the following time:
      (a) In the case of a contract, at the time the contract is made.
      (b) In the case of a tort, at the time the tort occurs.
      (c) In other cases, at the time the obligation arises.

CHAPTER 2. GENERAL RULES OF LIABILITY

910. (a) Except as otherwise expressly provided by statute, the community estate is liable for a debt incurred by either spouse before or during marriage, regardless of which spouse has the management and control of the property and regardless of whether one or both spouses are parties to the debt or to a judgment for the debt.
   (b) "During marriage" for purposes of this section does not include the period during which the spouses are living separate and apart before a judgment of dissolution of marriage or legal separation of the parties.
911. (a) The earnings of a married person during marriage are not liable for a debt incurred by the person's spouse before marriage. After the earnings of the married person are paid, they remain not liable so long as they are held in a deposit account in which the person's spouse has no right of withdrawal and are uncommingled with other property in the community estate, except property insignificant in amount.

(b) As used in this section:
(1) "Deposit account" has the meaning prescribed in Section 9105 of the Commercial Code.
(2) "Earnings" means compensation for personal services performed, whether as an employee or otherwise.

912. For the purposes of this part, quasi-community property is liable to the same extent, and shall be treated the same in all other respects, as community property.

913. (a) The separate property of a married person is liable for a debt incurred by the person before or during marriage.

(b) Except as otherwise provided by statute:
(1) The separate property of a married person is not liable for a debt incurred by the person's spouse before or during marriage.
(2) The joinder or consent of a married person to an encumbrance of community estate property to secure payment of a debt incurred by the person's spouse does not subject the person's separate property to liability for the debt unless the person also incurred the debt.

914. (a) Notwithstanding Section 913, a married person is personally liable for the following debts incurred by the person's spouse during marriage:

(1) A debt incurred for necessaries of life of the person's spouse while the spouses are living together.
(2) Except as provided in Section 4302, a debt incurred for common necessaries of life of the person's spouse while the spouses are living separately.

(b) The separate property of a married person may be applied to the satisfaction of a debt for which the person is personally liable pursuant to this section. If separate property is so applied at a time when nonexempt community estate property or separate property of the person's spouse is available but is not applied to the satisfaction of the debt, the married person is entitled to reimbursement to the extent such property was available.

915. (a) For the purpose of this part, a child or spousal support obligation of a married person that does not arise out of the marriage shall be treated as a debt incurred before marriage, regardless of whether a court order for support is made or modified before or during marriage and regardless of whether any installment payment on the obligation accrues before or during marriage.

(b) If property in the community estate is applied to the satisfaction of a child or spousal support obligation of a married person that does not arise out of the marriage, at a time when
nonexempt separate income of the person is available but is not
applied to the satisfaction of the obligation, the community estate is
entitled to reimbursement from the person in the amount of the
separate income, not exceeding the community estate property so
applied.

(c) Nothing in this section limits the matters a court may take into
consideration in determining or modifying the amount of a support
order, including, but not limited to, the earnings of the spouses of the
parties.

916. (a) Notwithstanding any other provision of this chapter,
after division of community and quasi-community property pursuant
to Division 7 (commencing with Section 2500):

(1) The separate property owned by a married person at the time
of the division and the property received by the person in the
division is liable for a debt incurred by the person before or during
marriage and the person is personally liable for the debt, whether or
not the debt was assigned for payment by the person’s spouse in the
division.

(2) The separate property owned by a married person at the time
of the division and the property received by the person in the
division is not liable for a debt incurred by the person’s spouse before
or during marriage, and the person is not personally liable for the
debt, unless the debt was assigned for payment by the person in the
division of the property. Nothing in this paragraph affects the
liability of property for the satisfaction of a lien on the property.

(3) The separate property owned by a married person at the time
of the division and the property received by the person in the
division is liable for a debt incurred by the person’s spouse before or
during marriage, and the person is personally liable for the debt, if
the debt was assigned for payment by the person in the division of
the property. If a money judgment for the debt is entered after the
division, the property is not subject to enforcement of the judgment
and the judgment may not be enforced against the married person,
unless the person is made a party to the judgment for the purpose
of this paragraph.

(b) If property of a married person is applied to the satisfaction
of a money judgment pursuant to subdivision (a) for a debt incurred
by the person that is assigned for payment by the person’s spouse, the
person has a right of reimbursement from the person’s spouse to the
extent of the property applied, with interest at the legal rate, and
may recover reasonable attorney’s fees incurred in enforcing the
right of reimbursement.

CHAPTER 3. REIMBURSEMENT

920. A right of reimbursement provided by this part is subject to
the following provisions:

(a) The right arises regardless of which spouse applies the
property to the satisfaction of the debt, regardless of whether the
property is applied to the satisfaction of the debt voluntarily or involuntarily, and regardless of whether the debt to which the property is applied is satisfied in whole or in part. The right is subject to an express written waiver of the right by the spouse in whose favor the right arises.

(b) The measure of reimbursement is the value of the property or interest in property at the time the right arises.

(c) The right shall be exercised not later than the earlier of the following times:

1. Within three years after the spouse in whose favor the right arises has actual knowledge of the application of the property to the satisfaction of the debt.

2. In proceedings for division of community and quasi-community property pursuant to Division 7 (commencing with Section 2500) or in proceedings upon the death of a spouse.

CHAPTER 4. TRANSITIONAL PROVISIONS

930. Except as otherwise provided by statute, this part governs the liability of separate and community estate property and the personal liability of a married person for a debt enforced on or after January 1, 1985, regardless of whether the debt was incurred before, on, or after that date.

931. The provisions of this part that govern reimbursement apply to all debts, regardless of whether satisfied before, on, or after January 1, 1985.

CHAPTER 5. LIABILITY FOR DEATH OR INJURY

1000. (a) A married person is not liable for any injury or damage caused by the other spouse except in cases where the married person would be liable therefor if the marriage did not exist.

(b) The liability of a married person for death or injury to person or property shall be satisfied as follows:

1. If the liability of the married person is based upon an act or omission which occurred while the married person was performing an activity for the benefit of the community, the liability shall first be satisfied from the community estate property and second from the separate property of the married person.

2. If the liability of the married person is not based upon an act or omission which occurred while the married person was performing an activity for the benefit of the community, the liability shall first be satisfied from the separate property of the married person and second from the community estate property.

(c) This section does not apply to the extent the liability is satisfied out of proceeds of insurance for the liability, whether the proceeds are community estate property or separate property. Notwithstanding Section 920, no right of reimbursement under this section shall be exercised more than seven years after the spouse in
whose favor the right arises has actual knowledge of the application of the property to the satisfaction of the debt.

PART 4. MANAGEMENT AND CONTROL OF MARITAL PROPERTY

1100. (a) Except as provided in subdivisions (b), (c), and (d) and Sections 761 and 1103, either spouse has the management and control of the community personal property, whether acquired prior to or on or after January 1, 1975, with like absolute power of disposition, other than testamentary, as the spouse has of the separate estate of the spouse.

(b) A spouse may not make a gift of community personal property, or dispose of community personal property for less than fair and reasonable value, without the written consent of the other spouse. This subdivision does not apply to gifts mutually given by both spouses to third parties and to gifts given by one spouse to the other spouse.

(c) A spouse may not sell, convey, or encumber community personal property used as the family dwelling, or the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the other spouse or minor children which is community personal property, without the written consent of the other spouse.

(d) Except as provided in subdivisions (b) and (c), and in Section 1102, a spouse who is operating or managing a business or an interest in a business that is all or substantially all community personal property has the primary management and control of the business or interest. Primary management and control means that the managing spouse may act alone in all transactions but shall give prior written notice to the other spouse of any sale, lease, exchange, encumbrance, or other disposition of all or substantially all of the personal property used in the operation of the business (including personal property used for agricultural purposes), whether or not title to that property is held in the name of only one spouse. Written notice is not, however, required when prohibited by the law otherwise applicable to the transaction.

Remedies for the failure by a managing spouse to give prior written notice as required by this subdivision are only as specified in Section 1101. A failure to give prior written notice shall not adversely affect the validity of a transaction nor of any interest transferred.

(e) Each spouse shall act with respect to the other spouse in the management and control of the community property in accordance with the general rules governing fiduciary relationships which control the actions of persons having relationships of personal confidence as specified in Section 721, until such time as the property has been divided by the parties or by a court. This duty includes the obligation to make full disclosure to the other spouse of all material facts and information regarding the existence, characterization, and valuation of all assets in which the community has or may have an
interest and debts for which the community is or may be liable, and
to provide equal access to all information, records, and books that
pertain to the value and character of those assets and debts, upon
request.

1101. (a) A spouse has a claim against the other spouse for a breach
of the fiduciary duty imposed by Section 1100 or 1102 that results in
impairment to the claimant spouse’s present undivided one-half
interest in the community estate, including, but not limited to, a
single transaction or a pattern or series of transactions, which
transaction or transactions have caused or will cause a detrimental
impact to the claimant spouse’s undivided one-half interest in the
community estate.

(b) A court may order an accounting of the property and
obligations of the parties to a marriage and may determine the rights
of ownership in, the beneficial enjoyment of, or access to, community
property, and the classification of all property of the parties to a
marriage.

(c) A court may order that the name of a spouse shall be added
to community property held in the name of the other spouse alone
or that the title of community property held in some other title form
shall be reformed to reflect its community character, except with
respect to any of the following:

1. A partnership interest held by the other spouse as a general
partner.

2. An interest in a professional corporation or professional
association.

3. An asset of an unincorporated business if the other spouse is
the only spouse involved in operating and managing the business.

4. Any other property, if the revision would adversely affect the
rights of a third person.

(d) (1) Except as provided in paragraph (2), any action under
subdivision (a) shall be commenced within three years of the date
a petitioning spouse had actual knowledge that the transaction or
event for which the remedy is being sought occurred.

(2) An action may be commenced under this section upon the
death of a spouse or in conjunction with an action for legal
separation, dissolution of marriage, or nullity without regard to the
time limitations set forth in paragraph (1).

(3) The defense of laches may be raised in any action brought
under this section.

(4) Except as to actions authorized by paragraph (2), remedies
under subdivision (a) apply only to transactions or events occurring
on or after July 1, 1987.

(e) In any transaction affecting community property in which the
consent of both spouses is required, the court may, upon the motion
of a spouse, dispense with the requirement of the other spouse’s
consent if both of the following requirements are met:

1. The proposed transaction is in the best interest of the
community.
(2) Consent has been arbitrarily refused or cannot be obtained due to the physical incapacity, mental incapacity, or prolonged absence of the nonconsenting spouse.

(f) Any action may be brought under this section without filing an action for dissolution of marriage, legal separation, or nullity, or may be brought in conjunction with the action or upon the death of a spouse.

(g) Remedies for breach of the fiduciary duty by one spouse as set out in Section 721 shall include, but not be limited to, an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney's fees and court costs. However, in no event shall interest be assessed on the managing spouse.

(h) Remedies for the breach of the fiduciary duty by one spouse when the breach falls within the ambit of Section 3294 of the Civil Code shall include, but not be limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed or transferred in breach of the fiduciary duty.

1102. (a) Except as provided in Sections 761 and 1103, either spouse has the management and control of the community real property, whether acquired prior to or on or after January 1, 1975, but both spouses, either personally or by a duly authorized agent, must join in executing any instrument by which that community real property or any interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered.

(b) Nothing in this section shall be construed to apply to a lease, mortgage, conveyance, or transfer of real property or of any interest in real property between husband and wife.

(c) Notwithstanding subdivision (b):

(1) The sole lease, contract, mortgage, or deed of the husband, holding the record title to community real property, to a lessee, purchaser, or encumbrancer, in good faith without knowledge of the marriage relation, shall be presumed to be valid if executed prior to January 1, 1975.

(2) The sole lease, contract, mortgage, or deed of either spouse, holding the record title to community real property to a lessee, purchaser, or encumbrancer, in good faith without knowledge of the marriage relation, shall be presumed to be valid if executed on or after January 1, 1975.

(d) No action to avoid any instrument mentioned in this section, affecting any property standing of record in the name of either spouse alone, executed by the spouse alone, shall be commenced after the expiration of one year from the filing for record of that instrument in the recorder's office in the county in which the land is situated.

1103. (a) Where one or both of the spouses either has a conservator of the estate or lacks legal capacity to manage and control community property, the procedure for management and control (which includes disposition) of the community property is
that prescribed in Part 6 (commencing with Section 3000) of Division 4 of the Probate Code.

(b) Where one or both spouses either has a conservator of the estate or lacks legal capacity to give consent to a gift of community personal property or a disposition of community personal property without a valuable consideration as required by Section 1100 or to a sale, conveyance, or encumbrance of community personal property for which a consent is required by Section 1100, the procedure for that gift, disposition, sale, conveyance, or encumbrance is that prescribed in Part 6 (commencing with Section 3000) of Division 4 of the Probate Code.

(c) Where one or both spouses either has a conservator of the estate or lacks legal capacity to join in executing a lease, sale, conveyance, or encumbrance of community real property or any interest therein as required by Section 1102, the procedure for that lease, sale, conveyance, or encumbrance is that prescribed in Part 6 (commencing with Section 3000) of Division 4 of the Probate Code.

PART 5. MARITAL AGREEMENTS

CHAPTER 1. GENERAL PROVISIONS

1500. The property rights of husband and wife prescribed by statute may be altered by a premarital agreement or other marital property agreement.

1501. A minor may make a valid premarital agreement or other marital property agreement if the minor is emancipated or is otherwise capable of contracting marriage.

1502. (a) A premarital agreement or other marital property agreement that is executed and acknowledged or proved in the manner that a grant of real property is required to be executed and acknowledged or proved may be recorded in the office of the recorder of each county in which real property affected by the agreement is situated.

(b) Recording or nonrecording of a premarital agreement or other marital property agreement has the same effect as recording or nonrecording of a grant of real property.

1503. Nothing in this chapter affects the validity or effect of premarital agreements made before January 1, 1986, and the validity and effect of those agreements shall continue to be determined by the law applicable to the agreements before January 1, 1986.

CHAPTER 2. UNIFORM PREMARITAL AGREEMENT ACT


1600. This chapter may be cited as the Uniform Premarital Agreement Act.

1601. This chapter is effective on and after January 1, 1986, and
applies to any premarital agreement executed on or after that date.

Article 2. Premarital Agreements

1610. As used in this chapter:
(a) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.
(b) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

1611. A premarital agreement shall be in writing and signed by both parties. It is enforceable without consideration.

1612. (a) Parties to a premarital agreement may contract with respect to all of the following:
(1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located.
(2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property.
(3) The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event.
(4) The making of a will, trust, or other arrangement to carry out the provisions of the agreement.
(5) The ownership rights in and disposition of the death benefit from a life insurance policy.
(6) The choice of law governing the construction of the agreement.
(7) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.
(b) The right of a child to support may not be adversely affected by a premarital agreement.

1613. A premarital agreement becomes effective upon marriage.

1614. After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

1615. (a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves either of the following:
(1) That party did not execute the agreement voluntarily.
(2) The agreement was unconscionable when it was executed and, before execution of the agreement, all of the following applied to that party:
   (A) That party was not provided a fair and reasonable disclosure of the property or financial obligations of the other party.
   (B) That party did not voluntarily and expressly waive, in writing,
any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided.

(C) That party did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

1616. If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

1617. Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

CHAPTER 3. AGREEMENTS BETWEEN HUSBAND AND WIFE

1620. Except as otherwise provided by law, a husband and wife cannot, by a contract with each other, alter their legal relations, except as to property.

DIVISION 5. CONCILIATION PROCEEDINGS

PART 1. FAMILY CONCILIATION COURT LAW

CHAPTER 1. GENERAL PROVISIONS

1800. This part may be cited as the Family Conciliation Court Law.

1801. The purposes of this part are to protect the rights of children and to promote the public welfare by preserving, promoting, and protecting family life and the institution of matrimony, and to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies.

1802. (a) This part applies only in counties in which the superior court determines that the social conditions in the county and the number of domestic relations cases in the courts render the procedures provided in this part necessary to the full and proper consideration of those cases and the effectuation of the purposes of this part.

(b) The determination under subdivision (a) shall be made annually in the month of January by:

(1) The judge of the superior court in counties having only one superior court judge.

(2) A majority of the judges of the superior court in counties having more than one superior court judge.
CHAPTER 2. FAMILY CONCILIATION COURTS

1810. Each superior court shall exercise the jurisdiction conferred by this part. While sitting in the exercise of this jurisdiction, the court shall be known and referred to as the "family conciliation court."

1811. In counties having more than one judge of the superior court, the presiding judge of the superior court shall annually, in the month of January, designate at least one judge to hear all cases under this part. The judge or judges so designated shall hold as many sessions of the family conciliation court in each week as are necessary for the prompt disposition of the business before the court.

1812. (a) The judge of the family conciliation court may transfer any case before the family conciliation court pursuant to this part to the department of the presiding judge of the superior court for assignment for trial or other proceedings by another judge of the court, whenever in the opinion of the judge of the family conciliation court the transfer is necessary to expedite the business of the family conciliation court or to ensure the prompt consideration of the case.

(b) When a case is transferred pursuant to subdivision (a), the judge to whom it is transferred shall act as the judge of the family conciliation court in the matter.

1813. (a) The presiding judge of the superior court may appoint a judge of the superior court other than the judge of the family conciliation court to act as judge of the family conciliation court during any period when the judge of the family conciliation court is on vacation, absent, or for any reason unable to perform the duties as judge of the family conciliation court.

(b) The judge appointed under subdivision (a) has all of the powers and authority of a judge of the family conciliation court in cases under this part.

1814. (a) In each county in which a family conciliation court is established, the superior court may appoint one supervising counselor of conciliation and one secretary to assist the family conciliation court in disposing of its business and carrying out its functions. In counties which have by contract established joint family conciliation court services, the superior courts in contracting counties jointly may make the appointments under this subdivision.

(b) The supervising counselor of conciliation has the power to do all of the following:

1 Hold conciliation conferences with parties to, and hearings in, proceedings under this part, and make recommendations concerning the proceedings to the judge of the family conciliation court.

2 Provide supervision in connection with the exercise of the counselor’s jurisdiction as the judge of the family conciliation court may direct.

3 Cause reports to be made, statistics to be compiled, and records to be kept as the judge of the family conciliation court may direct.
(4) Hold hearings in all family conciliation court cases as may be required by the judge of the family conciliation court, and make investigations as may be required by the court to carry out the intent of this part.

(5) Make recommendations relating to marriages where one or both parties are underage.

(6) Make investigations, reports, and recommendations as provided in Section 281 of the Welfare and Institutions Code under the authority provided the probation officer in that code.

(7) Act as domestic relations cases investigator.

(8) Conduct mediation of child custody and visitation disputes.

(c) The superior court, or contracting superior courts, may also appoint, with the consent of the board of supervisors, associate counselors of conciliation and other office assistants as may be necessary to assist the family conciliation court in disposing of its business. The associate counselors shall carry out their duties under the supervision of the supervising counselor of conciliation and have the powers of the supervising counselor of conciliation. Office assistants shall work under the supervision and direction of the supervising counselor of conciliation.

(d) The classification and salaries of persons appointed under this section shall be determined by:

(1) The board of supervisors of the county in which a noncontracting family conciliation court operates.

(2) The board of supervisors of the county which by contract has the responsibility to administer funds of the joint family conciliation court service.

1815. (a) A person employed as a supervising counselor of conciliation or as an associate counselor of conciliation shall have all of the following minimum qualifications:

(1) A master's degree in psychology, social work, marriage, family and child counseling, or other behavioral science substantially related to marriage and family interpersonal relationships.

(2) At least two years of experience in counseling or psychotherapy, or both, preferably in a setting related to the areas of responsibility of the family conciliation court and with the ethnic population to be served.

(3) Knowledge of the court system of California and the procedures used in family law cases.

(4) Knowledge of other resources in the community to which clients can be referred for assistance.

(5) Knowledge of adult psychopathology and the psychology of families.

(6) Knowledge of child development, child abuse, clinical issues relating to children, the effects of divorce on children, the effects of domestic violence on children, and child custody research sufficient to enable a counselor to assess the mental health needs of children.

(b) The family conciliation court may substitute additional experience for a portion of the education, or additional education for
a portion of the experience, required under subdivision (a).

(c) This section does not apply to any supervising counselor of conciliation who was in office on March 27, 1980.

1816. (a) Supervising and associate counselors and mediators described in Section 3155 shall participate in programs of continuing instruction in domestic violence, including child abuse, as may be arranged and provided to them. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(b) Areas of instruction shall include, but are not limited to, the following:

1. The effects of domestic violence on children.
2. The nature and extent of domestic violence.
3. The social and family dynamics of domestic violence.
4. Techniques for identifying and assisting families affected by domestic violence.
5. Interviewing, documentation of, and appropriate recommendations for families affected by domestic violence.
6. The legal rights of, and remedies available to, victims.
7. Availability of community and legal domestic violence resources.

(c) The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence and shall seek to develop a training program that will maximize coordination between conciliation courts and local agencies concerned with domestic violence.

1817. The probation officer in every county shall do all of the following:

(a) Give assistance to the family conciliation court that the court may request to carry out the purposes of this part, and to that end shall, upon request, make investigations and reports as requested.

(b) In cases pursuant to this part, exercise all the powers and perform all the duties granted or imposed by the laws of this state relating to probation or to probation officers.

1818. (a) All superior court hearings or conferences in proceedings under this part shall be held in private and the court shall exclude all persons except the officers of the court, the parties, their counsel, and witnesses. Conferences may be held with each party and the party's counsel separately and in the discretion of the judge, commissioner, or counselor conducting the conference or hearing, counsel for one party may be excluded when the adverse party is present. All communications, verbal or written, from parties to the judge, commissioner, or counselor in a proceeding under this part shall be deemed to be official information within the meaning of Section 1040 of the Evidence Code.

(b) The files of the family conciliation court shall be closed. The petition, supporting affidavit, conciliation agreement, and any court order made in the matter may be opened to inspection by a party or the party's counsel upon the written authority of the judge of the
family conciliation court.

1819. (a) Except as provided in subdivision (b), upon order of the judge of the family conciliation court, the supervising counselor of conciliation may destroy any record, paper, or document filed or kept in the office of the supervising counselor of conciliation which is more than two years old.

(b) Records described in subdivision (a) of child custody or visitation mediation may be destroyed when the minor or minors involved are 18 years of age.

(c) In the judge's discretion, the judge of the family conciliation court may order the microfilming of any record, paper, or document described in subdivision (a) or (b).

1820. (a) A county may contract with any other county or counties to provide joint family conciliation court services.

(b) An agreement between two or more counties for the operation of a joint family conciliation court service may provide that the treasurer of one participating county shall be the custodian of moneys made available for the purposes of the joint services, and that the treasurer may make payments from the moneys upon audit of the appropriate auditing officer or body of the county of that treasurer.

(c) An agreement between two or more counties for the operation of a joint family conciliation court service may also provide:

1. For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating county under contract for the other participating counties.

2. For appointments of members of the staff of the family conciliation court including the supervising counselor.

3. That, for specified purposes, the members of the staff of the family conciliation court including the supervising counselor, but excluding the judges of the family conciliation court and other court personnel, shall be considered to be employees of one participating county.

4. For other matters that are necessary or proper to effectuate the purposes of the Family Conciliation Court Law.

(d) The provisions of this part relating to family conciliation court services provided by a single county shall be equally applicable to counties which contract, pursuant to this section, to provide joint family conciliation court services.

CHAPTER 3. PROCEEDINGS FOR CONCILIATION

1830. (a) When a controversy exists between spouses, or when a controversy relating to child custody or visitation exists between parents regardless of their marital status, and the controversy may, unless a reconciliation is achieved, result in dissolution of the marriage, nullity of the marriage, or legal separation of the parties,
or in the disruption of the household, and there is a minor child of
the spouses or parents or of either of them whose welfare might be
affected thereby, the family conciliation court has jurisdiction as
provided in this part over the controversy and over the parties to the
controversy and over all persons having any relation to the
controversy.

(b) The family conciliation court also has jurisdiction over the
controversy, whether or not there is a minor child of the parties or
either of them, where the controversy involves domestic violence.

1831. Before the filing of a proceeding for determination of
custody or visitation rights, for dissolution of marriage, for nullity of
a voidable marriage, or for legal separation of the parties, either
spouse or parent, or both, may file in the family conciliation court a
petition invoking the jurisdiction of the court for the purpose of
preserving the marriage by effecting a reconciliation between the
parties, or for amicable settlement of the controversy between the
spouses or parents, so as to avoid further litigation over the issue
involved.

1832. The petition shall be captioned substantially as follows:

In the Superior Court of the State of California
in and for the County of _______

Upon the petition of

__________________________________________
(Petitioner)

And concerning

__________________________________________

__________________________________________

, Respondents

Petition for
Conciliation
(Under the Family
Conciliation
Court Law)

To the Family Conciliation Court:

1833. The petition shall:

(a) Alleged that a controversy exists between the spouses or
parents and request the aid of the court to effect a reconciliation or
an amicable settlement of the controversy.

(b) State the name and age of each minor child whose welfare
may be affected by the controversy.

(c) State the name and address of the petitioner or the names and
addresses of the petitioners.

(d) If the petition is presented by one spouse or parent only, the
name of the other spouse or parent as a respondent, and state the
address of that spouse or parent.

(e) Name as a respondent any other person who has any relation
to the controversy, and state the address of the person if known to
the petitioner.

(f) If the petition arises out of an instance of domestic violence,
so state generally and without specific allegations as to the incident.
(g) State any other information the court by rule requires.

1834. (a) The clerk of the court shall provide, at the expense of
the county, blank forms for petitions for filing pursuant to this part.
(b) The probation officers of the county and the attachés and
employees of the family conciliation court shall assist a person in the
preparation and presentation of a petition under this part if the
person requests assistance.
(c) All public officers in each county shall refer to the family
conciliation court all petitions and complaints made to them in
respect to controversies within the jurisdiction of the family
conciliation court.
(d) The jurisdiction of the family conciliation court in respect to
controversies arising out of an instance of domestic violence is not
exclusive but is coextensive with any other remedies either civil or
criminal in nature that may be available.

1835. No fee shall be charged by any officer for filing the petition.

1836. (a) The court shall fix a reasonable time and place for
hearing on the petition. The court shall cause notice to be given to
the respondents of the filing of the petition and of the time and place
of the hearing that the court deems necessary.
(b) The court may, when it deems it necessary, issue a citation to
a respondent requiring the respondent to appear at the time and
place stated in the citation. The court may require the attendance
of witnesses as in other civil cases.

1837. (a) Except as provided in subdivision (b), for the purpose
of conducting hearings pursuant to this part, the family conciliation
court may be convened at any time and place within the county, and
the hearing may be had in chambers or otherwise.
(b) The time and place for hearing shall not be different from the
time and place provided by law for the trial of civil actions if any
party, before the hearing, objects to any different time or place.

1838. (a) The hearing shall be conducted informally as a
conference or a series of conferences to effect a reconciliation of the
spouses or an amicable adjustment or settlement of the issues in
controversy.
(b) To facilitate and promote the purposes of this part, the court
may, with the consent of both parties to the proceeding, recommend
or invoke the aid of medical or other specialists or scientific experts,
or of the pastor or director of any religious denomination to which
the parties may belong. Aid under this subdivision shall not be at the
expense of the court or of the county unless the board of supervisors
of the county specifically provides and authorizes the aid.

1839. (a) At or after the hearing, the court may make orders in
respect to the conduct of the spouses or parents and the subject
matter of the controversy that the court deems necessary to preserve
the marriage or to implement the reconciliation of the spouses. No
such order shall be effective for more than 30 days from the hearing
of the petition unless the parties mutually consent to a continuation
of the time the order remains effective.

(b) A reconciliation agreement between the parties may be reduced to writing and, with the consent of the parties, a court order may be made requiring the parties to comply fully with the agreement.

(c) During the pendency of a proceeding under this part, the superior court may order the husband or wife, or father or mother, as the case may be, to pay an amount necessary for the support and maintenance of the wife or husband and for the support, maintenance, and education of the minor children, as the case may be. In determining the amount, the superior court may take into consideration the recommendations of a financial referee if one is available to the court. An order made pursuant to this subdivision shall not prejudice the rights of the parties or children with respect to any subsequent order which may be made. An order made pursuant to this subdivision may be modified or terminated at any time except as to an amount that accrued before the date of filing of the notice of motion or order to show cause to modify or revoke.

1840. (a) During a period beginning upon the filing of the petition for conciliation and continuing until 30 days after the hearing of the petition for conciliation, neither spouse shall file a petition for dissolution of marriage, for nullity of a voidable marriage, or for legal separation of the parties.

(b) After the expiration of the period under subdivision (a), if the controversy between the spouses, or the parents, has not been terminated, either spouse may institute a proceeding for dissolution of marriage, for nullity of a voidable marriage, or for legal separation of the parties, or a proceeding to determine custody or visitation of the minor child or children.

(c) The pendency of a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, or a proceeding to determine custody or visitation of the minor child or children, does not operate as a bar to the instituting of proceedings for conciliation under this part.

1841. If a petition for dissolution of marriage, for nullity of marriage, or for legal separation of the parties is filed, the case may be transferred at any time during the pendency of the proceeding to the family conciliation court for proceedings for reconciliation of the spouses or amicable settlement of issues in controversy in accordance with this part if both of the following appear to the court:

(a) There is a minor child of the spouses, or of either of them, whose welfare may be adversely affected by the dissolution of the marriage or the disruption of the household or a controversy involving child custody.

(b) There is some reasonable possibility of a reconciliation being effected.

1842. (a) If an application is made to the family conciliation court for conciliation proceedings in respect to a controversy between spouses, or a contested proceeding for dissolution of
marriage, for nullity of a voidable marriage, or for legal separation of the parties, but there is no minor child whose welfare may be affected by the results of the controversy, and it appears to the court that reconciliation of the spouses or amicable adjustment of the controversy can probably be achieved, and that the work of the court in cases involving children will not be seriously impeded by acceptance of the case, the court may accept and dispose of the case in the same manner as similar cases involving the welfare of children are disposed of.

(b) If the court accepts the case under subdivision (a), the court has the same jurisdiction over the controversy and the parties to the controversy and those having a relation to the controversy that it has under this part in similar cases involving the welfare of children.

PART 2. STATEWIDE COORDINATION OF FAMILY MEDIATION AND CONCILIATION SERVICES

1850. The Judicial Council shall do all of the following:

(a) Assist counties in implementing mediation and conciliation proceedings under this code.

(b) Establish and implement a uniform statistical reporting system relating to proceedings brought for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, including, but not limited to, a custody disposition survey.

(c) Administer a program of grants to public and private agencies submitting proposals for research, study, and demonstration projects in the area of family law, including, but not limited to, all of the following:

1. The development of conciliation and mediation and other newer dispute resolution techniques, particularly as they relate to child custody and to avoidance of litigation.

2. The establishment of criteria to ensure that a child support order is adequate.

3. The development of methods to ensure that a child support order is paid.

4. The study of the feasibility and desirability of guidelines to assist judges in making custody decisions.

(d) Administer a program for the training of court personnel involved in family law proceedings, which shall be available to the court personnel and which shall be totally funded from funds specified in Section 1852. The training shall include, but not be limited to, the order of preference for custody of minor children set forth in Chapter 2 (commencing with Section 3040) of Part 2 of Division 8 and the meaning of the custody arrangements described in Section 3020 and in Chapter 2 (commencing with Section 3040) and Chapter 4 (commencing with Section 3080) of Part 2 of Division 8.

1851. The Judicial Council shall establish an advisory committee of persons representing a broad spectrum of interest in and
knowledge about family law. The committee shall recommend criteria for determining grant recipients pursuant to subdivision (c) of Section 1850, which shall include proposal evaluation guidelines and procedures for submission of the results to the Legislature, the Governor, and family law courts. In accordance with established criteria, the committee shall receive grant proposals and shall recommend the priority of submitted proposals.

1852. Funds collected by the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code, subdivision (a) of Section 26832 of the Government Code, and grants, gifts, or devises made to the state from private sources to be used for the purposes of this part shall be deposited into the General Fund and shall only be used for the purposes of this part. No funds other than those so deposited shall be used for those purposes. That money shall be appropriated to the Judicial Council for the support of the programs authorized by this part as provided by the Legislature in the annual Budget Act. The Judicial Council may utilize funds to provide staffing as may be necessary to carry out the purposes of this part. In order to defray the costs of collection of these funds, the local registrar, county clerk, or county recorder may retain a percentage of the funds collected, not to exceed 10 percent of the fee payable to the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code.

DIVISION 6. NULLITY, DISSOLUTION, AND LEGAL SEPARATION

PART 1. GENERAL PROVISIONS

CHAPTER 1. APPLICATION OF PART

2000. This part applies to a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties.

CHAPTER 2. JURISDICTION

2010. In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has jurisdiction to inquire into and render any judgment and make such orders as are appropriate concerning the following:
   (a) The status of the marriage.
   (b) The custody and support of minor children of the marriage and children for whom support is authorized under Part 2 (commencing with Section 3900) of Division 9.
   (c) The support of either party.
   (d) The settlement of the property rights of the parties.
   (e) The award of attorney's fees and costs.

2011. When service of summons on a spouse is made pursuant to Section 415.50 of the Code of Civil Procedure, the court, without the
aid of attachment or the appointment of a receiver, shall have and may exercise the same jurisdiction over:

(a) The community real property of the spouse so served situated in this state as it has or may exercise over the community real property of a spouse who is personally served with process within this state.

(b) The quasi-community real property of the spouse so served situated in this state as it has or may exercise over the quasi-community real property of a spouse who is personally served with process within this state.

2012. (a) During the time a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending, the respondent may appear in opposition to an order made during the pendency of the proceeding and the appearance shall not be deemed a general appearance by the respondent.

(b) As used in this section, a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending from the time notice of motion is served and filed until the time within which to petition for a writ of mandate has expired or, if a petition is made, until the time final judgment in the mandate proceeding is entered.

CHAPTER 3. PROCEDURAL PROVISIONS

2020. A responsive pleading, if any, shall be filed and served on the petitioner within 30 days of the date of the service on the respondent of a copy of the petition and summons.

2021. (a) Subject to subdivision (b), the court may order that a person who claims an interest in the proceeding be joined as a party to the proceeding in accordance with rules adopted by the Judicial Council pursuant to Section 211.

(b) An employee pension benefit plan may be joined as a party only in accordance with Chapter 6 (commencing with Section 2060).

2022. (a) Evidence collected by eavesdropping in violation of Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code is inadmissible.

(b) If it appears that a violation described in subdivision (a) exists, the court may refer the matter to the proper authority for investigation and prosecution.

2023. (a) On a determination that payment of an obligation of a party would benefit either party or a minor child, the court may order one of the parties to pay the obligation, or a portion thereof, directly to the creditor.

(b) The creditor has no right to enforce the order made under this section, nor are the creditor’s rights affected by the determination made under this section.

2024. Every judgment for dissolution of marriage or for nullity of marriage shall contain the following notice:
Notice. Please review your will, insurance policies, retirement benefit plans, and other matters that you may want to change in view of the dissolution or annulment of your marriage. Ending your marriage may automatically change a disposition made by your will to your former spouse.

2025. Notwithstanding any other provision of law, if the court has ordered an issue or issues bifurcated for separate trial or hearing in advance of the disposition of the entire case, a court of appeal may order an issue or issues transferred to it for hearing and decision when the court that heard the issue or issues certifies that the appeal is appropriate. Certification by the court shall be in accordance with rules promulgated by the Judicial Council.

2026. The reconciliation of the parties, whether conditional or unconditional, is an ameliorating factor to be considered by the court in considering a contempt of an existing court order.

CHAPTER 4. RESTRaining AND PROTECTIVE ORDERS

Article 1. Orders in Summons

2030. In addition to the contents required by Section 412.20 of the Code of Civil Procedure, the summons shall contain a temporary restraining order:

(a) Restraining both parties from removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court.

(b) Restraining both parties from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life and requiring each party to notify the other party of any proposed extraordinary expenditures at least five business days before incurring those expenditures and to account to the court for all extraordinary expenditures made after service of the summons on that party. However, nothing in the restraining order shall preclude the parties from using community property to pay reasonable attorney's fees in order to retain legal counsel in the proceeding.

(c) Restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability held for the benefit of the parties and their minor child or children.

2031. Nothing in Section 2030 adversely affects the rights, title, and interest of a purchaser for value, encumbrancer for value, or lessee for value who is without actual knowledge of the restraining order.
Article 2. Orders During Pendency of Proceeding

2035. During the pendency of the proceeding, on application of either party, the court may, in the manner provided by Part 4 (commencing with Section 240) of Division 2, issue ex parte orders doing any one or more of the following:

(a) Restraining a person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life, and if the order is directed against a party, requiring that party to notify the other party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures.

(b) Enjoining a party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, telephoning, or disturbing the peace of the other party, and, in the discretion of the court, upon a showing of good cause, other named family and household members.

(c) Excluding one party from the family dwelling or from the dwelling of the other for the period of time and upon the conditions the court determines, regardless of which party holds legal or equitable title or is the lessee of the dwelling, upon a showing of both of the following:

1. The party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, or control of the other party, or any minor child of the parties or of the other party.

2. Physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party, or to any minor child of the parties or of the other party.

(d) Enjoining a party from specified behavior that the court determines is necessary to effectuate orders under subdivision (b) or (c).

(e) Determining the temporary custody of any minor children of the marriage, and the right of a party to visit the minor children upon the conditions the court determines.

(f) Determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the pendency of the order.

2036. A mutual restraining order specified in subdivision (b) of Section 2035 may only be issued if both parties personally appear and each party presents evidence of abuse or domestic violence specified in that subdivision.

2036.5. After notice and a hearing, the court may issue an order specified in subdivision (c) of Section 2035 excluding one party from the family dwelling or from the dwelling of the other party on a showing only that physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party, or to a minor child of the parties or of the other
2037. An order issued pursuant to this article shall include on its face a statement of the date of expiration of the order and, to the extent the order protects against domestic violence, all of the following statements in substantially the following form:

(a) "This order shall be enforced by all law enforcement officers."

(b) "This order is effective when made. The law enforcement agency shall enforce it immediately upon receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order or is shown a copy of the order. If proof of service on the restrained person has not been received, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it."

(c) "NOTICE TO PETITIONER/RESPONDENT: 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."

2038. The court shall order the party who obtained the order, or the attorney for that party, to deliver, or the clerk to mail, a copy of any order, or extension, modification, or termination thereof, granted pursuant to this article, by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the party or the attorney for the party, having jurisdiction over the residence of the party and other locations where the court determines that acts of domestic violence against the party are likely to occur.

2039. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to this article to any law enforcement officer responding to the scene of reported domestic violence.

2040. (a) Notwithstanding Section 2038 and subject to subdivision (b), an order issued pursuant to this article is enforceable in any place in this state.

(b) An order issued pursuant to this article is not enforceable by a law enforcement agency of a political subdivision unless that law enforcement agency has received a copy of the order pursuant to Section 2038 or has otherwise received a copy of the order or the officer enforcing the order has been shown a copy of the order.

2041. (a) A restraining order against domestic violence issued pursuant to subdivision (b), (c), or (d) of Section 2035 may, upon the request of the moving party, be served upon the responding party by a law enforcement officer who is present at the scene of reported domestic violence involving the parties to the action.

(b) The moving party shall provide the officer with an endorsed copy of the order and a proof of service which the officer shall complete and transmit to the issuing court.

2042. A willful and knowing violation of any order granted
pursuant to subdivision (b), (c), or (d) of Section 2035 is a misdemeanor punishable under Section 273.6 of the Penal Code.

2043. The Judicial Council shall promulgate forms and instructions for applications for orders and orders granted pursuant to this chapter.

Article 3. Judgment

2045. (a) A judgment entered in the proceeding may include any orders issued pursuant to subdivision (b), (c), or (d) of Section 2035.

(b) If an order is included in the judgment pursuant to subdivision (a), the judgment shall state on its face both of the following:

1. Which provisions of the judgment are the orders.
2. The date of expiration of the orders, which shall be not more than three years from the date the judgment is issued unless extended by the court after notice and hearing.

(c) The judgments, or orders, or extensions thereof, shall be transmitted to law enforcement agencies in the manner provided by Section 2038.

(d) A willful and knowing violation of an order included in the judgment pursuant to subdivision (a) is a misdemeanor punishable under Section 273.6 of the Penal Code.

CHAPTER 5. NOTICE TO INSURANCE CARRIERS

2050. Upon filing of the petition, or at any time during the proceeding, a party may transmit to, or the court may order transmittal to, a health, life, or disability insurance carrier or plan the following notice in substantially the following form:

"YOU ARE HEREBY NOTIFIED, PURSUANT TO A PENDING PROCEEDING, IN RE MARRIAGE OF ________, CASE NUMBER ________, FILED IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ________, THAT OWNERSHIP OF, OR BENEFITS PAYABLE UNDER, A POLICY OF HEALTH, LIFE, OR DISABILITY INSURANCE WHICH YOU HAVE ISSUED TO ONE OF THE PARTIES TO THIS PROCEEDING, POLICY NO. ________, IS AT ISSUE OR MAY BE AT ISSUE IN THE PROCEEDING.

YOU ARE HEREBY INSTRUCTED TO MAINTAIN THE NAMED BENEFICIARIES OR COVERED DEPENDENTS UNDER THE POLICY, UNLESS THE TERMS OF THE POLICY OR OTHER PROVISIONS OF LAW REQUIRE OTHERWISE, OR UNTIL RECEIPT OF A COURT ORDER, JUDGMENT, OR STIPULATION BETWEEN THE PARTIES PROVIDING OTHER INSTRUCTIONS.

YOU ARE FURTHER INSTRUCTED TO SEND NOTICE TO THE NAMED BENEFICIARIES, COVERED DEPENDENTS, OR OTHER SPECIFIED PERSONS UPON CANCELLATION, LAPSE,
OR CHANGE OF THE COVERAGE, OR CHANGE OF DESIGNATED BENEFICIARIES UNDER THE POLICY.”

2051. Upon the entry of an order or judgment in the proceeding requiring a party to maintain existing health, life, or disability insurance coverage for a spouse or children or after an order or judgment in the proceeding requiring a party to purchase life or disability insurance and name the spouse or children as beneficiaries and upon receipt of the name, title, and address of the insurer, or the name of the plan’s trustee, administrator, or agent for service of process, a party may transmit to, or the court may order transmittal to, the insurer or plan a copy of the order or judgment endorsed by the court, together with the following notice in substantially the following form:

“Pursuant to a proceeding, in re marriage of ______, case number ______, in the superior court of the state of California, county of ______, your insured, ________, has been ordered to maintain the existing (health) (life) (disability) insurance coverage, policy no. ______, in force for the named beneficiaries or covered dependents as specified in the attached order or judgment.

The attached order or judgment requires you to maintain the named beneficiaries under the policy as irrevocable beneficiaries or covered dependents of the policy and you must administer the coverage accordingly, until the date specified, if any, in the order or judgment, or until the receipt of a court order, judgment, or stipulation providing other instructions.

You are further instructed to send notice to the named beneficiaries, covered dependents, or other specified persons upon any cancellation, lapse, or change of coverage, or change of designated beneficiaries under this policy.”

2052. Notice pursuant to this chapter may be sent by first-class mail, postage prepaid, to the last known address of the covered dependents, named beneficiaries, or other specified persons who have requested receipt of notification.

2053. The insured or policyholder who is a party to the proceeding shall furnish to the other party the name, title, and address of the insurer or the insurer’s agent for service of process.

Chapter 6. Employee Pension Benefit Plan as Party

Article 1. Joinder of Plan

2060. (a) Upon written application by a party, the clerk shall enter an order joining as a party to the proceeding any employee pension benefit plan in which either party to the proceeding claims
an interest that is or may be subject to disposition by the court.

(b) An order or judgment in the proceeding is not enforceable against an employee pension benefit plan unless the plan has been joined as a party to the proceeding.

2061. Upon entry of the order under Section 2060, the party requesting joinder shall file an appropriate pleading setting forth the party’s claim against the plan and the nature of the relief sought.

2062. (a) The party requesting joinder shall serve all of the following upon the employee pension benefit plan:

1. A copy of the pleading of the party requesting joinder.
2. A copy of the joinder request.
3. A copy of the summons.
4. A blank copy of a notice of appearance in form and content approved by the Judicial Council.

(b) Service shall be made in the same manner as service of papers generally. Service of the summons upon a trustee or administrator of the plan in its capacity as trustee or administrator, or upon an agent designated by the plan for service of process in its capacity as agent, constitutes service upon the plan.

(c) To facilitate service, the employee spouse shall furnish to the nonemployee spouse within 30 days after written request the name, title, and address of the plan’s trustee, administrator, or agent for service of process. If necessary, the employee shall obtain the information from the plan.

2063. (a) The employee pension benefit plan shall file and serve a copy of a notice of appearance upon the party requesting joinder within 30 days of the date of the service upon the plan of a copy of the joinder request and summons.

(b) The employee pension benefit plan may, but need not, file an appropriate responsive pleading with its notice of appearance. If the plan does not file a responsive pleading, all statements of fact and requests for relief contained in any pleading served on the plan are deemed to be controverted by the plan’s notice of appearance.

2064. Notwithstanding any contrary provision of law, the employee pension benefit plan is not required to pay any fee to the clerk of the court as a condition to filing the notice of appearance or any subsequent paper in the proceeding.

2065. If the employee pension benefit plan has been served and no notice of appearance, notice of motion to quash service of summons pursuant to Section 418.10 of the Code of Civil Procedure, or notice of the filing of a petition for writ of mandate as provided in that section, has been filed with the clerk of the court within the time specified in the summons or such further time as may be allowed, the clerk, upon written application of the party requesting joinder, shall enter the default of the employee pension benefit plan in accordance with Chapter 2 (commencing with Section 585) of Title 8 of Part 2 of the Code of Civil Procedure.
Article 2. Proceedings After Joinder

2070. (a) This article governs a proceeding in which an employee pension benefit plan has been joined as a party.
   (b) To the extent not in conflict with this article and except as otherwise provided by rules adopted by the Judicial Council pursuant to Section 211, all provisions of law applicable to civil actions generally apply, regardless of nomenclature, to the portion of the proceeding as to which an employee pension benefit plan has been joined as a party if those provisions would otherwise apply to the proceeding without reference to this article.

2071. Either party or their representatives may notify the employee pension benefit plan of any proposed property settlement as it concerns the plan before any hearing at which the proposed property settlement will be a matter before the court. If so notified, the plan may stipulate to the proposed settlement or advise the representative that it will contest the proposed settlement.

2072. The employee pension benefit plan is not required to, but may, appear at any hearing in the proceeding. For purposes of the Code of Civil Procedure, the plan shall be considered a party appearing at the trial with respect to any hearing at which the interest of the parties in the plan is an issue before the court.

2073. (a) Subject to subdivisions (b) and (c), the provisions of an order entered at or as a result of a hearing not attended by the employee pension benefit plan (whether or not the plan received notice of the hearing) which affect the plan or which affect any interest either the petitioner or respondent may have or claim under the plan, do not become effective until 30 days after the order has been served upon the plan.
   (b) The plan may waive all or any portion of the 30-day period under subdivision (a).
   (c) If within the 30-day period, the plan files in the proceeding a motion to set aside or modify those provisions of the order affecting it, those provisions do not become effective until the court has resolved the motion.

2074. (a) At any hearing on a motion to set aside or modify an order pursuant to Section 2073, any party may present further evidence on any issue relating to the rights of the parties under the employee pension benefit plan or the extent of the parties’ community or quasi-community property interest in the plan.
   (b) Any statement of decision issued by the court with respect to the order which is the subject of the motion shall take account of the evidence referred to in subdivision (a).
   (c) If the provisions of the order affecting the employee pension benefit plan are modified or set aside, the court, on motion by either party, may set aside or modify other provisions of the order related to or affected by the provisions affecting the plan.
CHAPTER 7. RESTORATION OF WIFE'S FORMER NAME

2080. In a proceeding for dissolution of marriage or for nullity of marriage, but not in a proceeding for legal separation of the parties, the court, upon the request of the wife, shall restore the birth name or former name of the wife, regardless of whether or not a request for restoration of the name was included in the petition.

2081. The restoration of a former name or birth name requested under Section 2080 shall not be denied (a) on the basis that the wife has custody of a minor child who bears a different name or (b) for any other reason other than fraud.

2082. Nothing in this code shall be construed to abrogate the common law right of any person to change one's name.

CHAPTER 8. UNIFORM DIVORCE RECOGNITION ACT

2090. This chapter may be cited as the Uniform Divorce Recognition Act.

2091. A divorce obtained in another jurisdiction shall be of no force or effect in this state if both parties to the marriage were domiciled in this state at the time the proceeding for the divorce was commenced.

2092. Proof that a person hereafter obtaining a divorce from the bonds of matrimony in another jurisdiction was (a) domiciled in this state within 12 months before the commencement of the proceeding therefor, and resumed residence in this state within 18 months after the date of the person's departure therefrom, or (b) at all times after the person's departure from this state and until the person's return maintained a place of residence within this state, shall be prima facie evidence that the person was domiciled in this state when the divorce proceeding was commenced.

2093. The application of this chapter is limited by the requirement of the Constitution of the United States that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

PART 2. JUDICIAL DETERMINATION OF VOID OR VOIDABLE MARRIAGE

CHAPTER 1. VOID MARRIAGE

2200. Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces or aunts and nephews, are incestuous, and void from the beginning, whether the relationship is legitimate or illegitimate.

2201. (a) A subsequent marriage contracted by a person during the life of a former husband or wife of the person, with a person other than the former husband or wife, is illegal and void from the
beginning, unless:

(1) The former marriage has been dissolved or adjudged a nullity before the date of the subsequent marriage.

(2) The former husband or wife (i) is absent, and not known to the person to be living for the period of five successive years immediately preceding the subsequent marriage, or (ii) is generally reputed or believed by the person to be dead at the time the subsequent marriage was contracted.

(b) In either of the cases described in paragraph (2) of subdivision (a), the subsequent marriage is valid until its nullity is adjudged pursuant to subdivision (b) of Section 2210.

CHAPTER 2. VOIDABLE MARRIAGE

2210. A marriage is voidable and may be adjudged a nullity if any of the following conditions existed at the time of the marriage:

(a) The party who commences the proceeding or on whose behalf the proceeding is commenced was without the capability of consenting to the marriage as provided in Section 301 or 302, unless, after attaining the age of consent, the party for any time freely cohabited with the other as husband and wife.

(b) The husband or wife of either party was living and the marriage with that husband or wife was then in force and that husband or wife (1) was absent and not known to the party commencing the proceeding to be living for a period of five successive years immediately preceding the subsequent marriage for which the judgment of nullity is sought or (2) was generally reputed or believed by the party commencing the proceeding to be dead at the time the subsequent marriage was contracted.

(c) Either party was of unsound mind, unless the party of unsound mind, after coming to reason, freely cohabited with the other as husband and wife.

(d) The consent of either party was obtained by fraud, unless the party whose consent was obtained by fraud afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife.

(e) The consent of either party was obtained by force, unless the party whose consent was obtained by force afterwards freely cohabited with the other as husband or wife.

(f) Either party was, at the time of marriage, physically incapable of entering into the marriage state, and that incapacity continues, and appears to be incurable.

2211. A proceeding to obtain a judgment of nullity of marriage, for causes set forth in Section 2210, must be commenced within the periods and by the parties, as follows:

(a) For causes mentioned in subdivision (a) of Section 2210, by any of the following:

(1) The party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent.
(2) A parent, guardian, conservator, or other person having charge of the underaged male or female, at any time before the married minor has arrived at the age of legal consent.

(b) For causes mentioned in subdivision (b) of Section 2210, by either of the following:

(1) Either party during the life of the other.
(2) The former husband or wife.

(c) For causes mentioned in subdivision (c) of Section 2210, by the party injured, or by a relative or conservator of the party of unsound mind, at any time before the death of either party.

(d) For causes mentioned in subdivision (d) of Section 2210, by the party whose consent was obtained by fraud, within four years after the discovery of the facts constituting the fraud.

(e) For causes mentioned in subdivision (e) of Section 2210, by the party whose consent was obtained by force, within four years after the marriage.

(f) For causes mentioned in subdivision (f) of Section 2210, by the injured party, within four years after the marriage.

2212. (a) The effect of a judgment of nullity of marriage is to restore the parties to the status of unmarried persons.

(b) A judgment of nullity of marriage is conclusive only as to the parties to the proceeding and those claiming under them.

CHAPTER 3. PROCEDURAL PROVISIONS

2250. (a) A proceeding based on void or voidable marriage is commenced by filing a petition entitled “In re the marriage of ______ and ______” which shall state that it is a petition for a judgment of nullity of the marriage.

(b) A copy of the petition together with a copy of a summons in form and content approved by the Judicial Council shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

2251. (a) If a determination is made that a marriage is void or voidable and the court finds that either party or both parties believed in good faith that the marriage was valid, the court shall:

(1) Declare the party or parties to have the status of a putative spouse.

(2) If the division of property is in issue, divide, in accordance with Division 7 (commencing with Section 2500), that property acquired during the union which would have been community property or quasi-community property if the union had not been void or voidable. This property is known as “quasi-marital property”.

(b) If the court expressly reserves jurisdiction, it may make the property division at a time after the judgment.

2252. The property divided pursuant to Section 2251 is liable for debts of the parties to the same extent as if the property had been community property or quasi-community property.

2253. In a proceeding under this part, custody of the children
shall be determined according to Division 8 (commencing with Section 3000).

2254. The court may, during the pendency of a proceeding for nullity of marriage or upon judgment of nullity of marriage, order a party to pay for the support of the other party in the same manner as if the marriage had not been void or voidable if the party for whose benefit the order is made is found to be a putative spouse.

2255. The court may grant attorney’s fees and costs in accordance with Part 5 (commencing with Section 270) of Division 2 in proceedings to have the marriage adjudged void and in those proceedings based upon voidable marriage in which the party applying for attorney’s fees and costs is found to be innocent of fraud or wrongdoing in inducing or entering into the marriage, and free from knowledge of the then existence of any prior marriage or other impediment to the contracting of the marriage for which a judgment of nullity is sought.

PART 3. DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION

CHAPTER 1. EFFECT OF DISSOLUTION

2300. The effect of a judgment of dissolution of marriage when it becomes final is to restore the parties to the state of unmarried persons.

CHAPTER 2. GROUNDS FOR DISSOLUTION OR LEGAL SEPARATION

2310. Dissolution of the marriage or legal separation of the parties may be based on either of the following grounds, which shall be pleaded generally:
   (a) Irreconcilable differences, which have caused the irremediable breakdown of the marriage.
   (b) Incurable insanity.

2311. Irreconcilable differences are those grounds which are determined by the court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved.

2312. A marriage may be dissolved on the grounds of incurable insanity only upon proof, including competent medical or psychiatric testimony, that the insane spouse was at the time the petition was filed, and remains, incurably insane.

2313. No dissolution of marriage granted on the ground of incurable insanity relieves a spouse from any obligation imposed by law as a result of the marriage for the support of the spouse who is incurably insane, and the court may make such order for support, or require a bond therefor, as the circumstances require.
CHAPTER 3. RESIDENCE REQUIREMENTS

2320. A judgment of dissolution of marriage may not be entered unless one of the parties to the marriage has been a resident of this state for six months and of the county in which the proceeding is filed for three months next preceding the filing of the petition.

2321. (a) In a proceeding for legal separation of the parties in which neither party, at the time the proceeding was commenced, has complied with the residence requirements of Section 2320, either party may, upon complying with the residence requirements, amend the party’s petition or responsive pleading in the proceeding to request that a judgment of dissolution of the marriage be entered. The date of the filing of the amended petition or pleading shall be deemed to be the date of commencement of the proceeding for the dissolution of the marriage for the purposes only of the residence requirements of Section 2320.

(b) If the other party has appeared in the proceeding, notice of the amendment shall be given to the other party in the manner provided by rules adopted by the Judicial Council. If no appearance has been made by the other party in the proceeding, notice of the amendment may be given to the other party by mail to the last known address of the other party, or by personal service, if the intent of the party to so amend upon satisfaction of the residence requirements of Section 2320 is set forth in the initial petition or pleading in the manner provided by rules adopted by the Judicial Council.

2322. For the purpose of a proceeding for dissolution of marriage, the husband and wife each may have a separate domicile or residence depending upon proof of the fact and not upon legal presumptions.

CHAPTER 4. GENERAL PROCEDURAL PROVISIONS

2330. (a) A proceeding for dissolution of marriage or for legal separation of the parties is commenced by filing a petition entitled “In re the marriage of ______ and ______” which shall state whether it is a petition for dissolution of the marriage or for legal separation of the parties.

(b) In a proceeding for dissolution of marriage or for legal separation of the parties, the petition shall set forth among other matters, as nearly as can be ascertained, the following facts:

1. The state or country in which the parties were married.
2. The date of marriage.
3. The date of separation.
4. The number of years from marriage to separation.
5. The number of children of the marriage, if any, and if none a statement of that fact.
6. The age and birth date of each minor child of the marriage.
7. The social security numbers of the husband and wife, if
available, and if not available, a statement to that effect.

2330.5. Notwithstanding any other provision of law, if no demand for money, property, costs, or attorney’s fees is contained in the petition and the judgment of dissolution of marriage is entered by default, the filing of income and expense declarations and property declarations in connection therewith shall not be required.

2331. A copy of the petition, together with a copy of a summons, in form and content approved by the Judicial Council shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

2332. (a) If the petition for dissolution of the marriage is based on the ground of incurable insanity and the insane spouse has a guardian or conservator, other than the spouse filing the petition, the petition and summons shall be served upon the insane spouse and the guardian or conservator. The guardian or conservator shall defend and protect the interests of the insane spouse.

(b) If the insane spouse has no guardian or conservator, or if the spouse filing the petition is the guardian or conservator of the insane spouse, the court shall appoint a guardian ad litem, who may be the district attorney or the county counsel, if any, to defend and protect the interests of the insane spouse. If a district attorney or county counsel is appointed guardian ad litem pursuant to this subdivision, the successor in the office of district attorney or county counsel, as the case may be, succeeds as guardian ad litem, without further action by the court or parties.

(c) “Guardian or conservator” as used in this section means:

(1) With respect to the issue of the dissolution of the marriage relationship, the guardian or conservator of the person.

(2) With respect to support and property division issues, the guardian or conservator of the estate.

2333. Subject to Section 2334, if from the evidence at the hearing the court finds that there are irreconcilable differences which have caused the irremediable breakdown of the marriage, the court shall order the dissolution of the marriage or a legal separation of the parties.

2334. (a) If it appears that there is a reasonable possibility of reconciliation, the court shall continue the proceeding for the dissolution of the marriage or for a legal separation of the parties for a period not to exceed 30 days.

(b) During the period of the continuance, the court may make orders for the support and maintenance of the parties, the custody, and support of the minor children of the marriage, attorney’s fees, and for the preservation of the property of the parties.

(c) At any time after the termination of the period of the continuance, either party may move for the dissolution of the marriage or a legal separation of the parties, and the court may enter a judgment of dissolution of the marriage or legal separation of the parties.

2335. In a pleading or proceeding for dissolution of marriage or
legal separation of the parties, including depositions and discovery proceedings, evidence of specific acts of misconduct is improper and inadmissible, except in any of the following cases:

(a) Where child custody is in issue and the evidence is relevant to that issue.

(b) Where a domestic violence prevention order is sought or has been obtained and the evidence is relevant in connection with the order.

2336. (a) No judgment of dissolution or of legal separation of the parties may be granted upon the default of one of the parties or upon a statement or finding of fact made by a referee; but the court shall, in addition to the statement or finding of the referee, require proof of the grounds alleged, and the proof, if not taken before the court, shall be by affidavit.

(b) If the proof is by affidavit, the personal appearance of the affiant is required only when it appears to the court that any of the following circumstances exist:

(1) Reconciliation of the parties is reasonably possible.

(2) A proposed child custody order is not in the best interest of the child.

(3) A proposed child support order is less than a noncustodial parent is capable of paying.

(4) A personal appearance of a party or interested person would be in the best interests of justice.

(c) An affidavit submitted pursuant to this section shall contain a stipulation by the affiant that the affiant understands that proof will be by affidavit and that the affiant will not appear before the court unless so ordered by the court.

2337. (a) In a proceeding for dissolution of marriage, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) The court may impose upon a party any of the following conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in case of that party's death, an order of any of the following conditions continues to be binding upon that party's estate:

(1) The party shall indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party if the dissolution of the marriage before the division of the parties' community estate results in a taxable event to either of the parties by reason of the ultimate division of their community estate, which taxes would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and the minor children as named dependents, so long as the party is legally able to do so. At the time the party is no longer legally eligible to maintain
the other party as a named dependent under the existing health and medical policies, the party or the party’s estate shall, at the party’s sole expense, purchase and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage. If comparable insurance coverage is not obtained, the party or the party’s estate is responsible for the health and medical expenses incurred by the other party which would have been covered by the insurance coverage, and shall indemnify and hold the other party harmless from any adverse consequences resulting from the lack of insurance.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in a termination of the other party’s right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the other party’s rights to pension benefits, elections, or survivors’ benefits under the party’s pension or retirement plan to the extent that the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(6) The party shall cause the party’s retirement or pension plan to be joined as a party to the proceeding for dissolution, and if the party has a private pension plan covered by ERISA, then the party shall cause a qualified domestic relations order, as defined in Section 1056 of Title 29 of the United States Code, to be served upon the party’s pension plan.

(7) The party shall indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(8) Any other condition the court determines is just and equitable.

(c) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

2338. (a) In a proceeding for dissolution of the marriage or legal separation of the parties, the court shall file its decision and any statement of decision as in other cases.

(b) If the court determines that no dissolution should be granted,
a judgment to that effect only shall be entered.

(c) If the court determines that a dissolution should be granted, a judgment of dissolution of marriage shall be entered. After the entry of the judgment and before it becomes final, neither party has the right to dismiss the proceeding without the consent of the other.

2339. (a) Subject to subdivision (b) and to Sections 2340 to 2344, inclusive, no judgment of dissolution is final for the purpose of terminating the marriage relationship of the parties until six months have expired from the date of service of a copy of summons and petition or the date of appearance of the respondent, whichever occurs first.

(b) The court may extend the six-month period described in subdivision (a) for good cause shown.

2340. A judgment of dissolution of marriage shall specify the date on which the judgment becomes finally effective for the purpose of terminating the marriage relationship of the parties.

2341. (a) Notwithstanding Section 2340, if an appeal is taken from the judgment or a motion for a new trial is made, the dissolution of marriage does not become final until the motion or appeal has been finally disposed of, nor then, if the motion has been granted or judgment reversed.

(b) Notwithstanding any other provision of law, the filing of an appeal or of a motion for a new trial does not stay the effect of a judgment insofar as it relates to the dissolution of the marriage status and restoring the parties to the status of unmarried persons, unless the appealing or moving party specifies in the notice of appeal or motion for new trial an objection to the termination of the marriage status. No party may make such an objection to the termination of the marriage status unless such an objection was also made at the time of trial.

2342. Where a joint petition under Chapter 5 (commencing with Section 2400) is thereafter revoked and either party commences a proceeding pursuant to Section 2330 within 90 days from the date of the filing of the revocation, the date the judgment becomes a final judgment under Section 2339 shall be calculated by deducting the period of time which has elapsed from the date of filing the joint petition to the date of filing the revocation.

2343. The court may, upon notice and for good cause shown, or on stipulation of the parties, retain jurisdiction over the date of termination of the marital status, or may order that the marital status be terminated at a future specified date. On the date of termination of the marital status, the parties are restored to the status of unmarried persons.

2344. (a) The death of either party after entry of the judgment does not prevent the judgment from becoming a final judgment under Sections 2339 to 2343, inclusive.

(b) Subdivision (a) does not validate a marriage by either party before the judgment becomes final, nor does it constitute a defense in a criminal prosecution against either party.
2345. The court may not render a judgment of the legal separation of the parties without the consent of both parties unless one party has not made a general appearance and the petition is one for legal separation.

2346. (a) If the court determines that a judgment of dissolution of the marriage should be granted, but by mistake, negligence, or inadvertence, the judgment has not been signed, filed, and entered, the court may cause the judgment to be signed, dated, filed, and entered in the proceeding as of the date when the judgment could have been signed, dated, filed, and entered originally, if it appears to the satisfaction of the court that no appeal is to be taken in the proceeding or motion made for a new trial, to annul or set aside the judgment, or for relief under Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure.

(b) The court may act under subdivision (a) on its own motion or upon the motion of either party to the proceeding. In contested cases, the motion of a party shall be with notice to the other party.

(c) The court may cause the judgment to be entered nunc pro tunc as provided in this section, even though the judgment may have been previously entered, where through mistake, negligence, or inadvertence the judgment was not entered as soon as it could have been entered under the law if applied for.

(d) The court shall not cause a judgment to be entered nunc pro tunc as provided in this section as of a date before trial in the matter, before the date of an uncontested judgment hearing in the matter, or before the date of submission to the court of an application for judgment on affidavit pursuant to Section 2336. Upon the entry of the judgment, the parties have the same rights with regard to the dissolution of marriage becoming final on the date that it would have become final had the judgment been entered upon the date when it could have been originally entered.

2347. A judgment of legal separation of the parties does not bar a subsequent judgment of dissolution of the marriage granted pursuant to a petition for dissolution filed by either party.

Chapter 5. Summary Dissolution

2400. (a) A marriage may be dissolved by the summary dissolution procedure specified in this chapter when all of the following conditions exist at the time the proceeding is commenced:

(1) Either party has met the jurisdictional requirements of Chapter 3 (commencing with Section 2320) with regard to dissolution of marriage.

(2) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.

(3) There are no children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, and the wife, to her knowledge, is not pregnant.

(4) The marriage is not more than five years in duration at the
time the petition is filed.

(5) Neither party has any interest in real property wherever situated, with the exception of the lease of a residence occupied by either party which satisfies the following requirements:

(A) The lease does not include an option to purchase.

(B) The lease terminates within one year from the date of the filing of the petition.

(6) There are no unpaid obligations in excess of four thousand dollars ($4,000) incurred by either or both of the parties after the date of their marriage, excluding the amount of any unpaid obligation with respect to an automobile.

(7) The total fair market value of community property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, is less than twenty-five thousand dollars ($25,000), and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of twenty-five thousand dollars ($25,000).

(8) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(9) The parties waive any rights to spousal support.

(10) The parties, upon entry of the judgment of dissolution of marriage pursuant to Section 2403, irrevocably waive their respective rights to appeal and their rights to move for a new trial.

(11) The parties have read and understand the summary dissolution brochure provided for in Section 2406.

(12) The parties desire that the court dissolve the marriage.

(b) On January 1 of each odd-numbered year, the amounts in paragraph (6) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. On January 1, 1993, and on January 1 of each odd-numbered year thereafter, the amounts in paragraph (7) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. The adjustments shall be made by multiplying the base amounts by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars. The Judicial Council shall compute and publish the amounts.

2401. (a) A proceeding for summary dissolution of the marriage shall be commenced by filing a joint petition in the form prescribed by the Judicial Council.

(b) The petition shall be signed under oath by both the husband and the wife, and shall include all of the following:

(1) A statement that as of the date of the filing of the joint petition all of the conditions set forth in Section 2400 have been met.

(2) The mailing address of both the husband and the wife.

(3) A statement whether or not the wife elects to have her maiden or former name restored, and, if so, the name to be restored.

2402. (a) At any time before the filing of application for
judgment pursuant to Section 2403, either party to the marriage may revoke the joint petition and thereby terminate the summary dissolution proceeding filed pursuant to this chapter.

(b) The revocation shall be effected by filing with the clerk of the court where the proceeding was commenced a notice of revocation in such form and content as shall be prescribed by the Judicial Council.

(c) The revoking party shall send a copy of the notice of revocation to the other party by first-class mail, postage prepaid, at the other party's last known address.

2403. When six months have expired from the date of the filing of the joint petition for summary dissolution, the court may, upon application of either party, enter the judgment dissolving the marriage. The judgment restores to the parties the status of single persons, and either party may marry after the entry of the judgment. The clerk shall send a notice of entry of judgment to each of the parties at the party's last known address.

2404. Entry of the judgment pursuant to Section 2403 constitutes:

(a) A final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights.

(b) A waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

2405. (a) Entry of the judgment pursuant to Section 2403 does not prejudice nor bar the rights of either of the parties to institute an action to set aside the judgment for fraud, duress, accident, mistake, or other grounds recognized at law or in equity or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(b) The court shall set aside a judgment entered pursuant to Section 2403 regarding all matters except the status of the marriage, upon proof that the parties did not meet the requirements of Section 2400 at the time the petition was filed.

2406. (a) Each superior court shall make available a brochure, the contents and form of which shall be prescribed by the Judicial Council, describing the requirements, nature, and effect of proceedings under this chapter. The brochure shall be printed and distributed by the Judicial Council in both English and Spanish.

(b) The brochure shall state, in nontechnical language, all the following:

(1) It is in the best interests of the parties to consult an attorney regarding the dissolution of their marriage. The services of an attorney may be obtained through lawyer referral services, group or prepaid legal services, or legal aid organizations.

(2) The parties should not rely exclusively on this brochure which is not intended as a guide for self-representation in proceedings under this chapter.

(3) A concise summary of the provisions and procedures of this chapter and Sections 2320 and 2322 and Sections 2339 to 2344, inclusive.

(4) The nature of services of the conciliation court, where
available.

(5) Neither party to the marriage can in the future obtain spousal support from the other.

(6) A statement in boldface type to the effect that upon entry of the judgment, the rights and obligations of the parties to the marriage with respect to the marriage, including property and spousal support rights, will be permanently adjudicated without right of appeal, except that neither party will be barred from instituting an action to set aside the judgment for fraud, duress, accident, mistake, or other grounds at law or in equity, or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(7) The parties to the marriage retain the status of married persons and cannot remarry until the judgment dissolving the marriage is entered.

(8) Other matters as the Judicial Council considers appropriate.

DIVISION 7. DIVISION OF PROPERTY

PART 1. DEFINITIONS

2500. Unless the provision or context otherwise requires, the definitions in this part govern the construction of this division.

2501. “Community estate” includes both the community and quasi-community assets and liabilities of the parties.

2502. “Separate property” does not include quasi-community property.

PART 2. GENERAL PROVISIONS

2550. Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, or as otherwise provided in this division, in a proceeding for dissolution of marriage or for legal separation of the parties, the court shall, either in its judgment of dissolution of the marriage, in its judgment of legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community estate of the parties equally.

2551. For the purposes of division and in confirming or assigning the liabilities of the parties for which the community estate is liable, the court shall characterize liabilities as separate or community and confirm or assign them to the parties in accordance with Part 6 (commencing with Section 2620).

2552. (a) For the purpose of division of the community estate upon dissolution of marriage or legal separation of the parties, except as provided in subdivision (b), the court shall value the assets and liabilities as near as practicable to the time of trial.

(b) Upon 30 days’ notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and before trial to
accomplish an equal division of the community estate of the parties in an equitable manner.

2553. The court may make any orders the court considers necessary to carry out the purposes of this division.

2554. (a) Notwithstanding any other provision of this division, in any case in which the parties do not agree in writing to a voluntary division of the community estate of the parties, the issue of the character, the value, and the division of the community estate may be submitted by the court to arbitration for resolution pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, if the total value of the community and quasi-community property in controversy in the opinion of the court does not exceed fifty thousand dollars ($50,000). The decision of the court regarding the value of the community and quasi-community property for purposes of this section is not appealable.

(b) The court may submit the matter to arbitration at any time it believes the parties are unable to agree upon a division of the property.

2555. The disposition of the community estate, as provided in this division, is subject to revision on appeal in all particulars, including those which are stated to be in the discretion of the court.

2556. In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has continuing jurisdiction to award community estate assets or community estate liabilities to the parties that has not been previously adjudicated by a judgment in the proceeding. A party may file a postjudgment motion or order to show cause in the proceeding in order to obtain adjudication of any community estate asset or liability omitted or not adjudicated by the judgment. In these cases, the court shall equally divide the omitted or unadjudicated community estate asset or liability, unless the court finds upon good cause shown that the interests of justice require an unequal division of the asset or liability.

PART 3. PRESUMPTION CONCERNING PROPERTY HELD IN JOINT FORM

2580. (a) For the purpose of division of property upon dissolution of marriage or legal separation of the parties:

(1) Property acquired by the parties during marriage on or after January 1, 1984, and before January 1, 1987, in joint tenancy form is presumed to be community property.

(2) Property acquired by the parties during marriage on or after January 1, 1987, in joint form, including property held in tenancy in common, joint tenancy, tenancy by the entirety, or as community property is presumed to be community property.

(b) The presumptions under subdivision (a) are presumptions affecting the burden of proof and may be rebutted by either of the
following:

(1) A clear statement in the deed or other documentary evidence of title by which the property is acquired that the property is separate property and not community property.

(2) Proof that the parties have made a written agreement that the property is separate property.

(c) Nothing in this section affects the character of property acquired by married persons that is not described in subdivision (a).

PART 4. SPECIAL RULES FOR DIVISION OF COMMUNITY ESTATE

2600. Notwithstanding Sections 2550 to 2552, inclusive, the court may divide the community estate as provided in this part.

2601. Where economic circumstances warrant, the court may award an asset of the community estate to one party on such conditions as the court deems proper to effect a substantially equal division of the community estate.

2602. As an additional award or offset against existing property, the court may award, from a party's share, the amount the court determines to have been deliberately misappropriated by the party to the exclusion of the interest of the other party in the community estate.

2603. (a) "Community estate personal injury damages" as used in this section means all money or other property received or to be received by a person in satisfaction of a judgment for damages for the person's personal injuries or pursuant to an agreement for the settlement or compromise of a claim for the damages, if the cause of action for the damages arose during the marriage but is not separate property as described in Section 781, unless the money or other property has been commingled with other assets of the community estate.

(b) Community estate personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition. In such a case, the community estate personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of the damages shall be assigned to the party who suffered the injuries.

2604. If the net value of the community estate is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all the community estate to the other party on conditions the court deems proper in its judgment of dissolution of marriage or legal separation of the parties.
PART 5. RETIREMENT PLAN BENEFITS

2610. The court shall make whatever orders are necessary or appropriate to ensure that each party receives the party’s full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, any of the following:

(a) Order the division of any retirement benefits payable upon or after the death of either party in a manner consistent with this division.

(b) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, in any case in which a retirement plan provides for such an election.

(c) Order the division of accumulated community property contributions and service credit as provided in Article 1.2 (commencing with Section 21215) of Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code.

(d) Order the division of community property rights in accounts with the State Teachers’ Retirement System pursuant to Chapter 7.5 (commencing with Section 22650) of Part 13 of the Education Code.

PART 6. DEBTS AND LIABILITIES

2620. The debts for which the community estate is liable which are unpaid at the time of trial, or for which the community estate becomes liable after trial, shall be confirmed or divided as provided in this part.

2621. Debts incurred by either spouse before the date of marriage shall be confirmed without offset to the spouse who incurred the debt.

2622. (a) Except as provided in subdivision (b), debts incurred by either spouse after the date of marriage but before the date of separation shall be divided as set forth in Sections 2550 to 2552, inclusive, and Sections 2601 to 2604, inclusive.

(b) To the extent that community debts exceed total community and quasi-community assets, the excess of debt shall be assigned as the court deems just and equitable, taking into account factors such as the parties’ relative ability to pay.

2623. Debts incurred by either spouse after the date of separation but before entry of a judgment of dissolution of marriage or legal separation of the parties shall be confirmed as follows:

(a) Debts incurred by either spouse for the common necessaries of life of either spouse or the necessaries of life of the minor children of the marriage, in the absence of a court order or written agreement for support or for the payment of these debts, shall be confirmed to either spouse according to the parties’ respective needs and abilities to pay at the time the debt was incurred.

(b) Debts incurred by either spouse for nonnecessaries of that
spouse or minor children of the marriage shall be confirmed without offset to the spouse who incurred the debt.

2624. Debts incurred by either spouse after entry of a judgment of dissolution of marriage but before termination of the parties' marital status or after entry of a judgment of legal separation of the parties shall be confirmed without offset to the spouse who incurred the debt.

2625. Notwithstanding Sections 2620 to 2624, inclusive, all separate debts, including those debts incurred by a spouse during marriage and before the date of separation that were not incurred for the benefit of the community, shall be confirmed without offset to the spouse who incurred the debt.

2626. The court has jurisdiction to order reimbursement in cases it deems appropriate for debts paid after separation but before trial.

2627. Notwithstanding Sections 2550 to 2552, inclusive, and Sections 2620 to 2624, inclusive, educational loans shall be assigned pursuant to Section 2641 and liabilities subject to paragraph (2) of subdivision (b) of Section 1000 shall be assigned to the spouse whose act or omission provided the basis for the liability, without offset.

2628. The judgment of dissolution of marriage, or the judgment of legal separation of the parties, shall contain the following notice: "A debt or obligation may be assigned to one party as part of the division of property and debts, but if that party does not pay the debt or obligation, the creditor may be able to collect from the other party."

PART 7. REIMBURSEMENTS

2640. (a) "Contributions to the acquisition of the property," as used in this section, include downpayments, payments for improvements, and payments that reduce the principal of a loan used to finance the purchase or improvement of the property but do not include payments of interest on the loan or payments made for maintenance, insurance, or taxation of the property.

(b) In the division of community estate property acquired on or after January 1, 1984, by the parties during marriage unless a party has made a written waiver of the right to reimbursement or signed a writing that has the effect of a waiver, the party shall be reimbursed for the party's contributions to the acquisition of the property to the extent the party traces the contributions to a separate property source. The amount reimbursed shall be without interest or adjustment for change in monetary values and shall not exceed the net value of the property at the time of the division.

2641. (a) "Community contributions to education or training" as used in this section means payments made with community or quasi-community property for education or training or for the repayment of a loan incurred for education or training, whether the payments were made while the parties were resident in this state or resident outside this state.
(b) Subject to the limitations provided in this section, upon
dissolution of marriage or legal separation of the parties:

(1) The community shall be reimbursed for community
contributions to education or training of a party that substantially
enhances the earning capacity of the party. The amount reimbursed
shall be with interest at the legal rate, accruing from the end of the
calendar year in which the contributions were made.

(2) A loan incurred during marriage for the education or training
of a party shall not be included among the liabilities of the
community for the purpose of division pursuant to this division but
shall be assigned for payment by the party.

(c) The reimbursement and assignment required by this section
shall be reduced or modified to the extent circumstances render such
a disposition unjust, including, but not limited to, any of the
following:

(1) The community has substantially benefited from the
education, training, or loan incurred for the education or training of
the party. There is a rebuttable presumption, affecting the burden
of proof, that the community has not substantially benefited from
community contributions to the education or training made less than
10 years before the commencement of the proceeding, and that the
community has substantially benefited from community
contributions to the education or training made more than 10 years
before the commencement of the proceeding.

(2) The education or training received by the party is offset by the
education or training received by the other party for which
community contributions have been made.

(3) The education or training enables the party receiving the
education or training to engage in gainful employment that
substantially reduces the need of the party for support that would
otherwise be required.

(d) Reimbursement for community contributions and assignment
of loans pursuant to this section is the exclusive remedy of the
community or a party for the education or training and any resulting
enhancement of the earning capacity of a party. However, nothing
in this subdivision limits consideration of the effect of the education,
training, or enhancement, or the amount reimbursed pursuant to
this section, on the circumstances of the parties for the purpose of an
order for support pursuant to Section 4320.

(e) This section is subject to an express written agreement of the
parties to the contrary.

PART 8. JOINTLY HELD SEPARATE PROPERTY

2650. In a proceeding for division of the community estate, the
court has jurisdiction, at the request of either party, to divide the
separate property interests of the parties in real and personal
property, wherever situated and whenever acquired, held by the
parties as joint tenants or tenants in common. The property shall be
divided together with, and in accordance with the same procedure for and limitations on, division of community estate.

PART 9. REAL PROPERTY LOCATED IN ANOTHER STATE

2660. (a) Except as provided in subdivision (b), if the property subject to division includes real property situated in another state, the court shall, if possible, divide the community property and quasi-community property as provided for in this division in such a manner that it is not necessary to change the nature of the interests held in the real property situated in the other state.

(b) If it is not possible to divide the property in the manner provided for in subdivision (a), the court may do any of the following in order to effect a division of the property as provided for in this division:

1. Require the parties to execute conveyances or take other actions with respect to the real property situated in the other state as are necessary.

2. Award to the party who would have been benefited by the conveyances or other actions the money value of the interest in the property that the party would have received if the conveyances had been executed or other actions taken.

DIVISION 8. CUSTODY OF CHILDREN

PART 1. DEFINITIONS AND GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS

3000. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this division.

3002. "Joint custody" means joint physical custody and joint legal custody.

3003. "Joint legal custody" means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3004. "Joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents.

3006. "Sole legal custody" means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3007. "Sole physical custody" means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation.
3010. (a) The mother of an unemancipated minor child is entitled to the custody, services, and earnings of the child.
   (b) The father of the unemancipated minor child, if presumed to be the father under Section 7611, is equally entitled to the custody, services, and earnings of the child.
   (c) If either the father or mother is dead or unable or refuses to take the custody or has abandoned his or her family, the other is entitled to the custody, services, and earnings of the unemancipated minor child.

3011. A parent entitled to the custody of a child has a right to change the residence of the child, subject to the power of the court to restrain a removal that would prejudice the rights or welfare of the child.

3012. The parent, as such, has no control over the property of the child.

3013. The employer of a minor shall pay the earnings of the minor to the minor until the parent or guardian entitled to the earnings gives the employer notice that the parent or guardian claims the earnings.

3014. The parent, whether solvent or insolvent, may relinquish to the child the right of controlling the child and receiving the child's earnings. Abandonment by the parent is presumptive evidence of that relinquishment.

3015. The authority of a parent ceases upon any of the following:
   (a) The appointment, by a court, of a guardian of the person of the child.
   (b) The marriage of the child.
   (c) The child attaining the age of majority.

3016. Where a child, after attaining the age of majority, continues to serve and to be supported by the parent, neither party is entitled to compensation, in the absence of an agreement for the compensation.

3017. An order awarding custody to a parent who is receiving, or in the opinion of the court is likely to receive, assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) for the maintenance of the child shall include an order pursuant to Chapter 2 (commencing with Section 4000) of Part 2 of Division 9, directing the noncustodial parent to pay any amount necessary for the support of the child, to the extent of the noncustodial parent's ability to pay.

3018. The abuse of parental authority is the subject of judicial cognizance in a civil action brought by the child, or by the child's relative within the third degree, or by the supervisors of the county where the child resides; and when the abuse is established, the child may be freed from the dominion of the parent, and the duty of support and education enforced.
PART 2. RIGHT TO CUSTODY OF MINOR CHILD

CHAPTER 1. GENERAL PROVISIONS

3020. The Legislature finds and declares that it is the public policy of this state to assure minor children frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where the contact would not be in the best interest of the child, as set forth in Section 3022.

3021. In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper.

3022. In making a determination of the best interest of the child in a proceeding under this division, the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.
(b) Any history of abuse by one parent against the child or against the other parent. As a prerequisite to the consideration of allegations of abuse, the court may require substantial independent corroboration including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against the child" means child abuse as defined in Section 11165.5 of the Penal Code and "abuse against the other parent" means abuse as defined in Section 55 of this code.
(c) The nature and amount of contact with both parents.

3023. (a) In any case in which a contested issue of custody of a minor child is the sole contested issue, the case shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date and shall be given an early hearing.
(b) In any case in which there is more than one contested issue and one of the issues is the custody of a minor child, the court, as to the issue of custody, shall order a separate trial. The separate trial shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date.

3024. In making an order for custody, if the court does not consider it inappropriate, the court may specify that a parent shall notify the other parent if the parent plans to change the residence of the child for more than 30 days, unless there is prior written agreement to the removal. The notice shall be given before the contemplated move, by mail, return receipt requested, postage prepaid, to the last known address of the parent to be notified. A copy
of the notice shall also be sent to that parent's counsel of record. To
the extent feasible, the notice shall be provided within a minimum
of 45 days before the proposed change of residence so as to allow time
for mediation of a new agreement concerning custody. This section
does not affect orders made before January 1, 1989.

3025. Notwithstanding any other provision of law, access to
records and information pertaining to a minor child, including, but
not limited to, medical, dental, and school records, shall not be
denied to a parent because that parent is not the child's custodial
parent.

3026. Family reunification services shall not be ordered as a part
of a child custody or visitation rights proceeding brought under this
code. Nothing in this section affects the applicability of Section 16507
of the Welfare and Institutions Code.

3027. (a) If a court determines that an accusation of child abuse
or neglect made during a child custody proceeding under this code
is false and the person making the accusation knew it to be false at
the time the accusation was made, the court may impose reasonable
money sanctions, not to exceed one thousand dollars ($1,000) and
reasonable attorney's fees incurred in recovering the sanctions,
against the person making the accusation. For the purposes of this
section, "person" includes a witness, a party, or a party's attorney.

(b) Upon motion by any person requesting sanctions under this
section, the court shall issue its order to show cause why the
requested sanctions should not be imposed. The order to show cause
shall be served upon the person against whom the sanctions are
sought and a hearing thereon shall be scheduled by the court to be
conducted at least 15 days after the order is served.

(c) The remedy provided by this section is in addition to any other
remedy provided by law.

3028. (a) The court may order financial compensation for
periods when a parent fails to assume the caretaker responsibility or
when a parent has been thwarted by the other parent when
attempting to exercise visitation or custody rights contemplated by
a custody or visitation order entered under this code, including, but
not limited to, an order for joint physical custody, or by a written or
oral agreement between the parents.

(b) The compensation shall be limited to (1) the reasonable
expenses incurred for or on behalf of a child, resulting from the other
parent's failure to assume caretaker responsibility or (2) the
reasonable expenses incurred by a parent for or on behalf of a child,
resulting from the other parent's thwarting of the parent's efforts to
exercise visitation or custody rights. The expenses may include the
value of caretaker services but are not limited to the cost of services
provided by a third party during the relevant period.

(c) The compensation may be requested by noticed motion or an
order to show cause, which shall allege, under penalty of perjury, (1)
a minimum of one hundred dollars ($100) of expenses incurred or
(2) at least three occurrences of failure to exercise visitation or
custody rights or (3) at least three occurrences of the thwarting of efforts to exercise visitation or custody rights within the six months before filing of the motion or order.

(d) Attorney’s fees shall be awarded to the prevailing party upon a showing of the nonprevailing party’s ability to pay.

CHAPTER 2. MATTERS TO BE CONSIDERED IN AWARDING CUSTODY

3040. (a) Custody should be awarded in the following order of preference according to the best interest of the child pursuant to Section 3022:

(1) To both parents jointly pursuant to Chapter 4 (commencing with Section 3080) or to either parent. In making an order for custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent, subject to Section 3022, and shall not prefer a parent as custodian because of that parent’s sex. The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(b) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan which is in the best interest of the child.

3041. Before making an order awarding custody to a person or persons other than a parent, without the consent of the parents, the court shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interest of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

3042. If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification thereof.

3043. In determining the person or persons to whom custody should be awarded under paragraph (2) or (3) of subdivision (a) of Section 3040, the court shall consider and give due weight to the nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code.
3044. No parent shall be awarded custody of, or unsupervised visitation with, a child if the parent has been convicted under Section 273a, 273d, or 647.6 of the Penal Code unless the court finds that there is no significant risk to the child.

CHAPTER 3. TEMPORARY CUSTODY ORDER DURING PENDENCY OF PROCEEDING

3060. In any proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, where there are minor children of the marriage, and in any action for exclusive custody under Section 3120, a petition for a temporary custody order containing the statement required by Section 3409 may be included with the initial filing of the petition or action or may be filed at any time thereafter.

3061. If the parties have agreed to or reached an understanding on the custody or temporary custody of their children, a copy of the agreement or an affidavit as to their understanding shall be attached to the petition or action. As promptly as possible after this filing, the court shall, except in exceptional circumstances, enter an order awarding temporary custody in accordance with the agreement or understanding or in accordance with any stipulation of the parties.

3062. (a) In the absence of an agreement, understanding, or stipulation, the court may, if jurisdiction is appropriate, enter an ex parte temporary custody order, set a hearing date within 20 days, and issue an order to show cause on the responding party. If the responding party does not appear or respond within the time set, the temporary custody order may be extended as necessary, pending the termination of the proceedings.

(b) If, despite good faith efforts, service of the ex parte order and order to show cause has not been effected in a timely fashion and there is reason to believe, based on an affidavit, or other manner of proof made under penalty of perjury, by the petitioner, that the responding party has possession of the minor child and seeks to avoid the jurisdiction of the court or is concealing the whereabouts of the child, then the hearing date may be reset and the ex parte order extended up to an additional 90 days. After service has been effected, either party may request ex parte that the hearing date be advanced or the ex parte order be dissolved or modified.

3063. In conjunction with any ex parte order seeking or modifying an order of custody, the court shall enter an order restraining the person receiving custody from removing the child from the state pending notice and a hearing on the order seeking or modifying custody.

3064. The court shall refrain from making an order granting or modifying a custody order on an ex parte basis unless there has been a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California. “Immediate harm to the child” includes having a parent who has committed acts of
domestic violence, where the court determines that the acts of domestic violence are of recent origin or are a part of a demonstrated and continuing pattern of acts of domestic violence.

CHAPTER 4. JOIN T CUSTODY

3080. There is a presumption, affecting the burden of proof, that joint custody is in the best interest of a minor child, subject to Section 3022, where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of a minor child of the marriage.

3081. Upon the application of either parent, joint custody may be awarded in the discretion of the court in other cases, subject to Section 3022. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate under this section, the court may direct that an investigation be conducted pursuant to Chapter 6 (commencing with Section 3110).

3082. When a request for joint custody is granted or denied, the court, upon the request of any party, shall state in its decision the reasons for granting or denying the request. A statement that joint physical custody is, or is not, in the best interest of the child is not sufficient to satisfy the requirements of this section.

3083. In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.

3084. In making an order of joint physical custody, the court shall specify the rights of each parent to physical control of the child in sufficient detail to enable a parent deprived of that control to implement laws for relief of child snatching and kidnapping.

3085. In making an order for custody with respect to both parents, the court may award joint legal custody without awarding joint physical custody.

3086. In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance.

3087. An order for joint custody may be modified or terminated upon the petition of one or both parents or on the court’s own motion if it is shown that the best interest of the child requires modification or termination of the order. If either parent opposes the modification or termination order, the court shall state in its decision the reasons for modification or termination of the joint custody order.

3088. An order for the custody of a minor child of a marriage entered by a court in this state or any other state may, subject to the
jurisdictional requirements set forth in Sections 3403 and 3414, be modified at any time to an order of joint custody in accordance with this chapter.

3089. In counties having a conciliation court, the court or the parties may, at any time, pursuant to local rules of court, consult with the conciliation court for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve a controversy which has arisen in the implementation of a plan for custody.

CHAPTER 5. VISITATION RIGHTS

3100. (a) Subject to Chapter 11 (commencing with Section 3155), in making an order pursuant to Chapter 4 (commencing with Section 3080), the court shall order reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child. In the discretion of the court, reasonable visitation rights may be granted to any other person having an interest in the welfare of the child.

(b) In making an award authorizing visitation pursuant to this section, if a domestic violence prevention order has been directed to a parent, the court shall consider whether the best interest of the child requires that any visitation granted to that parent shall be limited to situations in which a third person, specified by the court, is present. The court shall include in its deliberations a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order. A parent may submit the name of a person to the court that the parent deems suitable to be present during visitation.

3101. (a) In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has jurisdiction to award reasonable visitation rights to any of the following persons if visitation by the person is determined to be in the best interest of the minor child:

(1) A person who is a party to the marriage that is the subject of the proceeding with respect to a minor child of the other party to the marriage.

(2) A person who is a grandparent of a minor child of a party to the marriage.

(b) There is a rebuttable presumption affecting the burden of proof that the visitation of a grandparent is not in the best interest of a minor child if the parties to the marriage agree that the grandparent should not be awarded visitation rights.

(c) Visitation rights granted to a stepparent or grandparent pursuant to this section shall not conflict with any visitation or custodial right of a natural or adoptive parent who is not a party to the proceeding.

(d) In making an award of visitation pursuant to this section, if a domestic violence prevention order has been directed to a
stepparent or grandparent during the pendency of the proceeding, the court shall consider whether the best interest of the child requires that any visitation by that stepparent or grandparent should be denied.

3102. (a) If either the father or mother of an unemancipated minor child is deceased, the children, parents, and the grandparents of the deceased father or mother may be granted reasonable visitation rights to the minor child during the child's minority upon a finding that the visitation rights would be in the best interest of the minor child.

(b) In granting visitation rights to a person other than the parents of the deceased father or mother, the court shall consider the amount of personal contact between the person and the minor child before the application for the order granting the person visitation rights.

(c) This section does not apply if the child has been adopted by a person other than a stepparent or grandparent. Any visitation rights granted pursuant to this section before the adoption of the child automatically terminate upon the adoption of the child by a person other than a stepparent or grandparent.

CHAPTER 6. CUSTODY INVESTIGATION AND REPORT

3110. In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, 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.

3111. Where there has been a history of domestic violence between the parties, or where a domestic violence prevention order is in effect, at the request of the 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.

3112. 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 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.

3113. Nothing in this chapter prohibits the probation officer, domestic relations investigator, or court appointed evaluator from recommending to the court that counsel be appointed pursuant to Chapter 10 (commencing with Section 3150) to represent the minor child. In making that 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 interest of the minor child to have counsel appointed.

CHAPTER 7. ACTION FOR EXCLUSIVE CUSTODY

3120. Without filing a petition for dissolution of marriage or legal separation of the parties, the husband or wife may bring an action for the exclusive custody of the children of the marriage. The court may, during the pendency of the action, or at the final hearing thereof, or afterwards, make such order regarding the support, care, custody, education, and control of the children of the marriage as may be just and in accordance with the natural rights of the parents and the best interest of the children. The order may be modified or terminated at any time thereafter as the natural rights of the parties and the best interest of the children may require.

CHAPTER 8. LOCATION OF MISSING PARTY OR CHILD

3130. If a petition to determine custody of a child has been filed in a court of competent jurisdiction, or if a temporary order pending determination of custody has been entered in accordance with Chapter 3 (commencing with Section 3060), and the whereabouts of a party in possession of the child are not known, or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 3411, the district attorney shall take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

3131. If a custody or visitation order has been entered by a court of competent jurisdiction and the child is taken or detained by another person in violation of the order, the district attorney shall take all actions necessary to locate and return the child and the person who violated the order and to assist in the enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding.

3132. In performing the functions described in Sections 3130 and 3131, the district attorney shall act on behalf of the court and shall
not represent any party to the custody proceedings.

3133. If the district attorney represents to the court, by a written declaration under penalty of perjury, that a temporary custody order is needed to recover a child who is being detained or concealed in violation of a court order or a parent's right to custody, the court may issue an order, placing temporary sole physical custody in the parent or person recommended by the district attorney to facilitate the return of the child to the jurisdiction of the court, pending further hearings. If the court determines that it is not in the best interest of the child to place temporary sole physical custody in the parent or person recommended by the district attorney, the court shall appoint a person to take charge of the child and return the child to the jurisdiction of the court.

3134. (a) When the district attorney incurs expenses pursuant to this chapter, including expenses incurred in a sister state, payment of the expenses may be advanced by the county subject to reimbursement by the state, and shall be audited by the Controller and paid by the State Treasury according to law.

(b) The court in which the custody proceeding is pending or which has continuing jurisdiction shall, if appropriate, allocate liability for the reimbursement of actual expenses incurred by the district attorney to either or both parties to the proceedings, and that allocation shall constitute a judgment for the state for the funds advanced pursuant to this section. The county shall take reasonable action to enforce that liability and shall transmit all recovered funds to the state.

CHAPTER 9. CHECK TO DETERMINE WHETHER CHILD IS MISSING PERSON

3140. (a) Subject to subdivisions (b) and (c), before granting or modifying a custody order in a case in which one or both parents of the child have not appeared either personally or by counsel, the court shall require the parent, petitioner, or other party appearing in the case to submit a certified copy of the child's birth certificate to the court. The court or its designee shall forward the certified copy of the birth certificate to the local police or sheriff's department which shall check with the National Crime Information Center Missing Person System to ascertain whether the child has been reported missing or is the victim of an abduction and shall report the results of the check to the court.

(b) If the custody matter before the court also involves a petition for the dissolution of marriage or the adjudication of paternity rights or duties, this section applies only to a case in which there is no proof of personal service of the petition on the absent parent.

(c) For good cause shown, the court may waive the requirements of this section.
CHAPTER 10. APPOINTMENT OF COUNSEL TO REPRESENT CHILD

3150. (a) In an initial or subsequent proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties where there is in issue the custody of or visitation with a minor child, the court may, if it determines it would be in the best interest of the minor child, appoint private counsel to represent the interests of the minor child.

(b) Counsel, upon entering an appearance on behalf of a minor pursuant to this chapter, shall continue to represent that minor unless relieved by the court upon the substitution of other counsel by the court or for cause.

3151. (a) The child's counsel appointed under this chapter is charged with the representation of the child's interests. The counsel's duties, unless under the circumstances it is inappropriate to exercise the duty, include interviewing the child, reviewing the court files and all accessible relevant records available to both parties, and making any further investigations as the counsel considers necessary to ascertain facts relevant to the custody or visitation hearings. Counsel may introduce and examine counsel's own witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceeding to the degree necessary to represent the child adequately.

(b) Counsel shall have the following rights when ordered by the court:

(1) Reasonable access to the child with adequate notice.
(2) Notice of any proceeding, including a request for examinations, affecting the child.
(3) Access to medical and school records for the child.
(4) The right to veto any physical or psychological examination or evaluation, for purposes of the proceeding, which has not been ordered by the court.
(5) The right to assert on behalf of the child any privilege for discovery purposes.
(6) The right to seek independent psychological or physical examination or evaluation of the child for purposes of the pending proceeding, upon application to the court.

3152. (a) The child's counsel may, upon noticed motion to all parties and the local child protective services agency, request the court to authorize release of relevant reports or files, concerning the child represented by the counsel, of the relevant local child protective services agency.

(b) The court shall review the reports or files in camera in order to determine whether they are relevant to the pending action and whether and to what extent they should be released to the child's counsel.

(c) Neither the review by the court nor the release to counsel shall constitute a waiver of the confidentiality of the reports and files. Counsel shall not disclose the contents or existence of the reports or
files to anyone unless otherwise permitted by law.

3153. (a) If the court appoints counsel under this chapter to represent the child, counsel shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. Except as provided in subdivision (b), this amount shall be paid by the parties in the proportions the court deems just.

(b) Upon its own motion or that of a party, the court shall determine whether both parties together are financially unable to pay all or a portion of the cost of counsel appointed pursuant to this chapter, and the portion of the cost of that counsel which the court finds the parties are unable to pay shall be paid by the county. The Judicial Council shall adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.

CHAPTER 11. MEDIATION OF VISITATION OR CUSTODY ISSUES


3155. 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 is not required to institute a family conciliation court. The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in Section 1815.

3156. Mediation proceedings under this chapter shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator made in a proceeding pursuant to this chapter are deemed to be official information within the meaning of Section 1040 of the Evidence Code.

3157. In mediation proceedings under this chapter, the mediator has the duty to assess the needs and interests of the child involved in the controversy and is entitled to interview the child when the mediator considers the interview appropriate or necessary.

3158. The mediator has authority to exclude counsel from participation in the mediation proceedings under this chapter where, in the discretion of the mediator, exclusion of counsel is deemed by the mediator to be appropriate or necessary.

3159. (a) The mediator may, consistent with local court rules, submit a recommendation to the court as to the custody or visitation of the child.

(b) The mediator may, in cases where the parties have not reached agreement as a result of the mediation proceedings, recommend to the court that an investigation be conducted, or that other action be taken, to assist the parties to effect a resolution of the controversy before any hearing on the issues. If the mediation is
pursuant to Article 2 (commencing with Section 3170), the investigation shall be conducted pursuant to Chapter 6 (commencing with Section 3110).

(c) The mediator may, in appropriate cases, recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy.

3160. (a) An 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 before its being reported to the court.

(b) No agreement shall be confirmed or otherwise incorporated in an order of the court unless each party, in person or by counsel of record, has affirmed and assented to the agreement in open court or by written stipulation. The 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.

3161. (a) Mediation of cases involving custody and visitation concerning children shall be governed by uniform standards of practice adopted by the Judicial Council.

(b) The standards of practice shall include, but not be limited to, all of the following:

1. Provision for the best interest of the child and the safeguarding of the rights of the child to frequent and continuing contact with both parents.

2. Facilitation of the transition of the family by detailing factors to be considered in decisions concerning the child’s future.

3. The conducting of negotiations in such a way as to equalize power relationships between the parties.

(c) In adopting the standards of practice, the Judicial Council shall consider standards developed by recognized associations of mediators and attorneys and other relevant standards governing mediation of proceedings for the dissolution of marriage.

(d) The Judicial Council shall offer training with respect to the standards to mediators.

3162. Courts shall develop local rules to respond to requests for a change of mediators or to general problems relating to mediation.

Article 2. Mediation of Contested Custody or Visitation

3170. In a proceeding where the custody of, or visitation with, a minor child is at issue (including, but not limited to, a proceeding where a temporary custody order is sought) and 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 the child that either or both these issues are contested, the matter shall be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing.

3171. Upon the adoption of a resolution by the board of
supervisors authorizing the procedure, a petition also may be filed pursuant to this chapter for the mediation of a dispute relating to an 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.

3172. The purpose of the mediation proceeding is to reduce acrimony which may exist between the parties and to develop an agreement assuring the child such close and continuing contact with both parents as is in the best interest of the child. The mediator shall use best efforts to effect a settlement of the custody or visitation dispute that is in the best interest of the child, consistent with the considerations required by Section 3022.

3173. Mediation shall not be denied to the parties on the basis that paternity is an issue in a proceeding before the court.

3174. Nothing in this chapter prohibits the mediator from recommending to the court that counsel be appointed pursuant to Chapter 10 (commencing with Section 3150) to represent the minor child. In making that recommendation, the mediator shall inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.

3175. (a) An agreement reached by the parties as a result of mediation shall be limited to the resolution of issues relating to parenting plans, custody, or visitation, or a combination thereof.

(b) The custody or visitation agreement may be modified at any time at the discretion of the court, subject to Chapter 1 (commencing with Section 3020), Chapter 2 (commencing with Section 3040), Chapter 4 (commencing with Section 3080), and Chapter 5 (commencing with Section 3100).

3176. The mediator has 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.

3177. (a) In a proceeding in which mediation is required pursuant to this chapter, where there has been a history of domestic violence between the parties or where a domestic violence prevention order is in effect, at the request of the party alleging domestic violence or protected by the order, the parties shall meet with the mediator appointed pursuant to this chapter separately at separate times.

(b) Any intake form that an agency charged with providing family court services may require the parties to complete before 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 this chapter separately at separate times.
Article 3. Mediation of Stepparent or Grandparent Visitation

3180. (a) If a stepparent or grandparent has petitioned or otherwise applied for an order of reasonable visitation rights pursuant to Section 3101 or 3102, the court shall set the matter of visitation rights for mediation. The purpose of the mediation is to effect a settlement of the issue of visitation rights of all parties that is in the best interest of the child.

(b) A natural or adoptive parent who is not a party to the proceeding is not required to participate in the mediation proceeding, but failure to participate is a waiver of that parent’s right to object to any settlement reached by the other parties during mediation or to require a hearing on the matter.

3181. (a) An agreement reached by the parties as a result of mediation shall be limited to the resolution of issues relating to visitation.

(b) The agreement may be modified at any time at the discretion of the court, subject to Sections 3101 and 3102.

3182. If the issue of visitation rights of all parties is not settled by agreement of all parties who participate in mediation, the mediator shall so inform the court in writing and the court shall set the matter of visitation rights for hearing. Each natural or adoptive parent and the stepparent or grandparent seeking visitation rights shall be given an opportunity to appear and be heard on that issue.

3183. Notice of mediation and of any hearing to be held pursuant to this article shall be given to the stepparent or grandparent seeking visitation rights, to each of the parents of the child, and to each counsel of record of each of the parents in any proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties. The notice shall be given by certified mail, return receipt requested, postage prepaid, to the last known address of each of the parents and the parent’s counsel.

CHAPTER 12. COUNSELING OF PARENTS AND CHILD

3190. (a) In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, 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 both of the following:

(1) The dispute between the parents or between a parent and the child poses a substantial danger to the best interest of the child.
(2) The counseling is in the best interest of the child.

(b) The court shall fix the cost and shall order the entire cost of
the services to be borne by the parties in the proportions the court deems reasonable.

(c) The court, in its finding, shall set forth reasons why it has found both of the following:

(1) The dispute poses a substantial danger to the best interest of the child and the counseling is in the best interest of the child.

(2) The financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.

(d) 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 chapter.

3191. The counseling pursuant to this chapter 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.

3192. In a proceeding in which counseling is ordered pursuant to this chapter, where there has been a history of domestic violence between the parties or where a domestic violence prevention order is in effect, 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.

PART 3. UNIFORM CHILD CUSTODY JURISDICTION ACT

3400. This part may be cited as the Uniform Child Custody Jurisdiction Act.

3401. (a) The general purposes of this part are to:

(1) Avoid jurisdiction competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being.

(2) Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child.

(3) Assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and the child's family have the closest connection and where significant evidence concerning the child's care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and the child's family have a closer connection with another state.

(4) Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child.
(5) Deter abductions and other unilateral removals of children undertaken to obtain custody awards.
(6) Avoid relitigation of custody decisions of other states in this state insofar as feasible.
(7) Facilitate the enforcement of custody decrees of other states.
(8) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child.
(b) This part shall be construed to promote the general purposes stated in this section.

3402. As used in this part:
(a) "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.
(b) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person.
(c) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as a proceeding for dissolution of marriage or for legal separation of the parties, and includes child neglect and dependency proceedings.
(d) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.
(e) "Home state" means the state in which the child immediately preceding the time involved lived with the child’s parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period.
(f) "Initial decree" means the first custody decree concerning a particular child.
(g) "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.
(h) "Physical custody" means actual possession and control of a child.
(i) "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by the court or claims a right to custody.
(j) "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

3403. (a) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if the conditions as set forth in any of the following paragraphs are met:
(1) This state (A) is the home state of the child at the time of commencement of the proceeding, or (B) had been the child’s home state within six months before commencement of the proceeding and the child is absent from this state because of removal or retention by a person claiming custody of the child or for other reasons, and a parent or person acting as parent continues to live in this state.

(2) It is in the best interest of the child that a court of this state assume jurisdiction because (A) the child and the child’s parents, or the child and at least one contestant, have a significant connection with this state, and (B) there is available in this state substantial evidence concerning the child’s present or future care, protection, training, and personal relationships.

(3) The child is physically present in this state and (A) the child has been abandoned or (B) it is necessary in an emergency to protect the child because the child has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent.

(4) (A) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (1), (2), and (3), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and (B) it is in the best interest of the child that this court assume jurisdiction.

(b) Except under paragraphs (3) and (4) of subdivision (a), physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine the custody of the child.

3404. Before making a decree under this part, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to Section 3405.

3405. (a) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be made in any of the following ways:

(1) By personal delivery outside this state in the manner prescribed for service of process within this state.

(2) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction.

(3) By any form of mail addressed to the person to be served and requesting a receipt.

(4) As directed by the court (including publication, if other means of notification are ineffective).

(b) Notice under this section shall be served, mailed, delivered, or last published at least 10 days before any hearing in this state.
(c) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(d) Notice is not required if a person submits to the jurisdiction of the court.

3406. (a) A court of this state shall not exercise its jurisdiction under this part if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this part, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

(b) Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under Section 3410 and shall consult the child custody registry established under Section 3417 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(c) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with Sections 3420 to 3423, inclusive. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

3407. (a) A court which has jurisdiction under this part to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(b) A finding of inconvenient forum may be made upon the court’s own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(c) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(1) If another state is or recently was the child’s home state.
(2) If another state has a closer connection with the child and the child’s family or with the child and one or more of the contestants.

(3) If substantial evidence concerning the child’s present or future care, protection, training, and personal relationships is more readily available in another state.

(4) If the parties have agreed on another forum which is no less appropriate.

(5) If the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in Section 3401.

(d) Before determining whether to decline or retain jurisdiction, the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to ensuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(e) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate consent and submission to the jurisdiction of the other forum.

(f) The court may decline to exercise its jurisdiction under this part if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) If it appears to the court that it is clearly an inappropriate forum, the court may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney’s fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(h) Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(i) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction, the court of this state shall inform the original court of this fact.

3408. (a) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may decline to exercise jurisdiction for purposes of adjudication of custody if this is just and proper under the circumstances.

(b) Unless required in the interest of the child, the court shall not
exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(c) Where the court declines to exercise jurisdiction upon petition for an initial custody decree pursuant to subdivision (a), the court shall notify the parent or other appropriate person and the prosecuting attorney of the appropriate jurisdiction in the other state. If a request to that effect is received from the other state, the court shall order the petitioner to appear with the child in a custody proceeding instituted in the other state in accordance with Section 3421. If no request is made within a reasonable time after the notification, the court may entertain a petition to determine custody by the petitioner if it has jurisdiction pursuant to Section 3403.

(d) Where the court refuses to assume jurisdiction to modify the custody decree of another state pursuant to subdivision (b) or pursuant to Section 3414, the court shall notify the person who has legal custody under the decree of the other state and the prosecuting attorney of the appropriate jurisdiction in the other state and may order the petitioner to return the child to the person who has legal custody. If it appears that the order will be ineffective and the legal custodian is ready to receive the child within a period of a few days, the court may place the child in a foster care home for that period, pending return of the child to the legal custodian. At the same time, the court shall advise the petitioner that any petition for modification of custody must be directed to (1) the appropriate court of the other state which has continuing jurisdiction or (2) if that court declines jurisdiction, to a court in a state which has jurisdiction pursuant to Section 3403.

(e) In appropriate cases, a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees and the cost of returning the child to another state.

3409. (a) Every party in a custody proceeding in the party's first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit, every party shall further declare under oath as to each of the following whether the party:

(1) Has participated, as a party, witness, or in any other capacity, in any other litigation concerning the custody of the same child in this or any other state.

(2) Has information of any custody proceeding concerning the
child pending in a court of this or any other state.

(3) Knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(b) If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court’s jurisdiction and the disposition of the case.

(c) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which the party obtained information during this proceeding.

3410. If the court learns from information furnished by the parties pursuant to Section 3409 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of the person’s joinder as a party. If the person joined as a party is outside this state, the person shall be served with process or otherwise notified in accordance with Section 3405.

3411. (a) The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child, the court may order that the party appear personally with the child. If the party who is ordered to appear with the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against the party to secure the party’s appearance with the child.

(b) If a party to the proceeding whose presence is desired by the court is outside this state with or without the child the court may order that the notice given under Section 3405 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(c) If a party to the proceeding who is outside this state is directed to appear under subdivision (b) or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

3412. A custody decree rendered by a court of this state which had jurisdiction under Section 3403 binds all parties who have been served in this state or notified in accordance with Section 3405 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties, the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination
is modified pursuant to law, including this part.

3413. The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this part or which was made under factual circumstances meeting the jurisdictional standards of this part, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this part.

3414. (a) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (1) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this part or has declined to assume jurisdiction to modify the decree and (2) the court of this state has jurisdiction.

(b) If a court of this state is authorized under subdivision (a) and Section 3408 to modify a custody decree of another state, the court shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with Section 3423.

3415. Section 3140 is applicable to proceedings pursuant to this part.

3416. (a) A certified copy of a custody decree of another state may be filed in the office of the clerk of any superior court of this state. The clerk shall treat the decree in the same manner as a custody decree of the superior court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

(b) A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorney’s fees, incurred by the party entitled to the custody or that party’s witnesses.

3417. The clerk of each superior court shall maintain a registry in which the clerk shall enter all of the following:

(a) Certified copies of custody decrees of other states received for filing.

(b) Communications as to the pendency of custody proceedings in other states.

(c) Communications concerning a finding of inconvenient forum by a court of another state.

(d) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.

(e) Any custody agreement for which an order is requested regarding a child who is not the subject of another order. The parties shall submit the affidavit required by Section 3409, on the form developed by the Judicial Council for use with Section 3409.
3418. The clerk of a superior court of this state, at the request of
the court of another state or at the request of any person who is
affected by or has a legitimate interest in a custody decree, shall
certify and forward a copy of the decree to that court or person.

3419. In addition to other procedural devices available to a party,
any party to the proceeding or a guardian ad litem or other
representative of the child may adduce testimony of witnesses,
including parties and the child, by deposition or otherwise, in
another state. The court on its own motion may direct that the
testimony of a person be taken in another state and may prescribe
the manner in which and the terms upon which the testimony shall
be taken.

3420. (a) A court of this state may request the appropriate court
of another state to hold a hearing to adduce evidence, to order a
party to produce or give evidence under other procedures of that
state, or to have social studies made with respect to the custody of
a child involved in proceedings pending in the court of this state; and
to forward to the court of this state certified copies of the transcript
of the record of the hearing, the evidence otherwise adduced, or any
social studies prepared in compliance with the request. The cost of
the services may be assessed against the parties or, if necessary,
ordered paid by the state.

(b) A court of this state may request the appropriate court of
another state to order a party to custody proceedings pending in the
court of this state to appear in the proceedings, and if that party has
physical custody of the child, to appear with the child. The request
may state that travel and other necessary expenses of the party and
of the child whose appearance is desired will be assessed against
another party or will otherwise be paid.

3421. (a) Upon request of the court of another state, the courts
of this state which are competent to hear custody matters may order
a person in this state to appear at a hearing to adduce evidence or
to produce or give evidence under other procedures available in this
state. A certified copy of the transcript of the record of the hearing
or the evidence otherwise adduced shall be forwarded by the clerk
of the court to the requesting court.

(b) A person within this state may voluntarily give his or her
testimony or statement in this state for use in a custody proceeding
outside this state.

(c) Upon request of the court of another state, a competent court
of this state may order a person in this state to appear alone or with
the child in a custody proceeding in another state. The court may
condition compliance with the request upon assurance by the other
state that travel and other necessary expenses will be advanced or
reimbursed. If the person who has physical custody of the child
cannot be served or fails to obey the order, or it appears the order
will be ineffective, the court may issue a warrant of arrest against the
person to secure the person's appearance with the child in the other
state.
3422. In any custody proceeding in this state, the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches 18 years of age. Upon appropriate request of the court of another state, the court shall forward to the other court certified copies of any or all of such documents.

3423. If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in Section 3422.

3424. The general policies of this part extend to the international area. The provisions of this part relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

3425. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this part, the case shall be given calendar priority and handled expeditiously.

DIVISION 9. SUPPORT

PART 1. DEFINITIONS AND GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS

3500. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this division. 3515. "Separate property" does not include quasi-community property.

CHAPTER 2. GENERAL PROVISIONS

3550. (a) As used in this section:
(1) "Obligee" means a person to whom a duty of support is owed.
(2) "Obligor" means a person who owes a duty of support.
(b) An obligor present or resident in this state has the duty of support as defined in Sections 3900, 3901, 3910, 4300, and 4400, regardless of the presence or residence of the obligee.

3551. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable under this division. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.

3552. (a) In a proceeding involving child, family, or spousal support, no party to the proceeding may refuse to submit copies of
the party's state and federal income tax returns to the court, whether individual or joint.

(b) The tax returns may be examined by the other party and are discoverable by the other party. A party also may be examined by the other party as to the contents of a tax return submitted pursuant to this section.

(c) If the court finds that it is relevant to the case to retain the tax return, the tax return shall be sealed and maintained as a confidential record of the court. If the court finds that the tax return is not relevant to disposition of the case, all copies of the tax return shall be returned to the party who submitted it.

3554. An appeal may be taken from an order or judgment under this division as in other civil actions.

3555. Where support is ordered to be paid through the county officer designated by the court on behalf of a minor child or other party not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the designated county officer shall forward the support received to the designated payee within the time standards prescribed by federal law and the State Department of Social Services.

3556. The existence or enforcement of a duty of support owed by a noncustodial parent for the support of a minor child is not affected by a failure or refusal by the custodial parent to implement any rights as to custody or visitation granted by a court to the noncustodial parent.

CHAPTER 3. SUPPORT AGREEMENTS


3580. Subject to this chapter and to Section 3651, a husband and wife may agree, in writing, to an immediate separation, and may provide in the agreement for the support of either of them and of their children during the separation or upon the dissolution of their marriage. The mutual consent of the parties is sufficient consideration for the agreement.

Article 2. Child Support

3585. The provisions of an agreement between the parents for child support shall be deemed to be separate and severable from all other provisions of the agreement relating to property and support of the wife or husband. An order for child support based on the agreement shall be law-imposed and shall be made under the power of the court to order child support.

3586. If an agreement between the parents combines child support and spousal support without designating the amount to be
paid for child support and the amount to be paid for spousal support, the court is not required to make a separate order for child support.

3587. Notwithstanding any other provision of law, the court has the authority to approve a stipulated agreement by the parents to pay for the support of an adult child or for the continuation of child support after a child attains the age of 18 years and to make a support order to effectuate the agreement.

Article 3. Spousal Support

3590. The provisions of an agreement for support of either party shall be deemed to be separate and severable from the provisions of the agreement relating to property. An order for support of either party based on the agreement shall be law-imposed and shall be made under the power of the court to order spousal support.

3591. (a) Except as provided in subdivisions (b) and (c), the provisions of an agreement for the support of either party are subject to subsequent modification or termination by court order.

(b) An agreement may not be modified or terminated as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate.

(c) An agreement for spousal support may not be modified or revoked to the extent that a written agreement, or, if there is no written agreement, an oral agreement entered into in open court between the parties, specifically provides that the spousal support is not subject to modification or termination.

3592. If an obligation under an agreement for settlement of property to a spouse or for support of a spouse is discharged in bankruptcy, the court may make all proper orders for the support of the spouse, as the court determines are just, having regard for the circumstances of the parties and the amount of the obligations under the agreement that are discharged.

3593. Sections 3590 and 3591 are effective only with respect to a property settlement agreement entered into on or after January 1, 1970, and do not affect an agreement entered into before January 1, 1970, as to which Chapter 1308 of the Statutes of 1967 shall apply.

CHAPTER 4. SPOUSAL AND CHILD SUPPORT DURING PENDENCY OF PROCEEDING

3600. During the pendency of any proceeding for dissolution of marriage or for legal separation of the parties or under Division 8 (commencing with Section 3000) (custody of children) or in any proceeding where there is at issue the support of a minor child or a child for whom support is authorized under Section 3901 or 3910, the court may order (1) the husband or wife to pay any amount that is necessary for the support of the wife or husband, or (2) either or both parents to pay any amount necessary for the support of the child, as the case may be.
3601. (a) An order for child support entered pursuant to this chapter continues in effect until the order (1) is terminated by the court or (2) terminates by operation of law pursuant to Sections 3900, 3901, 4007, 4013, and 4101.

(b) Subject to Section 3602, subdivision (a) applies notwithstanding any other provision of law and notwithstanding that the proceeding has not been brought to trial within the time limits specified in Chapter 1.5 (commencing with Section 583.110) of Title 8 of Part 2 of the Code of Civil Procedure.

3602. Unless the order specifies otherwise, an order made pursuant to this chapter is not enforceable during any period in which the parties have reconciled and are living together.

3603. An order made pursuant to this chapter may be modified or terminated at any time except as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate.

3604. An order made pursuant to this chapter does not prejudice the rights of the parties or the child with respect to any subsequent order which may be made.

CHAPTER 5. EXPEDITED CHILD SUPPORT ORDER

3620. An order under this chapter shall be known as an expedited support order.

3621. In an action for child support that has been filed and served, the court may, without a hearing, make an order requiring a parent or parents to pay for the support of their minor child or children during the pendency of that action, pursuant to this chapter, the amount required by Section 4053 or, if the income of the obligated parent or parents is unknown to the applicant, then the minimum amount of support as provided in Section 11452 of the Welfare and Institutions Code.

3622. An expedited support order shall be made by the court upon the filing with the court of all of the following:

(a) An application for an expedited child support order, setting forth the minimum amount the obligated parent or parents are required to pay pursuant to Section 4053 of this code or pursuant to Section 11452 of the Welfare and Institutions Code.

(b) An income and expense declaration for both parents completed by the applicant.

(c) A worksheet setting forth the basis of the amount of support requested.

(d) A proposed expedited child support order.

3623. (a) An application for the expedited support order confers jurisdiction on the court to hear only the issue of support of the minor child or children.

(b) Nothing in this chapter prevents either party from bringing before the court at the hearing other separately noticed issues otherwise relevant and proper to the action in which the application
for the expedited support order has been filed.

3624. (a) Subject to Section 3625, an expedited support order becomes effective 30 days after service on the obligated parent of all of the following:

(1) The application for an expedited child support order.
(2) The proposed expedited child support order, which shall include a notice of consequences of failure to file a response.
(3) The completed income and expense declaration for both parents.
(4) A worksheet setting forth the basis of the amount of support requested.
(5) Three blank copies of the income and expense declaration form.
(6) Three blank copies of the response to an application for expedited child support order and notice of hearing form.

(b) Service on the obligated parent of the application and other required documents as set forth in subdivision (a) shall be by personal service or by any method available under Sections 415.10 to 415.40, inclusive, of the Code of Civil Procedure.

(c) Unless there is a response to the application for an expedited support order as provided in Section 3625, the expedited support order shall be effective on the obligated parent without further action by the court.

3625. (a) A response to the application for the proposed expedited support order and the obligated parent's income and expense declaration may be filed with the court at any time before the effective date of the expedited support order and, on filing, shall be served upon the applicant by any method by which a response to a notice of motion may be served.

(b) The response to the application for an expedited support order shall state the objections of the obligated parent to the proposed expedited support order.

(c) The simultaneous filing of the response to the application for an expedited support order and the obligated parent's income and expense declaration shall stay the effective date of the expedited support order.

(d) No fee shall be charged for, or in connection with, the filing of the response.

3626. The obligated parent shall cause the court clerk to, and the court clerk shall, set a hearing on the application for the expedited support order not less than 20 nor more than 30 days after the filing of the response to the application for the expedited support order and income and expense declaration.

3627. The obligated parent shall give notice of the hearing to the other parties or their counsel by first-class mail not less than 15 days before the hearing.

3628. If notice of the hearing is not given as provided in Section 3627, the expedited support order becomes effective as provided in Section 3624, subject to the relief available to the responding party.
as provided by Section 473 of the Code of Civil Procedure or any other available relief whether in law or in equity.

3629. (a) At the hearing on the application for the expedited support order, all parties who are parents of the child or children who are the subject of the action shall produce copies of their most recently filed federal and state income tax returns.

(b) A tax return so submitted may be reviewed by the other parties, and a party also may be examined by the other parties as to the contents of the return.

(c) Except as provided in subdivision (d), a party who fails to submit documents to the court as required by this chapter shall not be granted the relief that the party has requested.

(d) The court may grant the requested relief if the party submits a declaration under penalty of perjury that (1) no such document exists, or (2) in the case of a tax return, it cannot be produced, but a copy has been requested from the Internal Revenue Service or Franchise Tax Board.

3630. (a) Except as provided in subdivision (b), the amount of the expedited support order shall be the minimum amount the obligated parent is required to pay as set forth in the application.

(b) If a hearing is held on the application, the court shall order an amount of support in accordance with Article 2 (commencing with Section 4050) of Chapter 2 of Part 2.

3631. When there is a hearing, the resulting order shall be called an order after hearing.

3632. An order after hearing shall become effective not more than 30 days after the filing of the response to the application for the expedited support order and may be given retroactive effect to the date of the filing of the application.

3633. An order entered under this chapter may be modified or terminated at any time on the same basis as any other order for child support.

3634. The Judicial Council shall prepare all forms necessary to give effect to this chapter.

CHAPTER 6. MODIFICATION OR TERMINATION OF SUPPORT


3650. "Support order" as used in this chapter means a child, family, or spousal support order.

3651. (a) Except as provided in subdivisions (b) and (c) and subject to Article 3 (commencing with Section 3680) and Sections 3552, 3587, and 4004, a support order may be modified or terminated at any time as the court determines to be necessary.

(b) A support order may not be modified or terminated as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate.

(c) An order for spousal support may not be modified or
terminated to the extent that a written agreement, or, if there is no written agreement, an oral agreement entered into in open court between the parties, specifically provides that the spousal support is not subject to modification or termination.

(d) This section applies whether or not the support order is based upon an agreement between the parties.

(e) This section is effective only with respect to a property settlement agreement entered into on or after January 1, 1970, and does not affect an agreement entered into before January 1, 1970, as to which Chapter 1308 of the Statutes of 1967 shall apply.

3652. An order modifying or terminating a child support order may include an award of attorney’s fees and court costs to the prevailing party.

3653. An order modifying or terminating a support order may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or terminate, or to any subsequent date, except as provided by federal law (42 U.S.C. Sec. 666(a) (9)).

3654. At the request of either party, an order modifying or terminating a spousal support order shall include a statement of decision.

Article 2. Discovery Before Commencing Modification or Termination Proceeding

3660. The purpose of this article is to permit inexpensive discovery of facts before the commencement of a proceeding for modification or termination of an order for child, family, or spousal support.

3662. Methods of discovery other than that described in this article may only be used if a motion for modification or termination of the support order is pending.

3663. In the absence of a pending motion for modification or termination of a support order, a request for discovery pursuant to this article may be undertaken not more frequently than once every 12 months.

3664. (a) At any time following a judgment of dissolution of marriage or legal separation of the parties that provides for payment of support, either the party ordered to pay support or the party to whom support was ordered to be paid or that party’s assignee, without leave of court, may serve a request for the production of a completed current income and expense declaration in the form adopted by the Judicial Council.

(b) Service of a request for production of an income and expense declaration pursuant to this section shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

3665. (a) A copy of the prior year’s federal and state personal income tax returns shall be attached to the income and expense declaration of each party.
(b) A party shall not disclose the contents or provide copies of the other party's tax returns to anyone except the court, the party's attorney, the party's accountant, or other financial consultant assisting with matters relating to the proceeding, or any other person permitted by the court.

(c) The tax returns shall be controlled by the court as provided in Section 3552.

3666. This article may be enforced in the manner specified in Sections 1991, 1991.1, 1991.2, 1992, and 1993 of the Code of Civil Procedure and in the Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure), and any other statutes applicable to the enforcement of procedures for discovery.

3667. Upon the subsequent filing of a motion for modification or termination of the support order by the requesting party, if the court finds that the income and expense declaration submitted by the responding party pursuant to this article was incomplete, inaccurate, or missing the prior year's federal and state personal income tax returns, or that the declaration was not submitted in good faith, the court may order sanctions against the responding party in the form of payment of all costs of the motion, including the filing fee and the costs of the depositions and subpoenas necessary to be utilized in order to obtain complete and accurate information.

3668. The Judicial Council shall adopt forms which shall be used in the procedure provided by this article.

Article 3. Simplified Procedure for Modification of Support Order

3680. The purpose of this article is to provide an additional, simplified method for the modification of child, family, and spousal support orders.

3681. In order to facilitate service of process under this article, each party to an order for support shall provide the other party with the party's current mailing address and any later change of address.

3682. Except where the modification is based on a significant decrease in the income of the moving party, only one modification of a support order pursuant to this article may be granted within any 12-month period.

3683. (a) A notice of motion to modify a support order may be filed under this article at any time after one year after the entry of the support order to be modified, but this one-year limitation is not applicable if the request for modification is based on a significant decrease in the income of the moving party.

(b) The motion to modify the support order shall include both of the following:

(1) A proposed order for modification of the support order.

(2) A declaration under penalty of perjury that the facts on which the motion is based are true and correct.
(c) The moving party shall cause the notice of motion and the proposed order to be served on the other party to the support order.

3684. (a) The responding party may, within 30 days after the date of service of the notice of motion pursuant to Section 3683, file an objection and request for hearing. If the responding party files an objection and request for hearing, the responding party is responsible for requesting a hearing date and giving notice of the hearing to the moving party. The responding party shall file the original proof of service of the notice of the objection and request for hearing at the same time as the filing of the objection and the request for hearing.

(b) If it appears in the response to a request for modification of a child support order pursuant to this article that an issue other than support is contested with respect to the child, the other issue shall be set for mediation under Chapter 11 (commencing with Section 3155) of Part 2 of Division 8. A separate hearing shall be scheduled for the other issue. The pendency of the mediation proceeding shall not delay a hearing on the request for modification of the support order under this article.

3685. (a) Except as otherwise provided in this section and in Section 3693, no attorney at law or person other than the moving or responding party shall take any part in the filing or prosecution or defense of a proceeding pursuant to this article, unless the attorney is appearing as a party to the proceeding.

(b) Nothing in this article prohibits an attorney from rendering advice to a party to the proceeding, either before or after the commencement of the proceeding.

3686. In making a modification based on a request to increase the amount of child support payments pursuant to this article, the court shall take into consideration the age increase factor developed by the Judicial Council pursuant to paragraph (8) of subdivision (a) of Section 4005.

3687. (a) The court may grant a modification of child support, not to exceed an amount equal to 10 percent of the current child support award for each year after the date on which the current child support award was granted, without requiring a showing of changed circumstances by the moving party, to the extent justified by the economic evidence presented by way of the income statements (and expense statements, if the court deems them necessary and relevant) of the parties.

(b) The court may grant an increase of spousal support, not to exceed an amount equal to the increase in the California all Consumer Price Index provided by the federal government for each year after the date on which the current spousal support award was granted, without requiring a showing of changed circumstances by the moving party, to the extent justified by the economic evidence presented by way of income statements (and expense statements, if the court deems them relevant) of the parties.

(c) If the responding party fails to file a response, the court shall
order a modification of the support order without requiring the submission of economic evidence by the moving party.

3698. (a) In a case in which the request for modification is based on a significant decrease in the income of the moving party, the moving party shall present evidence of the moving party’s decline in economic circumstances. The amount of the modification shall be based on the economic evidence presented by way of income statements (and expense statements, if the court deems them necessary and relevant) of the parties.

(b) If the responding party defaults in a case where the request for the modification is based on a significant decrease in the income of the moving party, the court shall order a modification based on the evidence.

(c) If the court considering the request for modification orders support according to guidelines in use within its jurisdiction, the amount of the modification shall be based on the guidelines. If no guidelines are in use, the amount of the modification shall be based on the factors used in determining the existing support award.

3699. (a) In addition to the income statement (and the expense statement, if required by the court), in a contested proceeding, both the moving party and the responding party shall make available to the court at the time of the hearing copies of their federal and state income tax returns for the preceding year. A tax return so submitted may be reviewed by the other party and the party also may be examined by the other party as to the contents of the return.

(b) No relief shall be granted pursuant to this article to a party who fails to submit such documents as may be required by the court or a declaration under penalty of perjury that no such documents exist, or that, in the case of a tax return, it cannot be produced but a copy has been requested from the Internal Revenue Service or the Franchise Tax Board.

(c) The tax returns shall be controlled by the court as provided in Section 3552.

3690. Notice pursuant to this article shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service. Proof of service shall be filed with the court.

3691. (a) The party filing a notice of motion to modify child or family support with the clerk pursuant to this article shall also mail a duplicate copy of the notice to the district attorney within five working days after filing.

(b) If the district attorney has previously attempted to enforce the spousal support obligation upon which the motion is based, the party filing a notice of motion to modify spousal support with the clerk pursuant to this article shall also mail a duplicate copy of the notice to the district attorney within five working days of filing.

3692. Nothing in this article shall be construed to infringe on the duty of the state to comply with any federal rules and regulations pertaining to the establishment, enforcement, and collection of (a)
child support payments in cases in which the child is receiving public assistance or (b) spousal support payments.

3693. (a) A party to a proceeding under this article may elect to be represented by counsel in the proceeding. The party’s notice of election to proceed with the benefit of counsel shall be accompanied by the party’s declaration under penalty of perjury stating facts evidencing the intent to proceed with the benefit of counsel in the proceeding.

(b) Upon notice by a party pursuant to subdivision (a) that the party elects to be represented by counsel in the proceeding, the court shall proceed on the motion as in a proceeding under Article 1 (commencing with Section 3650) for modification of a support order.

3694. The Judicial Council shall adopt forms or notices for the use of the procedure provided in this article. The forms or notices shall include a notice advising of the right of a party to proceed with or without benefit of counsel. The forms or notices shall incorporate, where appropriate, advice as to the availability of the additional, simplified method for the modification of support provided in this article.

CHAPTER 7. HEALTH INSURANCE

Article 1. Health Insurance Coverage for Supported Child

3750. "Health insurance coverage" as used in this article includes all of the following:

(a) Vision care and dental care coverage whether the vision care or dental care coverage is part of existing health insurance coverage or is issued as a separate policy or plan.

(b) Provision for the delivery of health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to a dependent child of an absent parent.

3751. (a) The court shall require that health insurance coverage for a supported child shall be maintained by either or both parents if that insurance is available at no cost or at reasonable cost to the parent. The court shall generally consider health insurance coverage to be reasonable in cost if it is employment-related group health insurance or other group health insurance, regardless of the service delivery mechanism. If the court determines that the cost of health insurance coverage is not reasonable, the court shall state its reasons on the record.

(b) If the court determines that health insurance coverage is not available at no or reasonable cost, the court’s order for support shall contain a provision that specifies that health insurance coverage shall be obtained if it becomes available at no or reasonable cost. Upon health insurance coverage at no or reasonable cost becoming
available to a parent, the parent shall apply for that coverage.

3752. (a) If the district attorney has been designated as the assigned payee for child support, the court shall order the parent to notify the district attorney upon applying for and obtaining health insurance coverage for the child within a reasonable period of time.

(b) The district attorney shall obtain a completed medical form from the parent in accordance with Section 11490 of the Welfare and Institutions Code and shall forward the completed form to the State Department of Health Services.

(c) In those cases where the district attorney is providing medical support enforcement services, the district attorney shall provide the parent or person having custody of the child with information pertaining to the health insurance policy that has been secured for the child.

3753. This article is applicable in all cases, irrespective of whether the child support award made is based on the mandatory minimum award schedule or a higher amount based on a state or county schedule.

Article 2. Health Insurance Coverage Assignment

3760. As used in this article, unless the provision or context otherwise requires:

(a) "Employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(b) "Health insurance," "health insurance plan," "health insurance coverage," "health care services," or "health insurance coverage assignment" includes vision care and dental care coverage whether the vision care or dental care coverage is part of existing health insurance coverage or is issued as a separate policy or plan.

(c) "Health insurance coverage assignment" or "assignment order" means an order made under Section 3761.

3761. (a) Upon application by a party or district attorney in any proceeding where the court has ordered either or both parents to maintain health insurance coverage under Article 1 (commencing with Section 3750), the court shall order the employer of the obligor parent or other person providing health insurance to the obligor to enroll the supported child in the health insurance plan available to the obligor through the employer or other person and to deduct the appropriate premium or costs, if any, from the earnings of the obligor unless the court makes a finding of good cause for not making the order.

(b) The application shall state that the party or district attorney seeking the assignment has given the obligor a written notice of the intent to seek a health insurance coverage assignment in the event of a default in instituting coverage required by court order on behalf of the parties' child and that the notice was transmitted by first-class mail, postage prepaid, or personally served at least 15 days before the date of the filing of the application. The written notice of the intent
to seek an assignment required by this subdivision may be given at the time of filing a petition or complaint for support or at any time later, but shall be given at least 15 days before the date of filing the application under this section. The obligor may at any time waive the written notice required by this subdivision.

3762. Good cause for not making a health insurance coverage assignment shall be limited to either of the following:

(a) The court finds that one of the conditions listed in subdivision (a) of Section 3765 or in Section 3770 exists.

(b) The court finds that the health insurance coverage assignment would cause extraordinary hardship to the obligor. The court shall specify the nature of the extraordinary hardship and, whenever possible, a date by which the obligor shall obtain health insurance coverage or be subject to a health insurance coverage assignment.

3763. (a) The health insurance coverage assignment may be ordered at the time of trial or entry of a judgment ordering health insurance coverage. The order operates as an assignment and is binding on any existing or future employer of the obligor parent, or other person providing health insurance to the obligor, upon whom a copy of the order has been served.

(b) The order of assignment may be modified at any time by the court.

3764. (a) A health insurance coverage assignment does not become effective until 10 days after service by the applicant of the assignment order on the employer or other person providing health insurance to the obligor.

(b) Within 10 days after service of the order, the employer or other person providing health insurance to the obligor shall deliver a copy of the order to the obligor, together with a written statement of the obligor's rights under the law to move to quash the order.

3765. (a) The obligor may move to quash a health insurance coverage assignment order as provided in this section if the obligor declares under penalty of perjury that there is error on any of the following grounds:

(1) No order to maintain health insurance has been issued under Article 1 (commencing with Section 3750).

(2) The amount to be withheld for premiums is greater than that permissible under Article 1 (commencing with Section 3750) or greater than the amount otherwise ordered by the court.

(3) The amount of the increased premium is unreasonable.

(4) The alleged obligor is not the obligor from whom health insurance coverage is due.

(5) The child is or will be otherwise provided health care coverage.

(6) The employer's choice of coverage is inappropriate.

(b) The motion and notice of motion to quash the assignment order, including the declaration required by subdivision (a), shall be filed with the court issuing the assignment order within 10 days after delivery of a copy of the order to the obligor pursuant to subdivision
(b) of Section 3764. The court clerk shall set the motion for hearing not less than 15 days, nor more than 20 days, after receipt of the notice of motion. The clerk shall, within five days after receipt of the notice of motion, deliver a copy of the notice of motion to (1) the district attorney personally or by first-class mail, and (2) the applicant and the employer or other person providing health insurance, at the appropriate addresses contained in the application, by first-class mail.

(c) Upon a finding of error described in subdivision (a), the court shall quash the assignment.

3766. (a) The employer, or other person providing health insurance, shall take steps to commence coverage, consistent with the order for the health insurance coverage assignment, 10 days after service of the assignment order upon the obligor under Section 3764 if the employer or other person has not received a notice of motion seeking to quash the order. If the employer or other person providing health insurance receives a notice of motion to quash, the employer or other person shall commence coverage consistent with the assignment order on receipt of the order resolving the motion to quash in favor of the applicant. The employer, or the person providing health insurance, shall commence coverage at the earliest possible time and, if applicable, consistent with the group plan enrollment rules.

(b) If the obligor has made a selection of health coverage inconsistent with the court order, the selection shall not be superseded unless the child to be enrolled in the plan will not be provided benefits or coverage where the child resides.

(c) If the obligor has not enrolled in an available health plan, there is a choice of coverage, and the court has not ordered coverage by a specific plan, the employer or other person providing health insurance shall enroll the child in the plan that will reasonably provide benefits or coverage where the child resides. If that coverage is not available, the employer or other person providing health insurance shall, within 20 days, return the assignment to the attorney or person initiating the assignment.

(d) If an assignment order is served on an employer or other person providing health insurance and no coverage is available for the supported child, the employer or other person shall, within 20 days, return the assignment to the attorney or person initiating the assignment.

3767. The employer or other person providing health insurance shall do all of the following:

(a) Notify the applicant for the assignment order of the commencement date of the coverage of the child.

(b) Provide evidence of coverage to both parents or the person having custody of the child and to the district attorney when requested by the district attorney.

(c) Upon request by the parents or person having custody of the child, provide all forms and other documentation necessary for the
purpose of submitting claims to the insurance carrier which the
employer or other person providing health insurance usually
provides to insureds.

3769. (a) An employer or other person providing health
insurance who willfully fails to comply with a valid health insurance
coverage assignment entered and served on the employer or other
person pursuant to this article is liable to the applicant for the
amount incurred in health care services that would otherwise have
been covered under the insurance policy but for the conduct of the
employer or other person that was contrary to the assignment order.
(b) Willful failure of an employer or other person providing
health insurance to comply with a health insurance coverage
assignment is punishable as contempt of court under Section 1218 of
the Code of Civil Procedure.

3769. No employer shall use a health insurance coverage
assignment as grounds for refusing to hire a person or for discharging
or taking disciplinary action against an employee. An employer who
violates this section may be assessed a civil penalty of a maximum of
five hundred dollars ($500).

3770. Upon notice of motion by the obligor, the court shall
terminate a health insurance coverage assignment if any of the
following conditions exists:
(a) A new order has been issued under Article 1 (commencing
with Section 3750) that is inconsistent with the existing assignment.
(b) The employer or other person providing health insurance has
discontinued that coverage to the obligor.
(c) The court determines that there is good cause, consistent with
Section 3762, to terminate the assignment.
(d) The death or emancipation of the child for whom the health
insurance has been obtained.

3771. Upon request of the district attorney, the employer shall
provide the following information to the district attorney within 30
days:
(a) The social security number of the absent parent.
(b) The home address of the absent parent.
(c) Whether the absent parent has a health insurance policy and,
if so, the policy names and numbers, and the names of the persons
covered.
(d) Whether the health insurance policy provides coverage for
dependent children of the absent parent who do not reside in the
absent parent’s home.
(e) If there is a subsequent lapse in health insurance coverage, the
employer shall notify the district attorney, giving the date the
coverage ended, the reason for the lapse in coverage and, if the lapse
is temporary, the date upon which coverage is expected to resume.

3772. The Judicial Council shall adopt forms for the health
insurance coverage assignment required or authorized by this
article, including, but not limited to, the application, the order, the
statement of the obligor’s rights, and an employer’s return form
which shall include the information required by Section 3771. The parties and child shall be sufficiently identified on the forms by the inclusion of birth dates, social security numbers, and any other information the Judicial Council determines is necessary.

Article 3. Assignment of Reimbursement Rights Under Health Plan

3780. A health plan for the purposes of this article includes, but is not limited to, a disability insurance plan, a nonprofit hospital service plan, a self-insured employee welfare benefit plan, and a health care service plan.

3781. (a) Subject to subdivision (b), in any proceeding where there is an order requiring either party to provide coverage under a health plan to a dependent, the court shall order the party covered by a health plan to assign to the other party the rights the covered party has to reimbursement.

(b) The rights assigned pursuant to this section do not include any rights the covered party has to reimbursement for payments actually made by the covered party. The rights assigned are only for reimbursement for payments made by the noncovered party seeking the reimbursement, and reimbursement shall be only for covered health care services received in the manner required by the plan or policy and provided to a dependent.

3782. (a) The order made pursuant to this article shall also require the party covered by a health plan to provide the appropriate information and forms to enable the party incurring the health care services costs for a dependent to seek reimbursement.

(b) The court shall notify the health plan of the order made pursuant to this article and shall instruct the health plan to assist the party seeking reimbursement by providing information and forms necessary to receive reimbursement.

Chapter 8. Deferred Sale of Home Order

3800. As used in this chapter:

(a) "Custodial parent" means a party awarded physical custody of a child.

(b) "Deferred sale of home order" means an order that temporarily delays the sale and awards the temporary exclusive use and possession of the family home to a custodial parent of a minor child or child for whom support is authorized under Sections 3900 and 3901 or under Section 3910, whether or not the custodial parent has sole or joint custody, in order to minimize the adverse impact of dissolution of marriage or legal separation of the parties on the welfare of the child.

(c) "Resident parent" means a party who has requested or who has already been awarded a deferred sale of home order.

3801. (a) If one of the parties has requested a deferred sale of
home order pursuant to this chapter, the court shall first determine whether it is economically feasible to maintain the payments of any note secured by a deed of trust, property taxes, insurance for the home during the period the sale of the home is deferred, and the condition of the home comparable to that at the time of trial.

(b) In making this determination, the court shall consider all of the following:

(1) The resident parent's income.
(2) The availability of spousal support, child support, or both spousal and child support.
(3) Any other sources of funds available to make those payments.
(c) It is the intent of the Legislature, by requiring the determination under this section, to do all of the following:

(1) Avoid the likelihood of possible defaults on the payments of notes and resulting foreclosures.
(2) Avoid inadequate insurance coverage.
(3) Prevent deterioration of the condition of the family home.
(4) Prevent any other circumstance which would jeopardize both parents' equity in the home.

3802. (a) If the court determines pursuant to Section 3801 that it is economically feasible to consider ordering a deferred sale of the family home, the court may grant a deferred sale of home order to a custodial parent if the court determines that the order is necessary in order to minimize the adverse impact of dissolution of marriage or legal separation of the parties on the child.

(b) In exercising its discretion to grant or deny a deferred sale of home order, the court shall consider all of the following:

(1) The length of time the child has resided in the home.
(2) The child's placement or grade in school.
(3) The accessibility and convenience of the home to the child's school and other services or facilities used by and available to the child, including child care.

(4) Whether the home has been adapted or modified to accommodate any physical disabilities of a child or a resident parent in a manner that a change in residence may adversely affect the ability of the resident parent to meet the needs of the child.

(5) The emotional detriment to the child associated with a change in residence.

(6) The extent to which the location of the home permits the resident parent to continue employment.

(7) The financial ability of each parent to obtain suitable housing.

(8) The tax consequences to the parents.

(9) The economic detriment to the nonresident parent in the event of a deferred sale of home order.

(10) Any other factors the court deems just and equitable.

3803. A deferred sale of home order shall state the duration of the order and may include the legal description and assessor's parcel number of the real property which is subject to the order.

3804. A deferred sale of home order may be recorded in the office
of the county recorder of the county in which the real property is located.

3805. A deferred sale of home order may be considered to constitute additional child support pursuant to subdivision (b) of Section 4055.

3806. The court may make an order specifying the parties' respective responsibilities for the payment of the costs of routine maintenance and capital improvements.

3807. Except as otherwise agreed to by the parties in writing, a deferred sale of home order may be modified or terminated at any time at the discretion of the court.

3808. Except as otherwise agreed to by the parties in writing, if the party awarded the deferred sale of home order remarries, or if there is otherwise a change in circumstances affecting the determinations made pursuant to Section 3801 or 3802 or affecting the economic status of the parties or the children on which the award is based, a rebuttable presumption, affecting the burden of proof, is created that further deferral of the sale is no longer an equitable method of minimizing the adverse impact of the dissolution of marriage or legal separation of the parties on the children.

3809. In making an order pursuant to this chapter, the court shall reserve jurisdiction to determine any issues that arise with respect to the deferred sale of home order including, but not limited to, the maintenance of the home and the tax consequences to each party.

3810. This chapter is applicable regardless of whether the deferred sale of home order is made before or after January 1, 1989.

PART 2. CHILD SUPPORT

CHAPTER 1. DUTY OF PARENT TO SUPPORT CHILD

Article 1. Support of Minor Child

3900. Subject to this division, the father and mother of a minor child have an equal responsibility to support their child in the manner suitable to the child's circumstances.

3901. (a) The duty of support imposed by Section 3900 continues as to an unmarried child who has attained the age of 18 years, is a full-time high school student, and resides with a parent, until the time the child completes the 12th grade or attains the age of 19 years, whichever occurs first.

(b) Nothing in this section limits a parent's ability to agree to provide additional support or the court's power to inquire whether an agreement to provide additional support has been made.

3902. The court may direct that an allowance be made to the parent of a minor child out of the child's property for the child's past or future support, on conditions that are proper, if the direction is for the child's benefit.
Article 2. Support of Adult Child

3910. (a) The father and mother have an equal responsibility to maintain, to the extent of their ability, a child of whatever age who is incapacitated from earning a living and without sufficient means. (b) Nothing in this section limits the duty of support under Sections 3900 and 3901.

Article 3. Support of Grandchild

3930. A parent of a minor child does not have the duty to support a child of the minor child.

Article 4. Liability to Others Who Provide Support for Child

3950. If a parent neglects to provide articles necessary for the parent’s child who is under the charge of the parent, according to the circumstances of the parent, a third person may in good faith supply the necessaries and recover their reasonable value from the parent.

3951. (a) A parent is not bound to compensate the other parent, or a relative, for the voluntary support of the parent’s child, without an agreement for compensation. (b) A parent is not bound to compensate a stranger for the support of a child who has abandoned the parent without just cause. (c) Nothing in this section relieves a parent of the obligation to support a child during any period in which the state, county, or other governmental entity provides support for the child.

3952. If a parent chargeable with the support of a child dies leaving the child chargeable to the county or leaving the child confined in a state institution to be cared for in whole or in part at the expense of the state, and the parent leaves an estate sufficient for the child’s support, the supervisors of the county or the director of the state department having jurisdiction over the institution may claim provision for the child’s support from the parent’s estate, and for this purpose has the same remedies as a creditor against the estate of the parent and may obtain reimbursement from the successor of the deceased parent to the extent provided in Division 8 (commencing with Section 13000) of the Probate Code.

CHAPTER 2. COURT-ORDERED CHILD SUPPORT


4000. If a parent has the duty to provide for the support of the parent’s child and willfully fails to so provide, the other parent, or the child by a guardian ad litem, may bring an action against the parent to enforce the duty.

4001. In any proceeding where there is at issue the support of a minor child or a child for whom support is authorized under Section
3901 or 3910, the court may order either or both parents to pay an amount necessary for the support of the child.

4002. (a) The county may proceed on behalf of a child to enforce the child's right of support against a parent.

(b) If the county furnishes support to a child, the county has the same right as the child to secure reimbursement and obtain continuing support. The right of the county to reimbursement is subject to any limitation otherwise imposed by the law of this state.

(c) The court may order the parent to pay the county reasonable attorney's fees and court costs in a proceeding brought by the county pursuant to this section.

4003. In any case in which the support of a minor child is at issue, the court may, upon a showing of good cause, order a separate trial on that issue. The separate trial shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date. If the court has also ordered a separate trial on the issue of custody pursuant to Section 3023, the two issues shall be tried together.

4004. In a proceeding where there is at issue the support of a minor child, the court shall require the parties to reveal whether a party is currently receiving, or intends to apply for, public assistance under the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) for the maintenance of the child.

4005. (a) In determining the amount due for child support, the court shall consider the following circumstances of the parents:

(1) The earnings or earning capacity of each parent.

(2) The needs of each parent.

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

(4) The ability of each parent to engage in gainful employment without unduly interfering with the interests of dependent children in the custody of the parent.

(5) The time required for a parent to acquire appropriate education, training, and employment.

(6) The age and health of the parents.

(7) The standard of living of the parents.

(8) The preservation of the adequacy of the child support award over the length of time during which the parents will be obligated to support a minor child, by utilizing an age increase factor in the standard used for the determination of child support. The Judicial Council shall develop a formula for the determination of that factor for the use of the courts.

(9) Any other factors the court determines are just and equitable.

(b) At the request of either party, the court shall make appropriate findings with respect to the circumstances on which the order for support of the child is based.

4006. In a proceeding for child support under this code or under Article 7 (commencing with Section 11475) of Chapter 2 of Part 3 of
Division 9 of the Welfare and Institutions Code, the court shall consider the health insurance coverage, if any, of the parties to the proceeding.

4007. (a) If a court orders a person to make specified payments for support of a child during the child's minority, or until the child is married or otherwise emancipated, or until the death of, or the occurrence of a specified event as to, a child for whom support is authorized under Section 3901 or 3910, the obligation of the person ordered to pay support terminates on the happening of the contingency. The court may, in the original order for support, order the custodial parent or other person to whom payments are to be made to notify the person ordered to make the payments, or the person's attorney of record, of the happening of the contingency.

(b) If the custodial parent or other person having physical custody of the child, to whom payments are to be made, fails to notify the person ordered to make the payments, or the attorney of record of the person ordered to make the payments, of the happening of the contingency and continues to accept support payments, the person shall refund all moneys received that accrued after the happening of the contingency, except that the overpayments shall first be applied to any support payments that are then in default.

4008. The community property, the quasi-community property, and the separate property may be subjected to the support of the children in the proportions the court determines are just.

4009. An order for child support may be made retroactive to the date of filing the notice of motion or order to show cause, or to any subsequent date, except as provided by federal law (42 U.S.C. Sec. 666(a) (9)).

4010. In a proceeding in which the court orders a payment for the support of a minor child, the court shall, at the time of providing written notice of the order, provide the parties with a document describing the procedures by which the order may be modified.

4011. Payment of child support ordered by the court shall be made by the person owing the support payment before payment of any debts owed to creditors.

4012. Upon a showing of good cause, the court may order a parent required to make a payment of child support to give reasonable security for the payment.

4013. If obligations for support of a child are discharged in bankruptcy, the court may make all proper orders for the support of the child that the court determines are just.

Article 2. Child Support Guidelines

4050. It is the intention of the Legislature to ensure that the State of California remains in compliance with federal regulations for child support guidelines. The Legislature therefore adopts the statewide guidelines set forth in this article, to take effect on July 1, 1992.

4051. (a) A parent's first and principal obligation is to support
the parent's minor child according to the parent's circumstances and station in life.

(b) In this regard, the Legislature recognizes that a parent's circumstances and station in life are dependent upon a variety of factors, including the following:

(1) The parent's earned and unearned income, earning capacity, and assets.

(2) The income of the parent's subsequent spouse or nonmarital partner, to the extent that the obligated parent's basic living expenses are met by the spouse or other person, thus increasing the parent's disposable income.

4052. It is the intention of the Legislature that the courts shall adhere to the guidelines adopted pursuant to this article and depart from them only in exceptional circumstances.

4053. (a) The statewide uniform guideline for determining child support awards is as follows: CS = K (NCN).

(b) 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.

(c) To compute net disposable income, see Sections 4059 and 4060.

(d) K changes as combined net monthly disposable income changes as follows:

<table>
<thead>
<tr>
<th>Total Net Disposable Income Per Month</th>
<th>K</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0–1,667</td>
<td>K = 0.26</td>
</tr>
<tr>
<td>$1,668–4,999</td>
<td>K = 0.20 + 100/TN</td>
</tr>
<tr>
<td>$5,000–10,000</td>
<td>K = 0.16 + 300/TN</td>
</tr>
<tr>
<td>Over $10,000</td>
<td>K = 0.12 + 700/TN</td>
</tr>
</tbody>
</table>

(e) 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

4054. Subject to Section 4055, there is a rebuttable presumption affecting the burden of proof that 100 percent of the amount of child support established by the formula set forth in Section 4053 is the
correct amount of child support to be awarded.

4055. The presumption of Section 4054 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 interest of the child or children:

(a) The parties have stipulated to a different amount of child support under Section 4063.

(b) 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 subdivision shall not be greater than the excess amount and shall be made pursuant to former Section 4728.5 of the Civil Code, before its repeal by Chapter 1493 of the Statutes of 1990, and applicable published appellate court decisions.

(c) 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.

(d) The child or children subject to the order are not receiving assistance under the Aid to Families with Dependent Children program 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.

(e) The child or children subject to the order are not receiving assistance under the Aid to Families with Dependent Children program 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.

(f) 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.

(g) 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.

4056. The court shall state on the record the net monthly disposable income of each parent.

4057. If the court determines that the presumption provided for in Section 4054 is rebutted by factors stated in Section 4055, 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.

4058. (a) The annual gross income of each parent means income from whatever source derived, except as specified in paragraph (3),
and includes, but is not limited to, all of the following:

(1) 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.

(2) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(3) 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.

(b) The court may, in its discretion, consider the earning capacity of a parent in lieu of that parent’s income, consistent with the best interest of the child.

(c) 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.

4059. The annual net disposable income of each parent is computed by deducting from the parent’s annual gross income the actual amounts attributable to the following items or other items permitted by this article:

(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, if the deducted amount is used to secure retirement or disability benefits for the parent.

(c) Deductions for mandatory union dues and retirement benefits, if 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 of the Civil Code, before its repeal by Chapter 1493 of the Statutes of 1990, and applicable published appellate court decisions, exists. If 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 subdivision (b) of former Section 4725 of the Civil Code, 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.

4060. 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.

4061. The court may adjust the child support award as appropriate to accommodate seasonal or fluctuating income of either parent.

4062. Unless contrary to federal law, if the amount of support calculated by this article 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. "The Agnos Child Support Standards Act of 1984" as used in this section means the provisions of that act in effect immediately before the changes made by Chapter 1493 of the Statutes of 1990.

4063. (a) Unless applicable federal law prohibits, this article does 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 division and that the award is being agreed to without coercion or duress.

2. The parties declare that (A) the agreement is in the best interest 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.

(b) If the parties to a stipulated agreement stipulate to a child support award below the amount established by this article, no change of circumstances need be demonstrated to obtain a modification of the child support award to the applicable guideline level or above.
4064. (a) The amounts in this section, if ordered to be paid, are considered support.

(b) For the purposes of this section, 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 article. The net income of the parent receiving child support shall not be increased by any amount of child support received under this article.

(c) The following expenses shall be added to the amount of child support calculated under Section 4053:

1. Child care costs, after any applicable tax credits, related to employment shared in accordance with the net income of the parties.

2. Absent good cause to the contrary, health care and health insurance costs for the children not deducted from gross income under Section 4058 or 4059 and health care costs for the children shared in accordance with the net income of the parties.

(d) The following expenses may be added to the amount of child support calculated under Section 4053:

1. 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.

2. Child care costs related to reasonably necessary education or training for employment skills shared in accordance with the net income of the parties.

3. 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.

(e) Except where there is an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, any payment ordered pursuant to this section may be ordered paid directly to a provider of services.

4065. Orders and stipulations otherwise in compliance with the guideline established by this article 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.

4066. (a) The Judicial Council shall study and submit a report to the Legislature on December 31, 1992, which shall include a proposal for legislation, regarding a system of permanent child support guidelines to comply with federal law. This report shall address the respective continuing roles of the Judicial Council and the Legislature in maintaining, amending, or otherwise managing the statewide child support guidelines. In recommending levels of child support pursuant to this subdivision, the Judicial Council shall be guided by the legislative intent that children share in their parents' standard of living.
(b) In developing guidelines, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following:

(1) Custodial and noncustodial parents.
(2) Representatives of established women’s rights and fathers’ rights groups.
(3) Representatives of established organizations which advocate for the economic well-being of children.
(4) Members of the judiciary, district attorney’s offices, the Attorney General’s office, and the State Department of Social Services.
(5) Certified family law specialists.
(6) Academicians specializing in family law.
(7) Persons representing low-income parents.
(8) Persons representing recipients of assistance under the Aid to Families with Dependent Children (AFDC) program seeking child support services.

(c) The advisory committee referred to in subdivision (b) shall be balanced by gender and geographic representation, to the extent possible.

(d) In developing the recommendations for the permanent guidelines the Judicial Council shall seek public comment on the guidelines.

(e) The Judicial Council shall conduct a review of the existing guidelines to determine what revisions, if any, are necessary to ensure that application of the existing guidelines results in appropriate child support award amounts. This determination shall be based on economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data shall be used to recommend revisions that ensure that deviations from the guidelines are limited. The Judicial Council shall report the results of this review to the Legislature and the State Department of Social Services on or before December 31, 1992. Thereafter, the Judicial Council shall conduct and report on the results of the required review at least every four years.

4067. Sections 4050, 4051, 4052, and 4066 shall remain in effect only until January 1, 1994, and as of that date are repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

4068. It is the intent of the Legislature that the uniform guidelines provided by this article shall be reviewed by the Legislature at least every four years and revised as appropriate to ensure that their 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.
Article 3. Recovery for Cost of Support Provided Before Filing Proceeding

4100. This article applies only to a child born on or after January 1, 1989.

4101. (a) A support order may, in appropriate circumstances, based on all relevant facts, require one parent to pay to the other parent a reasonable amount for the cost of the support of the child for the shortest of the following periods before the filing of the proceeding:

(1) Three years.
(2) The date of mailing of the birth certificate or of the written notification by the custodial parent under Section 4104.
(3) The date of separation of the parents until the date of the filing of the proceeding.

(b) In determining whether to make a support order under this section, the court shall consider the diligence on the part of the custodial parent in bringing the proceeding for support.

4102. In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including, but not limited to, all of the following:

(a) Any agreements made between the parents before the date of the filing of the action.
(b) Any previous payments made for the support of the child by the parent from whom support is sought.
(c) Any bad faith on the part of either parent.
(d) Any undue delay in seeking to establish an order for child support, the reasons for the undue delay, and whether either parent has been prejudiced as a result of the delay.
(e) Any other factors deemed relevant by the court.

4103. The court shall review the incomes and expenses of the parents each year, or other relevant period of time, for which support is being requested under this article and may apply its guidelines and the child support laws in effect for each period.

4104. In circumstances where paternity has not been established or the parents were married but separated before the child’s date of birth, the court shall not order child support under this article, under any circumstances, unless one of the following requirements is satisfied:

(a) The father has received a copy of the birth certificate as provided in Section 10061 of the Health and Safety Code.
(b) The custodial parent has provided to the father by first-class mail, with return receipt requested, written notification of the father’s paternity and the father’s obligation to support the child.

4105. Any support ordered under this article shall not be in an amount that reduces a parent’s ability to provide appropriate support for any other child the parent has the duty to support if the support is actually being paid.
Article 4. Payment to Court Designated County Officer; Enforcement by District Attorney

4200. In any proceeding where a court makes or has made an order requiring the payment of child support to a parent receiving welfare moneys for the maintenance of minor children, the court shall do both of the following:

(a) Direct that the payments of support shall be made to the county officer designated by the court for that purpose.

(b) Direct the district attorney to appear on behalf of the welfare recipient in any proceeding to enforce the order.

4201. (a) In any proceeding where a court makes or has made an order requiring the payment of child support to the person having custody of a minor child, the court may do either or both of the following:

(1) Direct that the payments shall be made to the county officer designated by the court for that purpose.

(2) Direct the district attorney to appear on behalf of the minor children in any proceeding to enforce the order.

(b) The court shall include in its order made pursuant to this section any service charge imposed under the authority of Section 279 of the Welfare and Institutions Code.

4202. (a) Notwithstanding any other provision of law, in a proceeding where the custodial parent resides in one county and the parent ordered to pay support resides in another county, the court may direct payment to be made to the county officer designated by the court for those purposes in the county of residence of the custodial parent, and may direct the district attorney of either county to enforce the order.

(b) Civil enforcement by the district attorney of the county of residence of the custodial parent, where the order is in the county of the noncustodial parent or any other county, may be brought in accordance with Section 4848. If the court directs the district attorney of the county of residence of the noncustodial parent to enforce the order, the expenses of the district attorney with respect to the enforcement is a charge upon the county of residence of the noncustodial parent.

4203. (a) Except as provided in Section 4202, expenses of the county officer designated by the court, and expenses of the district attorney incurred in the enforcement of an order of the type described in Section 4200 or 4201, are a charge upon the county where the proceedings are pending.

(b) Fees for service of process in the enforcement of an order of the type described in Section 4200 or 4201 are a charge upon the county where the process is served.
PART 3. SPOUSAL SUPPORT

CHAPTER 1. DUTY TO SUPPORT SPOUSE

4300. Subject to this division, a person shall support the person's spouse.

4301. Subject to Section 914, a person shall support the person's spouse while they are living together out of the separate property of the person when there is no community property or quasi-community property.

4302. A person is not liable for support of the person's spouse when the person is living separate from the spouse by agreement unless support is stipulated in the agreement.

4303. (a) The obligee spouse, or the county on behalf of the obligee spouse, may bring an action against the obligor spouse to enforce the duty of support.

(b) If the county furnishes support to a spouse, the county has the same right as the spouse to whom the support was furnished to secure reimbursement and obtain continuing support. The right of the county to reimbursement is subject to any limitation otherwise imposed by the law of this state.

(c) The court may order the obligor to pay the county reasonable attorney's fees and court costs in a proceeding brought by the county under this section.

CHAPTER 2. FACTORS TO BE CONSIDERED IN ORDERING SUPPORT

4320. In ordering spousal support under this part, the court shall consider all of the following circumstances:

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

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

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

(b) The extent to which the supported party contributed to the attainment of an education, training, a career position, or a license by the supporting party.

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

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

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

(f) The duration of the marriage.

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

(h) The age and health of the parties.

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

(j) Any other factors the court determines are just and equitable.

4321. In a judgment of dissolution of marriage or legal separation of the parties, the court may deny support to a party out of the separate property of the other party in any of the following circumstances:

(a) The party has either a separate estate, or is earning the party’s own livelihood, or there is community property or quasi-community property sufficient to give the party proper support.

(b) The custody of the children has been awarded to the other party, who is supporting them.

4322. In an original or modification proceeding, where there are no children, and a party has or acquires a separate estate, including income from employment, sufficient for the party’s proper support, no support shall be ordered or continued against the other party.

4323. (a) Except as otherwise agreed to by the parties in writing, there is a rebuttable presumption, affecting the burden of proof, of decreased need for spousal support if the supported party is cohabiting with a person of the opposite sex. Upon a determination that circumstances have changed, the court may modify or terminate the spousal support as provided for in Chapter 6 (commencing with Section 3650) of Part 1.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) Nothing in this section precludes later modification or termination of spousal support on proof of change of circumstances.

CHAPTER 3. SPOUSAL SUPPORT UPON DISSOLUTION OR LEGAL SEPARATION

4330. In a judgment of dissolution of marriage or legal separation of the parties, the court may order a party to pay for the support of the other party an amount, for a period of time, that the court determines is just and reasonable, based on the standard of living established during the marriage, taking into consideration the circumstances as provided in Chapter 2 (commencing with Section 4320).

4331. (a) In a proceeding for dissolution of marriage or for legal separation of the parties, the court may order a party to submit to an examination by a vocational training counselor. The examination
shall include an assessment of the party’s ability to obtain employment based upon the party’s age, health, education, marketable skills, employment history, and the current availability of employment opportunities. The focus of the examination shall be on an assessment of the party’s ability to obtain employment that would allow the party to maintain herself or himself at the marital standard of living.

(b) The order may be made only on motion, for good cause, and on notice to the party to be examined and to all parties. The order shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made.

(c) A party who does not comply with an order under this section is subject to the same consequences provided for failure to comply with an examination ordered pursuant to Section 2032 of the Code of Civil Procedure.

(d) “Vocational training counselor” for the purpose of this section means an individual with sufficient knowledge, skill, experience, training, or education in interviewing, administering, and interpreting tests for analysis of marketable skills, formulating career goals, planning courses of training and study, and assessing the job market, to qualify as an expert in vocational training under Section 720 of the Evidence Code.

(e) A vocational training counselor shall have at least the following qualifications:

(1) A master’s degree in the behavioral sciences.

(2) Be qualified to administer and interpret inventories for assessing career potential.

(3) Demonstrated ability in interviewing clients and assessing marketable skills with understanding of age constraints, physical and mental health, previous education and experience, and time and geographic mobility constraints.

(4) Knowledge of current employment conditions, job market, and wages in the indicated geographic area.

(5) Knowledge of education and training programs in the area with costs and time plans for these programs.

(f) The court may order the supporting spouse to pay, in addition to spousal support, the necessary expenses and costs of the counseling, retraining, or education.

4332. In a proceeding for dissolution of marriage or for legal separation of the parties, the court shall make specific factual findings with respect to the standard of living during the marriage, and, at the request of either party, the court shall make appropriate factual determinations with respect to other circumstances.

4333. An order for spousal support in a proceeding for dissolution of marriage or for legal separation of the parties may be made retroactive to the date of filing the notice of motion or order to show cause, or to any subsequent date.

4334. (a) If a court orders spousal support for a contingent period of time, the obligation of the supporting party terminates on
the happening of the contingency. The court may, in the order, order the supported party to notify the supporting party, or the supporting party’s attorney of record, of the happening of the contingency.

(b) If the supported party fails to notify the supporting party, or the attorney of record of the supporting party, of the happening of the contingency and continues to accept spousal support payments, the supported party shall refund payments received that accrued after the happening of the contingency, except that the overpayments shall first be applied to spousal support payments that are then in default.

4335. An order for spousal support terminates at the end of the period provided in the order and shall not be extended unless the court retains jurisdiction in the order or under Section 4336.

4336. (a) Except on written agreement of the parties to the contrary or a court order terminating spousal support, the court retains jurisdiction indefinitely in a proceeding for dissolution of marriage or for legal separation of the parties where the marriage is of long duration.

(b) For the purpose of retaining jurisdiction, there is a presumption affecting the burden of producing evidence that a marriage of 10 years or more, from the date of marriage to the date of separation, is a marriage of long duration. However, the court may consider periods of separation during the marriage in determining whether the marriage is in fact of long duration. Nothing in this subdivision precludes a court from determining that a marriage of less than 10 years is a marriage of long duration.

(c) Nothing in this section limits the court’s discretion to terminate spousal support in later proceedings on a showing of changed circumstances.

(d) This section applies to the following:

(1) A proceeding filed on or after January 1, 1988.
(2) A proceeding pending on January 1, 1988, in which the court has not entered a permanent spousal support order or in which the court order is subject to modification.

4337. Except as otherwise agreed by the parties in writing, the obligation of a party under an order for the support of the other party terminates upon the death of either party or the remarriage of the other party.

4338. In the enforcement of an order for spousal support, the court shall resort to the property described below in the order indicated:

(a) The earnings, income, or accumulations of either spouse, while living separate and apart from the other spouse, which would have been community property if the spouse had not been living separate and apart from the other spouse.

(b) The community property.

(c) The quasi-community property.

(d) The other separate property of the party required to make the support payments.
4339. The court may order the supporting party to give reasonable security for payment of spousal support.

CHAPTER 4. PAYMENT TO COURT-DESIGNATED OFFICER; ENFORCEMENT BY DISTRICT ATTORNEY

4350. In any proceeding where a court makes or has made an order requiring the payment of spousal support, the court may direct that payment shall be made to the county officer designated by the court for that purpose. The court may include in its order made pursuant to this section any service charge imposed under the authority of Section 279 of the Welfare and Institutions Code.

4351. (a) In any proceeding where the court has entered an order pursuant to Section 4350, the court may also refer the matter of enforcement of the spousal support order to the district attorney. The district attorney may bring such enforcement proceedings as the district attorney in the district attorney's discretion determines to be appropriate.

(b) Notwithstanding subdivision (a), in any case in which the district attorney is required to appear on behalf of a welfare recipient in a proceeding to enforce an order requiring payment of child support, the district attorney shall also enforce any order requiring payment to the welfare recipient of spousal support that is in arrears.

(c) Nothing in this section shall be construed to prohibit the district attorney from bringing an action or initiating process to enforce or punish the failure to obey an order for spousal support under any provision of law which empowers the district attorney to bring such an action or initiate such a process, whether or not there has been a referral by the court pursuant to this chapter.

4352. (a) Insofar as expenses of the county officer designated by the court and expenses of the district attorney incurred in the enforcement of an order referred by the court under this chapter exceed any service charge imposed under Section 279 of the Welfare and Institutions Code, the expenses are a charge upon the county where the proceedings are pending.

(b) Fees for service of process in the enforcement of an order referred by the court under this chapter are a charge upon the county where the process is served.

CHAPTER 5. PROVISION FOR SUPPORT AFTER DEATH OF SUPPORTING PARTY

4360. (a) For the purpose of Section 4320, where it is just and reasonable in view of the circumstances of the parties, the court, in determining the needs of a supported spouse, may include an amount sufficient to purchase an annuity for the supported spouse or to maintain insurance for the benefit of the supported spouse on the life of the spouse required to make the payment of support, or may require the spouse required to make the payment of support to
establish a trust to provide for the support of the supported spouse, so that the supported spouse will not be left without means of support in the event that the spousal support is terminated by the death of the party required to make the payment of support.

(b) Except as otherwise agreed to by the parties in writing, an order made under this section may be modified or terminated at the discretion of the court at any time before the death of the party required to make the payment of support.

PART 4. SUPPORT OF PARENTS

CHAPTER 1. GENERAL PROVISIONS

4400. Except as otherwise provided by law, an adult child shall, to the extent of his or her ability, support a parent who is in need and unable to maintain himself or herself by work.

4401. The promise of an adult child to pay for necessaries previously furnished to a parent described in Section 4400 is binding.

4402. The duty of support under this part is cumulative and not in substitution for any other duty.

4403. (a) Subject to subdivision (b):

(1) A parent, or the county on behalf of the parent, may bring an action against the child to enforce the duty of support under this part.

(2) If the county furnishes support to a parent, the county has the same right as the parent to whom the support was furnished to secure reimbursement and obtain continuing support.

(b) The right of the county to proceed on behalf of the parent or to obtain reimbursement is subject to any limitation otherwise imposed by the law of this state.

(c) The court may order the child to pay the county reasonable attorney's fees and court costs in a proceeding by the county under this section.

4404. In determining the amount to be ordered for support, the court shall consider the following circumstances of each party:

(a) Earning capacity and needs.

(b) Obligations and assets.

(c) Age and health.

(d) Standard of living.

(e) Other factors the court deems just and equitable.

4405. The court retains jurisdiction to modify or terminate an order for support where justice requires.

CHAPTER 2. RELIEF FROM DUTY TO SUPPORT PARENT WHO ABANDONED CHILD

4410. An adult child may file a petition in the county where a parent of the child resides requesting that the court make an order freeing the petitioner from the obligation otherwise imposed by law
to support the parent. If the parent does not reside in this state, the petition shall be filed in the county where the adult child resides.
4411. The court shall make the order requested pursuant to Section 4410 only if the petition alleges and the court finds all of the following:
   (a) The child was abandoned by the parent when the child was a minor.
   (b) The abandonment continued for a period of two or more years before the time the child attained the age of 18 years.
   (c) During the period of abandonment the parent was physically and mentally able to provide support for the child.
4412. On the filing of a petition under this chapter, the clerk shall set the matter for hearing by the court and shall issue a citation, stating the time and place of the hearing, directed to the parent and to the parent’s conservator, if any, or, if the parent is deceased, the personal representative of the parent’s estate. At least five days before the date of the hearing, the citation and a copy of the petition shall be personally served on each person to whom it is directed, in the same manner as provided by law for the service of summons.
4413. If the parent is a resident of this state, the court does not have jurisdiction to make an order under this chapter until 30 days after the county counsel, or the district attorney in a county not having a county counsel, of the county in which the parent resides has been served with notice of the pendency of the proceeding.
4414. (a) If, upon hearing, the court determines that the requirements of Section 4411 are satisfied, the court shall make an order that the petitioner is relieved from the obligation otherwise imposed by law to support the parent.
   (b) An order under this section also releases the petitioner with respect to any state law under which a child is required to do any of the following:
      (1) Pay for the support, care, maintenance, and the like of a parent.
      (2) Reimburse the state or a local public agency for furnishing the support, care, maintenance, or the like of a parent.

PART 5. ENFORCEMENT OF SUPPORT ORDERS

CHAPTER 1. GENERAL PROVISIONS

4500. An order for child, family, or spousal support that is made, entered, or enforceable in this state is enforceable under this code, whether or not the order was made or entered pursuant to this code.
4501. A family support order is enforceable in the same manner and to the same extent as a child support order.
4502. A party may renew a judgment for child, family, or spousal support as provided in Article 2 (commencing with Section 683.110) of Chapter 3 of Title 9 of Part 2 of the Code of Civil Procedure.
4503. If a parent has been ordered to make payments for the
support of a minor child, an action to recover an arrearage in those payments may be maintained at any time within the period otherwise specified for the enforcement of such a judgment, notwithstanding the fact that the child has attained the age of 18 years.

4504. If the court has ordered a noncustodial parent to pay for the support of a child, payments for the support of the child made by the federal government pursuant to the Social Security Act or Railroad Retirement Act because of the retirement or disability of the noncustodial parent and transmitted to the custodial parent each month shall be credited toward the amount ordered by the court to be paid for that month by the noncustodial parent for support of the child unless the payments made by the federal government were taken into consideration by the court in determining the amount of support to be paid by the noncustodial parent.

4505. A court may require a parent who alleges that the parent's default in a child or family support order is due to the parent's unemployment to submit to the appropriate child support enforcement agency or any other entity designated by the court, including, but not limited to, the court itself, each two weeks, or at a frequency deemed appropriate by the court, a list of at least five different places the parent has applied for employment.

4506. (a) An abstract of a judgment ordering a party to pay spousal, child, or family support to the other party shall be certified by the clerk of the court where the judgment was entered and shall contain all of the following:

1. The title of the court where the judgment is entered and the cause and number of the proceeding.
2. The date of entry of the judgment and of any renewal of the judgment.
3. Where the judgment and any renewals are entered in the records of the court.
4. The name and last known address of the party ordered to pay support.
5. The name and address of the party to whom support payments are ordered to be paid.
6. The social security number, birth date, and driver's license number of the party to whom support payments are to be paid. If any of those numbers are not known to the party to whom support payments are to be paid, that fact shall be indicated on the abstract of the court judgment.
7. Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.
8. The date of issuance of the abstract.
9. Any other information deemed reasonable and appropriate by the Judicial Council.

(b) The Judicial Council may develop a form for an abstract of a judgment ordering a party to pay child, family, or spousal support to another party which contains the information required by
subsection (a).

(c) As used in this section, "judgment" includes an order for child, family, or spousal support.

CHAPTER 2. DEPOSIT OF MONEY TO SECURE FUTURE CHILD SUPPORT PAYMENTS


4550. "Child support obligee" as used in this chapter means either the parent, guardian, or other person to whom child support has been ordered to be paid or the district attorney designated by the court to receive the payment. The district attorney is the "child support obligee" for the purposes of this chapter for all cases in which an application for services has been filed under Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

4551. Except as provided in this section, this chapter:

(a) Does not apply to a temporary child support order.

(b) Applies to an application for modification of child support filed on or after January 1, 1992, but this chapter does not constitute the basis for the modification.

(c) Applies to an application for modification of child support in a case where the child support obligee has previously waived the establishment of a child support trust account pursuant to subdivision (b) of Section 4560 and now seeks the establishment of the child support trust account.

(d) Applies to an order or judgment entered by the court on or after January 1, 1993, ordering a child support obligor to pay a then existing child support arrearage that the child support obligor has unlawfully failed to pay as of the date of that order or judgment, including the arrearages which were incurred before January 1, 1992.

4552. The Judicial Council shall promulgate such rules of court and publish such related judicial forms as the Judicial Council determines are necessary and appropriate to implement this chapter. In taking these steps, the Judicial Council shall ensure the uniform statewide application of this chapter and compliance with Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.) and any regulations promulgated thereunder.

4553. Nothing in this chapter shall be construed to permit any action or omission by the state or any of its political subdivisions that would place the state in noncompliance with any requirement of federal law, including, but not limited to, the state reimbursement requirements of Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.) and any regulations promulgated thereunder.

4554. This chapter applies notwithstanding any other law.
Article 2. Order for Deposit of Money

4560. (a) Except as provided in subdivision (b) or in Article 3 (commencing with Section 4565), every order or judgment to pay child support may also require the payment by the child support obligor of up to one year's child support or such lesser amount as is equal to the child support amount due to be paid by the child support obligor between the time of the date of the order and the date when the support obligation will be terminated by operation of law. This amount shall be known as the “child support security deposit.”

(b) Unless expressly waived by the child support obligee, the court may order the establishment of a child support trust account pursuant to this chapter in every proceeding in which a child support obligation is imposed by order of the court. Among other reasons, the court may decline to establish a child support trust account upon its finding that an adequately funded child support trust account already exists pursuant to this chapter for the benefit of the child or children involved in the proceeding or that the child support obligor has provided adequate alternative security which is equivalent to the child support security deposit otherwise required by this chapter.

4561. If a child support security deposit is ordered, the court shall order that the moneys be deposited by the child support obligor in an interest-bearing account with a state or federally chartered commercial bank, a trust company authorized to transact trust business in this state, or a savings and loan association, or in shares of a federally insured credit union doing business in this state and having a trust department, subject to withdrawal only upon authorization of the court. The moneys so deposited shall be used exclusively to guarantee the monthly payment of child support.

4562. The court shall also order that evidence of the deposit shall be provided by the child support obligor in the form specified by the court, which shall be served upon the child support obligee and filed with the court within a reasonable time specified by the court, not to exceed 30 days.

4563. An account established pursuant to this chapter shall be dissolved and any remaining funds in the account shall be returned to the support obligor, with any interest earned thereon, upon the full payment and cessation of the child support obligation as provided by court order or operation of law.

Article 3. Application to Reduce or Eliminate Deposit

4565. (a) Before entry of a child support order pursuant to Section 4560, the court shall give the child support obligor reasonable notice and opportunity to file an application to reduce or eliminate the child support security deposit on either of the following grounds:

(1) The obligor has provided adequate alternative equivalent security to assure timely payment of the amount required by Section 4560.
(2) The obligor is unable, without undue financial hardship, to pay the support deposit required by Section 4560.

(b) The application shall be supported by all reasonable and necessary financial and other information required by the court to establish the existence of either ground for relief.

4566. Upon the filing of an application under Section 4565 with the court and the service of the application upon the child support obligee and any other party to the proceedings, the court shall provide notice and opportunity for any party opposing the application to file responsive financial and other information setting forth the factual and legal bases for the party's opposition.

4567. The court shall then provide an opportunity for hearing, and shall thereafter enter its order exercising its discretion under all the facts and circumstances as disclosed in the admissible evidence before it so as to maximize the payment and deposit of the amount required by Section 4560, or an equivalent adequate security for the payment thereof, without imposition of undue financial hardship on the support obligor. If the court finds that the deposit of the amount required by Section 4560 would impose an undue financial hardship upon the child support obligor, the court shall reduce this amount to an amount that the child support obligor can pay as the child support security deposit without undue financial hardship.

Article 4. Use of Deposit to Make Delinquent Support Payment

4570. (a) Upon the application of the child support obligee stating that the support payment is 10 or more days late, the court shall immediately order disbursement of funds from the account established pursuant to this chapter solely for the purpose of providing the amount of child support then in arrears.

(b) Funds so disbursed shall be used exclusively for the support, maintenance, and education of the child or children subject to the child support order.

(c) The court shall also order the account to be replenished by the child support obligor in the same amounts as are expended from the account to pay the amount of child support which the child support obligor has failed to pay the child support obligee in a timely manner.

4571. The court shall cause a copy of the application, as well as its order to disburse and replenish funds, to be served upon the child support obligor, who shall be subject to contempt of court for failure to comply with the order.

4572. The court shall cause a copy of its order to disburse and replenish funds to be served upon the depository institution where the child support security deposit is maintained, and upon the district attorney with jurisdiction over the case.

4573. If support is ordered to be paid through the district attorney on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the
Welfare and Institutions Code), the district attorney shall forward the support received pursuant to this chapter to the custodial parent or other person having care or control of the minor child or children involved.

CHAPTER 3. DEPOSIT OF ASSETS TO SECURE FUTURE CHILD SUPPORT PAYMENTS


4600. The purpose of this chapter is to provide an extraordinary remedy for cases of bad faith failure to pay child support obligations.

4601. "Deposit holder" as used in this chapter means the district attorney, county officer, or trustee designated by the court to receive assets deposited pursuant to this chapter to secure future support payments.

4602. If requested by an obligor-parent, the deposit holder shall prepare a statement setting forth disbursements and receipts made under this chapter.

4603. The deposit holder who is responsible for any money or property and for any disbursements under this chapter is not liable for any action undertaken in good faith and in conformance with this chapter.

4604. (a) If the deposit holder incurs fees or costs under this chapter which are not compensated by the deduction under subdivision (c) of Section 4630 (including, but not limited to, fees or costs incurred in a sale of assets pursuant to this chapter and in the preparation of a statement pursuant to Section 4602), the court shall, after a hearing, order the obligor-parent to pay the reasonable fees and costs incurred by the deposit holder. The hearing shall be held not less than 20 days after the deposit holder serves notice of motion or order to show cause upon the obligor-parent.

(b) Fees and costs ordered to be paid under this section shall be in addition to any deposit made under this chapter but shall not exceed whichever of the following is less:

(1) Five percent of one year's child support obligation.

(2) The total amount ordered deposited under Section 4614.

Article 2. Order for Deposit of Assets

4610. (a) Subject to Sections 4613, 4614, and 4615, in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon an order to show cause or notice of motion, application, and declaration signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid stating that the parent or parents so ordered is in arrears in payment in a sum equal to the amount of 60 days of payments, the court shall issue to the parent or parents ordered to pay support, following notice and opportunity for
a hearing, an order requiring that the parent or parents deposit assets
to secure future support payments with the deposit holder
designated by the court.

(b) In a proceeding under this article, upon request of any party,
the court may also issue an ex parte restraining order as specified in
Section 4620.

4611. In a proceeding under this chapter, an obligor-parent shall
rebut both of the following presumptions:
(a) The nonpayment of child support was willful, without good
faith.
(b) The obligor had the ability to pay the support.

4612. An obligor-parent alleged to be in arrears may use any of
the following grounds as a defense to the motion filed pursuant to this
article or as a basis for filing a motion to stop a sale or use of assets
under Section 4631:
(a) Child support payments are not in arrears.
(b) Laches.
(c) There has been a change in the custody of the children.
(d) There is a pending motion for reduction in support due to a
reduction in income.
(e) Illness or disability.
(f) Unemployment.
(g) Serious adverse impact on the immediate family of the
obligor-parent residing with the obligor-parent that outweighs the
impact of denial of the motion or stopping the sale on obligee.
(h) Serious impairment of the ability of the obligor-parent to
generate income.
(i) Other emergency conditions.

4613. The court shall not issue an order pursuant to this article
unless the court determines that one or more of the following
conditions exist:
(a) The obligor-parent is not receiving salary or wages subject to
an assignment pursuant to Chapter 8 (commencing with Section
5200) and there is reason to believe that the obligor-parent has
earned income from some source of employment.
(b) An assignment of a portion of salary or wages pursuant to
Chapter 8 (commencing with Section 5200) would not be sufficient
to meet the amount of the support obligation, for reasons other than
a change of circumstances which would qualify for a reduction in the
amount of child support ordered.
(c) The job history of the obligor-parent shows that an assignment
of a portion of salary or wages pursuant to Chapter 8 (commencing
with Section 5200), would be difficult to enforce or would not be a
practical means for securing the payment of the support obligation,
due to circumstances including, but not limited to, multiple
concurrent or consecutive employers.

4614. The designation of assets subject to an order pursuant to
this article shall be based upon concern for maximizing the liquidity
and ready conversion into cash of the deposited asset. In all instances,
the assets shall include a sum of money up to or equal in value to one year of support payments or six thousand dollars ($6,000) whichever is less, or any other assets, personal or real, designated by the court which equal in value up to one year of payments for support of the minor child, or six thousand dollars ($6,000), whichever is less, subject to Section 703.070 of the Code of Civil Procedure.

4615. In lieu of depositing cash or other assets as provided in Section 4614, the obligor-parent may, if approved by the court, provide a performance bond secured by real property or other assets of the obligor-parent and equal in value to one year of payments.

4616. Upon deposit of an asset which is not readily convertible into money, the court may, after a hearing, order the sale of that asset and the deposit of the proceeds with the deposit holder. Not less than 20 days written notice of the hearing shall be served on the obligor-parent.

4617. (a) If the asset ordered to be deposited is real property, the order shall be certified as an abstract of judgment in accordance with Section 674 of the Code of Civil Procedure.

(b) A deposit of real property is made effective by recordation of the certified abstract with the county recorder.

(c) The deposited real property and the rights, benefits, and liabilities attached to that property shall continue in the possession of the legal owner.

(d) For purposes of Section 701.545 of the Code of Civil Procedure, the date of the issuance of the order to deposit assets shall be construed as the date notice of levy on an interest in real property was served on the judgment debtor.

Article 3. Ex Parte Restraining Orders

4620. (a) During the pendency of a proceeding under this chapter, upon the application of either party in the manner provided by Part 4 (commencing with Section 240) of Division 2, the court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life, and if the order is directed against a party, requiring the party to notify the other party of any proposed extraordinary expenditures and to account to the court for all such extraordinary expenditures.

(b) The matter shall be made returnable not later than 20 days, or if good cause appears to the court, 25 days from the date of the order at which time the ex parte order shall expire.

(c) The court, at the hearing, shall determine for which property the obligor-parent shall be required to report extraordinary expenditures and shall specify what is deemed an extraordinary expenditure for purposes of this subdivision.

(d) An order issued pursuant to this section after the hearing shall
state on its face the date of expiration of the order, which shall expire in one year or upon deposit of assets or money pursuant to Article 2 (commencing with Section 4610), whichever first occurs.

Article 4. Use or Sale of Assets to Make Support Payments

4630. (a) Upon an obligor-parent's failure, within the time specified by the court, to make reasonable efforts to cure the default in child support payments or to comply with a court-approved payment plan, if payments continue in the arrears, the deposit holder shall, not less than 25 days after providing the obligor-parent or parents with a written notice served personally or with return receipt requested, unless a motion or order to show cause has been filed to stop the use or sale, use the money or sell or otherwise process the deposited assets for an amount sufficient to pay the arrearage and the amount ordered by the court for the support of the minor child currently due.

(b) Assets deposited pursuant to an order issued under Article 2 (commencing with Section 4610) shall be construed as being assets subject to levy pursuant to Article 6 (commencing with Section 701.510) of Chapter 3 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The sale of assets shall be conducted in accordance with Article 6 (commencing with Section 701.510) and Article 7 (commencing with Section 701.810) of Chapter 3 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(c) The deposit holder may deduct from the deposited money the sum of one dollar ($1) for each payment made pursuant to this section.

4631. (a) An obligor-parent may file a motion to stop the use of the money or the sale of the asset under this article within 15 days after service of notice on the obligor-parent pursuant to Section 4630.

(b) The clerk of the court shall set the motion for hearing not less than 20 days after service of the notice of motion and the motion on the person or county officer to whom support has been ordered to have been paid.

4632. An obligor-parent alleged to be in arrears under this article may use any ground set forth in Section 4612 as a basis for filing a motion under Section 4631 to stop a sale or use of assets under this article.

Article 5. Return of Assets of Obligor

4640. The deposit holder shall return all assets subject to court order under Article 2 (commencing with Section 4610) to the obligor-parent when both of the following occur:

(a) One year has elapsed since the court issued the order described under Article 2 (commencing with Section 4610).

(b) The obligor-parent has made all support payments on time during that one-year period.
4641. If the deposited asset is real property and the requirements of Section 4640 have been satisfied, the deposit holder shall do all of the following:
(a) Prepare a release in accordance with Section 697.370 of the Code of Civil Procedure.
(b) Request the clerk of the court where the order to deposit assets was made to certify the release.
(c) Record the certified release in the office of the county recorder where the certified abstract was recorded under Section 4617.

CHAPTER 4. CHILD SUPPORT DELINQUENCY REPORTING

4700. This chapter may be cited as the Child Support Delinquency Reporting Law.
4701. (a) The State Department of Social Services shall administer a statewide automated system for the reporting of court-ordered child support obligations to credit reporting agencies.
(b) The department shall design and develop standards for the system in conjunction with representatives of the California Family Support Council and the credit reporting industry.
(c) The standards for the system shall be consistent with credit reporting industry standards and reporting format and with the department's statewide central automated system for support enforcement.
(d) The standards shall include, but not be limited to, all of the following:
(1) Court-ordered child support obligations and delinquent payments, including amounts owed and by whom. The California district attorneys, on a monthly basis, shall update this information, and then submit it to the department which, in turn, shall consolidate and transmit it to the credit reporting agencies.
(2) Before the initial reporting of a court-ordered child support obligation or a delinquent payment, the district attorney shall attempt to notify the obligor parent of the proposed action and give 30 days to contest in writing the accuracy of the information, or to pay the arrearage, if any, in compliance with the due process requirements of the laws of this state.
(e) The department and the district attorneys are responsible for the accuracy of information provided pursuant to this section, and the information shall be based upon the data available at the time the information is provided. Each of these organizations and the credit reporting agencies shall follow reasonable procedures to ensure maximum possible accuracy of the information provided. Neither the department, nor the district attorneys are liable for any consequences of the failure of a parent to contest the accuracy of the information within the time allowed under paragraph (2) of subdivision (d).
CHAPTER 5. CIVIL PENALTY FOR CHILD SUPPORT DELINQUENCY

4720. “Support” for the purposes of this chapter means support as defined in Section 150.
4721. This chapter applies only to installments of child support that are due on or after January 1, 1992.
4722. (a) Any person with a court order for child support, the payments on which are more than 30 days in arrears, may file and then serve a notice of delinquency, as described in this chapter.
   (b) Except as provided in Section 4726, and subject to Section 4727, any amount of child support specified in a notice of delinquency that remains unpaid for more than 30 days after the notice of delinquency has been filed and served shall incur a penalty of 6 percent of the delinquent payment for each month that it remains unpaid, up to a maximum of 72 percent of the unpaid balance due.
4723. (a) The notice of delinquency shall be signed under penalty of perjury by the support obligee.
   (b) The notice of delinquency shall state all of the following:
      (1) The amount that the child support obligor is in arrears.
      (2) The installments of support due, the amounts, if any, that have been paid, and the balance due.
      (3) That any unpaid installment of child support will incur a penalty of 6 percent of the unpaid support per month until paid, to a maximum of 72 percent of the original amount of the unpaid support, unless the support arrearage is paid within 30 days of the date of service of the notice of delinquency.
   (c) In the absence of a protective order prohibiting the support obligor from knowing the whereabouts of the child or children for whom support is payable, or otherwise excusing the requirements of this subdivision, the notice of delinquency shall also include a current address and telephone number of all of the children for whom support is due and, if different from that of the support obligee, the address at which court papers may be served upon the support obligee.
4724. The notice of delinquency may be served personally or by certified mail or in any manner provided for service of summons.
4725. If the child support owed, or any arrearages, interest, or penalty, remains unpaid more than 30 days after serving the notice of delinquency, the support obligee may file a motion to obtain a judgment for the amount owed, which shall be enforceable in any manner provided by law for the enforcement of judgments.
4726. No penalties may be imposed pursuant to this chapter if, in the discretion of the court, all of the following conditions are met:
      (a) Within a timely fashion after service of the notice of delinquency, the support obligor files and serves a motion to determine arrearages and to show cause why the penalties provided in this chapter should not be imposed.
(b) At the hearing on the motion filed by the support obligor, the court finds that the support obligor has proved any of the following:

1. The child support payments were not 30 days in arrears as of the date of service of the notice of delinquency and are not in arrears as of the date of the hearing.

2. The support obligor suffered serious illness, disability, or unemployment which substantially impaired the ability of the support obligor to comply fully with the support order and the support obligor has made every possible effort to comply with the support order.

3. The support obligor is a public employee and for reasons relating to fiscal difficulties of the employing entity the obligor has not received a paycheck for 30 or more days.

4. It would not be in the interests of justice to impose a penalty.

4727. Any penalty due under this chapter shall not be greater than 6 percent per month of the original amount of support arrearages or support installment, nor may the penalties on any arrearage amount or support installment exceed 72 percent of the original amount due, regardless of whether or not the installments have been listed on more than one notice of delinquency.

4728. Penalties due pursuant to this chapter may be enforced by the issuance of a writ of execution in the same manner as a writ of execution may be issued for unpaid installments of child support, as described in Chapter 7 (commencing with Section 5100), except that payment of penalties under this chapter may not take priority over payment of arrearages or current support.

4729. The district attorney shall enforce child support obligations utilizing the penalties provided for by this chapter to the extent permitted by federal law.

4730. At any hearing to set or modify the amount payable for the support of a minor child, the court shall not consider any penalties imposed under this chapter in determining the amount of current support to be paid.

4731. A subsequent notice of delinquency may be served and filed at any time. The subsequent notice shall indicate those child support arrearages and ongoing installments that have been listed on a previous notice.

4732. The Judicial Council shall adopt forms or notices for the use of the procedures provided by this chapter.

CHAPTER 6. UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT


4800. This chapter may be cited as the Uniform Reciprocal Enforcement of Support Act.

4801. The purposes of this chapter are to improve and extend by
reciprocal legislation the enforcement of duties of support and to
make uniform the law with respect thereto.

4802. As used in this chapter, unless the context requires
otherwise:
(a) "Court" means the superior court of this state and, when the
context requires, means the court of any other state as defined in a
substantially similar reciprocal law.
(b) "Duty of support" means a duty of support whether imposed
or imposable by law or by order, decree, or judgment of any court
whether interlocutory or final or whether incidental to a proceeding
for dissolution of marriage, for nullity of marriage, or for legal
separation of the parties, or to an action for divorce, separation,
separate maintenance, or otherwise and includes the duty to pay
arrearages of support past due and unpaid.
(c) "Governor" includes any person performing the functions of
Governor or the executive authority of any state covered by this
chapter.
(d) "Initiating state" means a state in which a proceeding
pursuant to this or a substantially similar reciprocal law is
commenced. "Initiating court" means the court in which a
proceeding is commenced.
(e) "Law" includes both common and statutory law.
(f) "Obligee" means a person including a state or political
subdivision to whom a duty of support is owed or a person including
a state or political subdivision that has commenced a proceeding for
enforcement of an alleged duty of support. It is immaterial if the
person to whom a duty of support is owed is a recipient of public
assistance.
(g) "Obligor" means a person owing a duty of support or against
whom a proceeding for the enforcement of a duty of support is
commenced.
(h) "Prosecuting attorney" means the public official in the
appropriate place who has the duty to enforce criminal laws relating
to the failure to provide for the support of any person.
(i) "Responding state" means a state in which a responsive
proceeding pursuant to the proceeding in the initiating state is
commenced. "Responding court" means the court in which the
responsive proceeding is commenced.
(j) "State" includes a state, territory, or possession of the United
States, the District of Columbia, the Commonwealth of Puerto Rico,
and any foreign jurisdiction in which this or a substantially similar
law or procedure is in effect or which has established enforcement
procedures with or without court participation under a treaty, the
application of which is extended to this state.
(k) "Support order" means a judgment, decree, or order of
support in favor of an obligee whether temporary or final, or subject
to modification, revocation, or remission, regardless of the kind of
action or proceeding in which it is entered.
(l) "Register" means to file in the Registry of Foreign Support
Orders.

(m) "Registering court" means a court of this state in which a support order of a rendering state is registered.
(n) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.
(o) "Rendering court" means a court which has issued a support order for which registration is sought.
(p) "Foreign support order" includes a foreign order for the assignment of wages for the satisfaction of a support order.

4803. (a) The remedies provided in this chapter are in addition to and not in substitution for any other remedies.
(b) Notwithstanding subdivision (a) or any other provision of law, no party to an action under this chapter, nor assignee of a party of an action under this chapter, is entitled to attorney's fees from the opposing party for prosecuting or defending the action, except where the court finds that the opposing party has not prosecuted or defended the action in good faith.

4804. Duties of support arising under the law of this state, when applicable under Section 4820, bind the obligor, present in this state, regardless of the presence or residence of the obligee.

4805. Notwithstanding any other provision of law, privately retained counsel may represent an obligee in any proceeding under this chapter.

Article 2. Criminal Enforcement

4810. (a) The Governor of this state may do either of the following:
(1) Demand of the Governor of another state the surrender of a person found in that state who is charged criminally in this state with failing to provide for the support of any person.
(2) Surrender on demand by the Governor of another state a person found in this state who is charged criminally in another state with failing to provide for the support of any person.
(b) Provisions for extradition of criminals not inconsistent with this chapter apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom.
(c) The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state.

4811. (a) Before making the demand on the Governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of any person, the Governor of this state may require any prosecuting attorney of this state to satisfy the Governor that at least 60 days prior thereto the obligee brought an action for support under this chapter, or that the
bringing of an action would be of no avail.

(b) If, under a substantially similar law, the Governor of another state makes a demand upon the Governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor may require any prosecuting attorney to investigate the demand and to report to the Governor whether an action for support has been brought or would be effective. If it appears to the Governor that an action for support would be effective but has not been brought, the Governor may delay honoring the demand for a reasonable time to permit the bringing of an action for support.

(c) If an action for support has been brought, and the person demanded has prevailed in that action, the Governor may decline to honor the demand. If the obligee prevailed therein and the person demanded is subject to a support order, the Governor may decline to honor the demand if the person demanded is complying with the support order.

Article 3. Civil Enforcement

4820. Duties of support applicable under this chapter are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

4821. If a state or a political subdivision furnishes support to an individual obligee, it has the same right to initiate an action under this chapter as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

4822. All duties of support, including the duty to pay arrearages, are enforceable by an action under this chapter, including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

4824. (a) The complaint or claim shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. Verification shall be in accordance with the requirements of the initiating state. The obligee may include in or attach to the complaint any information which may help in locating or identifying the obligor, including a photograph of the obligor, a description of any distinguishing marks on the obligor’s person, other names and aliases by which the obligor has been or is known, the name of the obligor’s employer, the obligor’s fingerprints, and the obligor’s social security number.

(b) The complaint may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the complaint on the ground that it
should be filed with some other court of this or any other state where there is pending a proceeding for dissolution of the marriage or for legal separation of the parties, or another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody, between the same parties, or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

(c) When the obligee removes the obligee's residence from the county in which the proceeding was initiated to another county in the state, the court may transfer the proceeding to the new county of residence. The clerk of the court in which the proceeding was initiated shall forward certified copies of all documents necessary for continued prosecution of the proceeding to the county where the proceeding was transferred. The clerk of the court to which the proceeding has been transferred shall inform the court of the responding state that the case has been transferred, and that payment should be made through the appropriate agency of the transeree county. Transfer procedures under this section may be initiated by the obligee or by the court, prosecuting official, or clerk of either county or of the responding state.

4825. 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 chapter. 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.

4826. A complaint on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem.

4827. If the initiating court or agency finds that the complaint or claim sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or the obligor's property, the court or agency shall so certify and cause three copies of the complaint or claim and its certificate and one copy of this chapter or of the declaration of reciprocity made pursuant to Section 4844 to be sent to the responding state. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

4828. An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other
costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the county. These costs or fees do not have priority over amounts due to the obligee.

4829. (a) If the court of this state believes that the obligor may flee, it may do either of the following:

(1) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process.

(2) As a responding court, obtain the body of the obligor by appropriate process.

(b) Thereupon it may release the obligor upon the obligor's own recognizance or upon the giving of a bond in an amount set by the court to assure the obligor's appearance at the hearing.

4830. (a) The Attorney General is hereby designated as the state information agency under this chapter.

(b) The state information agency shall:

(1) Compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law. Upon the adjournment of each session of the Legislature, the Attorney General shall distribute copies of any amendments to this chapter and a statement of their effective dates to all other state information agencies.

(2) Maintain a register of such lists of courts received from other states and transmit copies thereof promptly to every court in this state having jurisdiction under this chapter.

(3) Forward to the court in this state which has jurisdiction over the obligor or the obligor's property petitions, certificates, and copies of the act it receives from courts or information agencies of other states.

(c) If the state information agency does not know the location of the obligor or the obligor's property in the state and no state location service is available, it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act as amended.

(d) Notwithstanding any other provision of law, copies of all documents used to initiate enforcement of any interstate child support obligation shall be sent directly to the state information agency.
4831. (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 that 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. The prosecuting attorney shall take all action necessary to enable the court to obtain jurisdiction over the obligor or the obligor's property in accordance with law. The prosecuting attorney 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 before 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.

4832. (a) The prosecuting attorney on its own initiative shall use all means at its disposal to locate the obligor or the obligor's property, and if because of inaccuracies in the petition or otherwise the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what the prosecuting attorney has done and request the court to continue the case pending receipt of more accurate information or an amended complaint from the initiating court.

(b) If the obligor or the obligor's property is not found in the county, and the prosecuting attorney discovers that the obligor or the obligor's property may be found in another county of this state or in another state, the prosecuting attorney shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this chapter apply to the recipient of the documents so forwarded. If the clerk of a court of this state forwards documents to another court, the clerk shall forthwith notify the initiating court.

(c) If the prosecuting attorney has no information as to the location of the obligor or the obligor's property, the prosecuting attorney shall so inform the initiating court.

4833. If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this chapter shall require that payments be made to the county clerk, probation officer, or other officer of the court or county
officer designated by the court for that purpose. The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any county in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

4834. If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the complaint or offers evidence which constitutes a defense, the court, upon request of either party, shall continue the case for further hearing and the submission of evidence by both parties either by deposition or personal appearance. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

4835. The responding court shall cause a copy of all support orders to be sent to the initiating court or agency and to the obligor.

4836. In addition to the foregoing powers, a responding court may subject the obligor to any terms and conditions proper to ensure compliance with its orders and in particular may do any one or more of the following:

(a) Require the obligor to furnish a cash deposit or bond of a character and amount to ensure payment of any amount due.

(b) Require the obligor to report personally and to make payments at specified intervals to the county clerk, probation officer, or other officer of the court or county officer designated by the court for such purpose.

(c) Punish under the power of contempt the obligor who violates any order of the court.

4837. A responding court has the following duties which may be carried out through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose:

(a) To transmit to the initiating court any payment made by the obligor pursuant to an order of the court or otherwise.

(b) To furnish to the initiating court upon request a certified statement of all payments made by the obligor.

4838. An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose.

4839. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and
parentage.

4840. A support order made by a court of this state pursuant to this chapter does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar provision of law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to a support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under a support order made by the court of this state.

4841. Participation in a proceeding under this chapter does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.

4842. A responding court shall not stay the proceeding or refuse a hearing under this chapter because of a pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof, it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter, the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

4843. This chapter applies if both the obligee and the obligor are in this state but in different counties. If the court of the county in which the petition is filed finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county in this state may obtain jurisdiction over the obligor or the obligor's property, the clerk of the court shall send the petition and a certification of the findings to the court of the county in which the obligor or the obligor's property is found. The clerk of the court of the county receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this state as a responding state.

4844. When the Attorney General is satisfied that reciprocal provisions will be made by a foreign jurisdiction for the enforcement therein of support orders made within this state, the Attorney General may declare the foreign jurisdiction to be a reciprocating state for the purpose of this chapter. Any such declaration may be revoked by the Attorney General. Any such declaration by the Attorney General may be reviewed by the court in an action brought
pursuant to this chapter.

4845. (a) In a hearing for the civil enforcement of this chapter, the court is governed by the rules of evidence applicable in a civil court action in the superior court. If the action is based on a support order issued by, another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses or modification available to a defendant in a proceeding to enforce a foreign support judgment.

(b) The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

4846. If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise, the court may adjourn the hearing until the paternity issue has been adjudicated.

4847. (a) If the Attorney General is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, the Attorney General may:

(1) If the support order was issued by a court of this state, perfect an appeal to the proper appellate court.

(2) If the support order was issued in another state, cause the appeal to be taken in the other state.

(b) In either case, expenses of appeal may be paid on order of the Attorney General from funds appropriated for the Office of the Attorney General.

4848. (a) If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in Sections 4849 to 4853, inclusive.

(b) A support order made in this state may also be registered pursuant to Sections 4849 to 4853, inclusive, in any county in which either the obligor or the child who is the subject of the order resides.

4849. The obligee may register a foreign support order or a foreign order for the assignment of wages for support in a court of this state in the manner, with the effect, and for the purposes provided in this article.

4850. The clerk of the court shall maintain a registry of foreign support orders in which the clerk shall file foreign support orders.

4851. 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 chapter. 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.

4852. (a) An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court all of
the following:

(1) Three certified copies of the order with all modifications thereof.

(2) One copy of the reciprocal enforcement of support act of the state in which the order was made.

(3) A statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered.

(b) Upon receipt of the documents described in subdivision (a), the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this article.

(c) Promptly upon registration, the clerk of the court shall send, by any form of mail requiring a return receipt from the addressee only, to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. Proof shall be made to the satisfaction of the court that the obligor personally received the notice of registration by mail or other method of service. A return receipt signed by the obligor shall be satisfactory evidence of personal receipt. The court clerk shall also docket the case and notify the prosecuting attorney of that action. The prosecuting attorney shall proceed diligently to enforce the order.

4853. (a) Except as specified in this section, upon registration, the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner. Except as specified in this section, upon registration, a foreign order for the assignment of wages for support shall be treated for all purposes in the same manner as an earnings assignment order for support entered pursuant to Chapter 8 (commencing with Section 5200).

(b) The obligor has 20 days after the mailing or other service of notice of the registration of a foreign order of support or assignment of wages in which to petition the court to vacate the registration or for other relief. In an action under this section, there shall be no joinder of actions, coordination of actions, or cross-complaints, and the claims or defenses shall be limited strictly to the identity of the obligor, the validity of the underlying foreign support order or foreign order for the assignment of wages, or the accuracy of the obligee's statement of the amount of support remaining unpaid unless the amount has been previously established by a judgment or order. If the obligor does not so petition the court, the registered foreign support order or foreign order for the assignment of wages and all other documents filed pursuant to subdivision (a) of Section
4852 are confirmed.

(c) At the hearing to enforce the registered order, the obligor may present only matters that would be available to the obligor as defenses in an action to enforce a support judgment. If the obligor shows and the court finds that an appeal from the order is pending or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If the obligor shows and the court finds any ground upon which enforcement of a support order of this state may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

(d) Registration of an out-of-state order for the sole purpose of interstate wage withholding does not confer jurisdiction on the court for any purpose other than income withholding.

4854. If a support order issued by a court of this state is registered in the court of a county other than that of the rendering court, the obligee shall serve a copy of any subsequent modification of the order on the rendering court, by mail.

CHAPTER 7. ENFORCEMENT BY WRIT OF EXECUTION

5100. Notwithstanding Section 290, a child or family support order may be enforced by a writ of execution without prior court approval until five years after the child reaches the age of majority and, thereafter, for amounts that are not more than 10 years overdue on the date of the application for the writ.

5101. Notwithstanding Section 290, a spousal support order may be enforced by a writ of execution without prior court approval for amounts that are not more than 10 years overdue on the date of the application for the writ.

5102. If a support order provides for the payment of support in installments, the period specified pursuant to this chapter runs as to each installment from the date the installment became due.

5103. (a) Notwithstanding Section 2060, an order for the payment of child, family, or spousal support may be enforced against an employee pension benefit plan regardless of whether the plan has been joined as a party to the proceeding in which the support order was obtained.

(b) Notwithstanding Section 697.710 of the Code of Civil Procedure, an execution lien created by a levy on the judgment debtor's right to payment of benefits from an employee pension benefit plan to enforce an order for the payment of child, family, or spousal support continues until the date the plan has withheld and paid over to the levying officer, as provided in Section 701.010 of the Code of Civil Procedure, the full amount specified in the notice of
levy, unless the plan is directed to stop withholding and paying over before that time by court order or by the levying officer.

(c) A writ of execution pursuant to which a levy is made on the judgment debtor's right to payment of benefits from an employee pension benefit plan under an order for the payment of child, family, or spousal support shall be returned not later than one year after the date the execution lien expires under subdivision (b).

5104. (a) The application for a writ of execution shall be accompanied by an affidavit stating the total amount due and unpaid that is authorized to be enforced pursuant to Sections 5100 to 5103, inclusive, on the date of the application.

(b) If interest on the overdue installments is sought, the affidavit shall state the total amount of the interest and the amount of each due and unpaid installment and the date it became due.

(c) The affidavit shall be filed in the action and a copy shall be attached to the writ of execution delivered to the levying officer. The levying officer shall serve the copy of the affidavit on the judgment debtor when the writ of execution is first served on the judgment debtor pursuant to a levy under the writ.

CHAPTER 8. EARNINGS ASSIGNMENT ORDER

Article 1. Definitions

5200. Unless the provision or context otherwise requires, the definitions in this article govern the construction of this chapter.

5202. "Assignment order" has the same meaning as "earnings assignment order for support."

5204. "Due date of support payments" is the date specifically stated in the order of support or, if no date is stated in the support order, the last day of the month in which the support payment is to be paid.

5206. "Earnings," to the extent that these earnings are subject to an earnings assignment order for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, includes:

(a) Wages, salary, bonus, money, and benefits described in Sections 704.110, 704.113, and 704.115 of the Code of Civil Procedure.

(b) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, or mineral or other natural resource rights.

(c) Payments or credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(d) Any other payments or credits due or becoming due as a result of an enforceable obligation.

5208. "Earnings assignment order for support" means an order that assigns to an obligee a portion of the earnings of a support obligor due or to become due in the future.
5210. "Employer" includes all of the following:
   (a) A person for whom an individual performs services as an employee, as defined in Section 706.011 of the Code of Civil Procedure.
   (b) The United States government and any public entity as defined in Section 811.2 of the Government Code.
   (c) Any person or entity paying earnings as defined under Section 5206.

5212. "IV-D Case" means any case being established, modified, or enforced by the district attorney pursuant to Section 654 of Title 42 of the United States Code (Section 454 of the Social Security Act).

5214. "Obligee" or "assigned obligee" means either the person to whom support has been ordered to be paid, the district attorney, or other person designated by the court to receive the payment. The district attorney is the obligee for all IV-D Cases as defined under Section 5212 or in which an application for services has been filed under Part D (commencing with Section 651) and Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code (Title IV-D or IV-E of the Social Security Act).

5216. "Obligor" means a person owing a duty of support.

5220. "Timely payment" means receipt of support payments by the obligee or assigned obligee within five days of the due date.

Article 2. General Provisions

5230. (a) When the court orders a party to pay an amount for support or orders a modification of the amount of support to be paid, the court shall include in its order an earnings assignment order for support that orders the employer of the obligor to pay to the obligee that portion of the obligor’s earnings due or to become due in the future as will be sufficient to pay an amount to cover both of the following:
   (1) The amount ordered by the court for support.
   (2) An amount which shall be ordered by the court to be paid toward the liquidation of any arrearage or past due support amount.

   (b) Upon the filing and service of a notice of motion or order to show cause with the supporting application, an obligee may request the court to issue an earnings assignment order for support to enforce a support order made or modified before July 1, 1990, including any arrearages or past due support amount, or to modify the support order.

5231. Unless stayed pursuant to Article 4 (commencing with Section 5260), an assignment order is effective and binding upon any existing or future employer of the obligor upon whom a copy of the order is served in compliance with Sections 5232 and 5233.

5232. Service on an employer of an assignment order may be made by first-class mail in the manner prescribed in Section 1013 of the Code of Civil Procedure.
5233. Unless the order states a later date, beginning as soon as possible after service of the order on the employer but not later than 10 days after service of the order on the employer, the employer shall commence withholding pursuant to the assignment order from all earnings payable to the employee.

5234. Within 10 days of service of an assignment order on an employer, the employer shall deliver both of the following to the obligor:
   (a) A copy of the assignment order.
   (b) A written statement of the obligor's rights under the law to move to quash the assignment order.

5235. The employer shall continue to withhold and forward support as required by the assignment order until served with notice terminating the assignment order. The employer shall send the amounts withheld to the obligee within 10 days of the date the obligor is paid. The employer may deduct from the earnings of the employee the sum of one dollar ($1) for each payment made pursuant to the order.

5236. 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 assignment order withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one 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.

5237. (a) Except as provided in subdivision (b), the obligee shall notify the employer of the obligor, by first-class mail, postage prepaid, of any change of address within a reasonable period of time after the change.

   (b) Where payments have been ordered to be made to a county officer designated by the court, the obligee who is the parent, guardian, or other person entitled to receive payment through the designated county officer shall notify the designated county officer by first-class mail, postage prepaid, of any address change within a reasonable period of time after the change.

   (c) If the employer or designated county officer is unable to deliver payments under the assignment order for a period of six months due to the failure of the obligee to notify the employer or designated county officer of a change of address, the employer or designated county officer shall not make any further payments under the assignment order and shall return all undeliverable payments to the obligor.

5238. Where an assignment order or assignment orders include both current support and payments towards the liquidation of arrearages, priority shall be given first to the current child support obligation, then the current spousal support obligation, and thereafter to the liquidation of child and then spousal support arrearages.
5239. Arrearages of support payments shall be computed on the basis of the payments owed and unpaid on the date that the obligor has been given notice of the assignment order as required by Section 5234.

5240. Upon the filing and service of a motion and a notice of motion by the obligor, the court shall terminate the service of an assignment order if past due support has been paid in full, including any interest due, and if any of the following conditions exist:
  (a) With regard to orders for spousal support, the death or remarriage of the spouse to whom support is owed.
  (b) With regard to orders for child support, the death or emancipation of the child for whom support is owed.
  (c) The court determines that there is good cause, as defined in Section 5260, to terminate the assignment order. This subdivision does not apply if there has been more than one application for an assignment order.
  (d) The termination of the stay of an assignment order under Section 5261 was improper, but only if that termination was based upon the obligor's failure to make timely support payments as described in subdivision (b) of Section 5261.

5241. (a) An employer who willfully fails to withhold and forward support pursuant to a currently valid assignment order entered and served upon the employer pursuant to this chapter is liable to the obligee for the amount of support not withheld, forwarded, or otherwise paid to the obligee.
  (b) In addition to any other penalty or liability provided by law, willful failure by an employer to comply with an assignment order is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure.

5242. Service of the assignment order creates a lien on the earnings of the employee and the property of the employer to the same extent as the service of an earnings withholding order as provided in Section 706.029 of the Code of Civil Procedure.

5243. An assignment order has priority as against any attachment, execution, or other assignment as specified in Section 706.031 of the Code of Civil Procedure.

5244. A reference to the district attorney in this chapter applies only when the district attorney is otherwise ordered or required to act pursuant to law. Nothing in this chapter shall be deemed to mandate additional enforcement or collection duties upon the district attorney beyond those otherwise imposed by law.

5245. Nothing in this chapter limits the authority of the district attorney to utilize any other civil and criminal remedies to enforce support obligations, regardless of whether or not the minor child or the obligee who is the parent, guardian, or other person entitled to receive payment is the recipient of welfare moneys.
Article 3. Support Orders Issued or Modified Before July 1, 1990

5250. For a support order first issued or modified before July 1, 1990, this article provides a procedure for obtaining an earnings assignment order for support when the court in ordering support or modification of support did not issue an assignment order.

5251. The obligee seeking issuance of an assignment order to enforce a support order described in Section 5250 may use the procedure set forth in this article by filing an application under Section 5252, or by notice of motion or order to show cause, or pursuant to subdivision (b) of Section 5230.

5252. (a) An assignment order under this article may be issued only upon an application signed under penalty of perjury by the obligee that the obligor is in default in support payments in a sum equal to the amount of support payable for one month, for any other occurrence specified by the court in the support order, or earlier by court order if requested by the district attorney or the obligor.

(b) If the order for support does not contain a provision for an earnings assignment order for support, the application shall state that the obligee has given the obligor a written notice of the obligee's intent to seek an assignment order if there is a default in support payments and that the notice was transmitted by first-class mail, postage prepaid, or personally served at least 15 days before the date of the filing of the application. The written notice of the intent to seek an assignment order may be given at any time, including at the time of filing a petition or complaint in which support is requested or at any time subsequent thereto. The obligor may at any time waive the written notice required by this subdivision.

(c) In addition to any other penalty provided by law, the filing of the application with knowledge of the falsity of the declaration or notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure.

5253. Upon receipt of the application, the court shall issue, without notice to the obligor, an assignment order requiring the employer of the obligor to pay to the obligee that portion of the earnings of the obligor due or to become due in the future as will be sufficient to pay an amount to cover both of the following:

(a) The amount ordered by the court for support.

(b) An amount which shall be ordered by the court to be paid toward the liquidation of any arrearage or past due support amount.

Article 4. Stay of Service of Assignment Order

5260. (a) The court may order that service of the assignment order be stayed only if the court makes a finding of good cause to stay service of the order.

(b) Good cause to stay service of the assignment order is limited to any of the following:

(1) The obligor has a history of uninterrupted, full, and timely
payment, other than through an assignment order or other mandatory process, of previously ordered support during the preceding 12 months. If the obligor has not been subject to an order of support for 12 months before the issuance of the assignment order, the obligor may qualify for good cause under this paragraph if the obligor posts with the clerk of the court a cash bond or cash in an amount equal to three months' support. The court may not find good cause to stay service of the assignment order under this paragraph if the obligor owes an arrearage for prior support.

(2) The obligor proves and the court finds, by clear and convincing evidence, that service of the assignment order would cause extraordinary hardship upon the obligor. Whenever possible, the court shall specify a date that the stay ordered under this paragraph will automatically terminate.

(3) The parties sign a written agreement which provides for an alternative arrangement to ensure payment of the support obligation as ordered other than through the immediate service of an assignment order. The written agreement may include an agreement relating to the staying of the service of an assignment order. In a case where support is ordered to be paid through a county officer designated for that purpose, an agreement between the parties which includes the staying of the service of an assignment order shall include the agreement of the district attorney. The signing of an agreement pursuant to this paragraph does not preclude the party from seeking an assignment order in accordance with the procedures set forth in Section 5261 upon violation of the agreement.

(4) The employer or district attorney has been unable to deliver payments under the assignment order for a period of six months due to the failure of the obligee to notify the employer or district attorney of a change of address.

5261. (a) If service of the assignment order has been ordered stayed, the stay shall terminate pursuant to subdivision (b) upon the obligor's failure to make timely support payments or earlier by court order if requested by the district attorney or by the obligor. The stay shall terminate earlier by court order if requested by any other obligee who can establish that good cause, as defined in Section 5260, no longer exists.

(b) To terminate a stay of the service of the assignment order, the obligee shall file a declaration signed under penalty of perjury by the obligee that the obligor is in arrears in payment of any portion of the support. At the time of filing the declaration, the stay shall terminate by operation of law without notice to the obligor.

(c) In addition to any other penalty provided by law, the filing of a declaration under subdivision (b) with knowledge of the falsity of its contents is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure.
Article 5. Motion to Quash Assignment Order

5270. (a) An obligor may move to quash an assignment order on any of the following grounds:

(1) The assignment order does not correctly state the amount of current or overdue support ordered by the courts.

(2) The alleged obligor is not the obligor from whom support is due.

(3) The amount to be withheld exceeds that allowable under federal law in subsection (b) of Section 1673 of Title 15 of the United States Code.

(b) If an assignment order is sought under Article 3 (commencing with Section 5250), the party ordered to pay support may also move to quash the service of the order based upon Section 5260.

(c) The obligor shall state under oath the ground on which the motion to quash is made.

(d) If an assignment order which has been issued and served on a prior employer is served on the obligor’s new employer, the obligor does not have the right to move to quash the assignment order on any grounds which the obligor previously raised when the assignment order was served on the prior employer or on any grounds which the obligor could have raised when the assignment order was served on the prior employer but failed to raise.

5271. (a) The motion and notice of motion to quash the assignment order shall be filed with the court issuing the order within 10 days after delivery of the copy of the assignment order to the obligor by the employer.

(b) The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion.

(c) The obligor shall serve personally or by first-class mail, postage prepaid, a copy of the motion and notice of motion on the obligee named in the assignment order no less than 10 days before the date of the hearing.

5272. A finding of error in the amount of the current support or arrearage or that the amount exceeds federal or state limits is not grounds to vacate the assignment order. The court shall modify the order to reflect the correct or allowable amount of support or arrearages. The fact that the obligor may have subsequently paid the arrearages does not relieve the court of its duty to enter the assignment order.

Article 6. Information Concerning Address and Employment of Obligor

5280. If the obligee making the application under this chapter also states that the whereabouts of the obligor or the identity of the obligor's employer is unknown to the party to whom support has been ordered to be paid, the district attorney shall do both of the
following:

(a) Contact the California parent locator service maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code.

(b) Upon receiving the requested information, notify the court of the last known address of the obligor and the name and address of the obligor's last known employer.

5281. An assignment order required or authorized by this chapter shall include a requirement that the obligor notify the obligee of any change of employment and of the name and address of the obligor's new employer within 10 days of obtaining new employment.

5282. After the obligor has left employment with the employer, the employer, at the time the next payment is due on the assignment order, shall notify the obligee designated in the assignment order by first-class mail, postage prepaid, to the last known address of the obligee that the obligor has left employment.

5283. (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, that 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.

(b) 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.

(c) 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:

1. First and last name and middle initial, if known.
2. Social security number.
3. Driver's license number.
4. Birth date.
(5) Last known address.
(6) Spouse’s name.

(d) An employer that 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.

Article 7. Prohibited Practices

5290. No employer shall use an assignment order authorized by this chapter as grounds for refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this section may be assessed a civil penalty of a maximum of five hundred dollars ($500).

Article 8. Judicial Council Forms

5295. The Judicial Council shall prescribe forms necessary to carry out the requirements of this chapter, including the following:
(a) The written statement of the obligor’s rights.
(b) The earnings assignment order for support.
(c) The instruction guide for obligees and obligors.
(d) The application forms required under Sections 5230, 5252, and 5261.
(e) The notice form required under Section 5252.
(f) Revised judgment and assignment order forms as necessary.

DIVISION 10. PREVENTION OF DOMESTIC VIOLENCE

PART 1. DEFINITIONS

5500. The definitions in this part govern the construction of this division.

5501. The definitions in Part 2 (commencing with Section 50) of Division 1, including, but not limited to, the definitions of “abuse,” “domestic violence,” and “domestic violence prevention order,” govern the construction of this division.

5505. “Protective order” means an order issued by the court to the restrained party not to contact, molest, attack, strike, threaten, sexually assault, batter, telephone, or disturb the peace of the persons described in Section 70.

PART 2. GENERAL PROVISIONS

5510. This division may be cited as the Domestic Violence Prevention Law.
5511. The purposes of this division are to prevent the recurrence of acts of violence and sexual abuse against 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 child or has had a dating or engagement relationship, and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence.

5512. (a) There is no filing fee for a petition or response relating to a protective order, restraining order, or a permanent injunction restraining violence or threats of violence in a proceeding brought pursuant to this division.

(b) Fees otherwise payable by a petitioner to a law enforcement agency for serving an order obtained under this division may be waived in any case in which the petitioner has requested a fee waiver on the initiating petition and has filed a declaration that demonstrates, to the satisfaction of the court, the financial need of the petitioner for the fee waiver.

(c) The declaration required by subdivision (b) shall be on one of the following forms:

(1) The form formulated and adopted by the Judicial Council for litigants proceeding in forma pauperis pursuant to Section 68511.3 of the Government Code, but the petitioner shall not be subject to any other requirements of litigants proceeding in forma pauperis.

(2) Any other form that the Judicial Council may adopt for this purpose pursuant to Section 5520.

(d) In conjunction with a hearing pursuant to this division, the court may issue an order for the waiver of fees otherwise payable by the petitioner to a law enforcement agency for serving an order obtained under this division.

5513. In making an award of temporary custody of a child pursuant to this division, if a domestic violence prevention order has been directed to a parent of the child, the court shall consider whether the best interest of the child requires that the visitation granted to that parent with respect to the child shall be limited to situations in which a third person, specified by the court, is present. A parent may submit to the court the name of a person that the parent considers suitable to be present during visitation. The determination of the best interest of the child pursuant to this section shall include the considerations specified in Section 3022. The court shall also consider its deliberations the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order.

5514. A mutual restraining order enjoining the parties from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, telephoning, or disturbing the peace of the other party, and, in the discretion of the court upon a showing of good cause, other named persons described in subdivision (a) of Section 70, may not be issued unless both parties personally appear.
and each party presents evidence of abuse or domestic violence.

5515. An order issued pursuant to this division shall state on its face the date of expiration of the order and a notice in substantially the following form: “NOTICE: These orders shall be enforced by all law enforcement officers in the State of California.”

5516. The court, in issuing a restraining order issued pursuant to this division and predicated on subdivision (b), (c), or (d) of Section 2035 where both parties are present in court, shall inform both the petitioner and the respondent of the terms of the order, including notice that the respondent is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and including notice of the penalty for violation.

5517. The petition, the temporary order, and the order after the hearing are valid and enforceable without explicitly stating the address of the applicant or the applicant’s place of residence, school, employment, the place where the applicant’s child is provided child care services, or the child’s school.

5518. The remedies provided in this division are in addition to any other remedies, either civil or criminal, which may be available to the petitioner.

5519. (a) It is the function of a support person to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence in the proceedings specified in this section.

(b) The support person shall assist the person who alleges he or she is a victim of domestic violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings where the person who alleges he or she is a victim of domestic violence and the other party must be present in close proximity. The support person is not present as a legal adviser and shall not give legal advice.

(c) A support person may accompany either party to any proceeding to obtain a domestic violence prevention order. Where the party is not represented by an attorney, the support person may sit with the party at the table that is generally reserved for the party and the party’s attorney.

(d) Notwithstanding any other provision of law to the contrary, if a court has issued a domestic violence prevention order, a support person may accompany a party protected by the domestic violence prevention order during a mediation session held pursuant to an action or proceeding under this code. The agency charged with providing family court services shall advise the party protected by the order of the right to have a support person during mediation. A mediator may exclude a support person from a mediation session if the support person participates in the mediation session, acts as an advocate, or the presence of a particular support person is disruptive or disrupts the process of mediation. The presence of the support person does not waive the confidentiality of the mediation, and the support person is bound by the confidentiality of the mediation.

(e) A support person may accompany a party in a proceeding
subject to this section in court where there are allegations or threats of domestic violence and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney.

(f) Nothing in this section precludes a court from exercising its discretion to remove a person from the courtroom who it believes is prompting, swaying, or influencing the party protected by the order.

5520. The Judicial Council shall prescribe the form of the orders and any other documents required by this division and shall promulgate instructions for applications for orders under this division.

PART 3. TEMPORARY RESTRAINING ORDERS

CHAPTER 1. GENERAL PROVISIONS

5530. A temporary restraining order may be granted pursuant to this division with or without notice to restrain any person upon an affidavit which, to the satisfaction of the court, shows reasonable proof of a past act or acts of abuse for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved. The order may be granted in the manner provided in Part 4 (commencing with Section 240) of Division 2.

5531. (a) A temporary restraining order may be granted pursuant to this division to any person described in Section 70.

(b) The right to petition for relief shall not be denied because the petitioner has vacated the household to avoid abuse, and in the case of a marital relationship, notwithstanding that a petition for dissolution of marriage, for nullity of marriage, or for legal separation of the parties has not been filed.

CHAPTER 2. ORDERS ISSUABLE EX PARTE

5550. (a) Subject to subdivision (b), upon application, the court may, in the manner provided in Part 4 (commencing with Section 240) of Division 2, issue ex parte any of the orders set forth in Section 2035.

(b) In the case of a nonmarital relationship between the petitioner and the respondent, the court may issue ex parte any of the orders set forth in subdivisions (b), (c), and (d) of Section 2035, and where there is a minor child of the petitioner and the respondent an order determining the temporary custody of the child.

5551. A temporary restraining order shall set forth on its face a notice in substantially the following form:

"NOTICE TO RESTRAINED PARTY: 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."

5552. The court may issue an ex parte order pursuant to Section 5550 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 petitioner has a right under color of law to possession of the premises or that the order is one authorized under subdivision (c) of Section 2035.

PART 4. EMERGENCY PROTECTIVE ORDERS

CHAPTER 1. GENERAL PROVISIONS

5600. Except to the extent otherwise provided, this chapter applies to emergency protective orders issued under this part.

5601. 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 issue orally, by telephone or otherwise, emergency protective orders at all times whether or not the superior court is in session.

5602. The officer requesting the emergency protective order under Section 5650 or 5700 shall reduce it to writing and shall sign the order.

5603. An emergency protective order expires not later than the close of judicial business on the second day of judicial business following the day of its issue.

5604. The officer who requested the emergency protective order under Section 5650 or 5700, while on duty, shall carry copies of the order.

5605. (a) The officer who requested the emergency protective order under Section 5650 or 5700 shall do both of the following:

(1) Serve the order upon the restrained party if the restrained party can reasonably be located.

(2) File a copy of the order with the court as soon as practicable after issuance.

(b) If the emergency protective order is issued under Chapter 2 (commencing with Section 5650), the officer who requested the order shall give a copy of the order to the protected party.

(c) If the emergency protective order is issued under Chapter 3 (commencing with Section 5700), the officer who requested the order shall give a copy of the order to a parent or legal guardian of the endangered child who is not a restrained party, if the parent or legal guardian can be reasonably located, or to a person having temporary custody of the endangered child.

5606. (a) A police or sheriff's officer shall use every reasonable means to enforce an emergency protective order issued pursuant to Chapter 2 (commencing with Section 5650) or Chapter 3 (commencing with Section 5700).

(b) A 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 Chapter 2 (commencing with Section 5650).

(c) An officer acting in good faith to enforce an emergency
protective order under this section is not civilly or criminally liable.

CHAPTER 2. EMERGENCY PROTECTIVE ORDER WHERE DANGER OF DOMESTIC VIOLENCE

5650. (a) A judge, commissioner, or referee designated pursuant to Section 5601 may issue an ex parte emergency protective order under this chapter when a police or sheriff’s officer or a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) 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 by the person against whom the order is sought.

(b) The order issued under this chapter may consist of any of the orders set forth in subdivisions (b), (c), and (d) of Section 2035, 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.

(c) An order under this chapter shall be issued without prejudice to any party.

5651. An order may be issued under this chapter only upon a finding by the judge, commissioner, or referee 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 availability of an order under this chapter is not affected by the fact that the endangered person has vacated the household to avoid abuse.

5652. An order issued under this chapter shall include all of the following:

(a) A statement of the grounds asserted for the order.
(b) The date and time the order expires.
(c) The address of the superior court for the district or county in which the endangered person resides.
(d) The following statement, which shall be printed in English and Spanish: "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 the attorney 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 the attorney may assist you in responding to the application."
CHAPTER 3. EMERGENCY PROTECTIVE ORDER WHERE CHILD IN DANGER OF ABUSE

5700. (a) A judge, commissioner, or referee designated pursuant to Section 5601 may issue an ex parte emergency protective order under this chapter 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.

(b) The order issued under this chapter 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.

(c) An order under this chapter shall be issued without prejudice to any party.

5701. An order may be issued under this chapter only upon a finding by the judge, commissioner, or referee 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 availability of an order under this chapter is not affected by the endangered child's leaving the household to avoid abuse.

5702. An order issued under this chapter shall include all of the following:

(a) A statement of the grounds asserted for the order.

(b) The date and time the order expires.

(c) The address of the superior court for the district or county in which the endangered child resides.

(d) The following statement, which shall be printed in English and Spanish: "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."

5703. The parent or legal guardian of the endangered child who is not a restrained party, or a 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.

PART 5. ORDERS ISSUABLE AFTER NOTICE AND HEARING

5750. (a) Subject to subdivision (b), the court may issue, after notice and a hearing, any of the orders set forth in Section 2035.
(b) In the case of a nonmarital relationship between the petitioner and the respondent, the court may issue, after notice and a hearing, any of the orders set forth in subdivisions (b), (c), (d), and (f) of Section 2035 and where there is a minor child of the petitioner and the respondent an order determining the temporary custody of the child.

5751. After notice and a hearing, the court may order the exclusion of one party from the common dwelling of both parties or from the dwelling of the other party on a finding only that physical or emotional harm would otherwise result to the other party or a person under the care, custody, or control of the other party or to a minor child of the parties or of the other party.

5752. (a) Where there exists a presumption that the respondent is the natural father of a minor child, pursuant to Section 7611, and the child is in the custody of the petitioner, the court, after notice and a hearing, may order a party to pay an amount necessary for the support and maintenance of the child if the order would otherwise be authorized in an action brought pursuant to Part 3 (commencing with Section 7600) of Division 12.

(b) An order made pursuant to this section shall be without prejudice in an action brought pursuant to Part 3 (commencing with Section 7600) of Division 12.

5753. The court may issue, after notice and a hearing, any of the following orders:

(a) An order that restitution be paid to the family or household member for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing, incurred as a direct result of the abuse inflicted by the respondent or any actual physical injuries sustained therefrom.

(b) An order that restitution be paid by petitioner for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order.

(c) An order requiring that the respondent shall pay any public or private agency for the reasonable cost of providing services to a family or household member required as a direct result of the abuse inflicted by the respondent or any actual injuries sustained therefrom.

5754. (a) Subject to subdivision (d), the court may issue, after notice and a hearing, an order requiring any party to participate in 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, where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous instances of domestic violence. The court may also order a restrained party to participate in batterer's treatment counseling.
(b) Where there has been a history of domestic violence between the parties and a protective order is in effect, at the request of the party protected by the order, the parties shall participate in counseling separately and at separate times.

(c) The court shall fix the costs and shall order the entire cost of the services to be borne by the parties in such proportions as the court deems reasonable.

(d) Before issuing the court order requiring counseling, the court shall find that the financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.

5755. The court may issue, after notice and a hearing, an order for the payment of attorney's fees and costs of the prevailing party.

5756. A restraining order granted after notice and a hearing pursuant to this division, in the discretion of the court, shall have a duration of not more than three years, unless otherwise terminated or extended by further order of the court either on written stipulation filed with the court or on the motion of any party.

PART 6. REGISTRATION AND ENFORCEMENT OF ORDERS

5800. The court shall order the petitioner or the attorney for the petitioner to deliver, or the county clerk to mail, a copy of any order, or extension, modification, or termination thereof, granted pursuant to this division, by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the petitioner or the attorney for the petitioner having jurisdiction over the residence of the petitioner and other locations where the court determines that acts of domestic violence against the petitioner are likely to occur.

5801. Each appropriate law enforcement agency shall make available to any law enforcement officer responding to the scene of reported domestic violence, through an existing system for verification, information as to the existence, terms, and current status of an order issued pursuant to this division.

5802. (a) A restraining order against domestic violence issued pursuant to this division may, upon request of the petitioner, be served upon the respondent by any law enforcement officer who is present at the scene of reported domestic violence involving the parties to the action.

(b) The moving party shall provide the officer with an endorsed copy of the order and a proof of service which the officer shall complete and transmit to the issuing court.

(c) It shall be a rebuttable presumption that the proof of service was signed on the date of service.

5803. (a) If a person named in a restraining order issued pursuant to this division has not been served personally with the order but has received actual notice of the existence and substance
of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of that order.

(b) The judicial forms for temporary restraining orders and restraining orders issued after a hearing shall contain a statement in substantially the following form: "NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF THE FACE OF THIS FORM INDICATES THAT BOTH PARTIES ARE PERSONALLY PRESENT AT THE HEARING WHERE THE ORDER WAS ISSUED."

5804. (a) Except as provided in subdivision (b), upon receipt of a copy of a restraining order issued pursuant to this division and predicated on subdivision (b), (c), or (d) of Section 2035, together with the subsequent proof of service thereof, the local law enforcement agency having jurisdiction over the residence of the petitioner shall immediately notify the Department of Justice regarding the name, race, date of birth, and other personal descriptive information as required by a form prescribed by the Department of Justice, the date of issuance of the order, and the duration of the order or its expiration date.

(b) Proof of service of the restraining order is not required for the purposes of this section if the order indicates on its face that both parties were personally present at the hearing where the order was issued and that, for the purpose of Section 5803, no proof of service is required.

(c) The failure of the petitioner to provide the Department of Justice with the personal descriptive information regarding the person restrained does not invalidate the restraining order.

(d) If a court issues a modification, extension, or termination of the order described in subdivision (a), the court shall notify the law enforcement agency having jurisdiction over the residence of the petitioner. The law enforcement agency shall then immediately notify the Department of Justice.

(e) There shall be no civil liability on the part of, and no cause of action shall arise against, an employee of a local law enforcement agency or the Department of Justice, acting within the scope of employment, if a person described in subdivision (g) of Section 12021 of the Penal Code unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person who is otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to a failure of a court to provide the notification provided for in this section.

5805. (a) The court may, in its discretion, appoint counsel to represent the petitioner in a proceeding to enforce the terms of a restraining order issued pursuant to this division and predicated on subdivision (b), (c), or (d) of Section 2035.

(b) In a proceeding in which private counsel was appointed by the court pursuant to subdivision (a), the court may order the respondent to pay reasonable attorney's fees and costs incurred by
the petitioner.

5806. The court shall order the county clerk to provide, without cost, to a petitioner five certified, stamped, and endorsed copies of any order, extension, modification, or termination thereof granted pursuant to this division.

5807. A willful and knowing violation of a restraining order issued pursuant to this division and predicated on subdivision (b), (c), or (d) of Section 2035 is a crime punishable under Section 273.6 of the Penal Code.

DIVISION 11. MINORS

PART 1. AGE OF MAJORITY

6500. A minor is an individual who is under 18 years of age. The period of minority is calculated from the first minute of the day on which the individual is born to the same minute of the corresponding day completing the period of minority.

6501. An adult is an individual who is 18 years of age or older.

6502. (a) The use of or reference to the words “age of majority,” “age of minority,” “adult,” “minor,” or words of similar intent in any instrument, order, transfer, or governmental communication made in this state:

(1) Before March 4, 1972, makes reference to individuals 21 years of age and older, or younger than 21 years of age.

(2) On or after March 4, 1972, makes reference to individuals 18 years of age and older, or younger than 18 years of age.

(b) Nothing in subdivision (a) or in Chapter 1748 of the Statutes of 1971 prevents amendment of any court order, will, trust, contract, transfer, or instrument to refer to the 18-year-old age of majority if the court order, will, trust, contract, transfer, or instrument satisfies all of the following conditions:

(1) It was in existence on March 4, 1972.

(2) It is subject to amendment by law, and amendment is allowable or not prohibited by its terms.

(3) It is otherwise subject to the laws of this state.

PART 2. RIGHTS AND LIABILITIES; CIVIL ACTIONS AND PROCEEDINGS

6600. A minor is civilly liable for a wrong done by the minor, but is not liable in exemplary damages unless at the time of the act the minor was capable of knowing that the act was wrongful.

6601. A minor may enforce the minor’s rights by civil action or other legal proceedings in the same manner as an adult, except that a guardian must conduct the action or proceedings.

6602. A contract for attorney’s fees for services in litigation, made by or on behalf of a minor, is void unless the contract is approved, on petition by an interested person, by the court in which the
litigation is pending or by the court having jurisdiction of the
guardianship estate of the minor. If the contract is not approved and
a judgment is recovered by or on behalf of the minor, the attorney’s
fees chargeable against the minor shall be fixed by the court
rendering the judgment.

PART 3. CONTRACTS

CHAPTER 1. CAPACITY TO CONTRACT

6700. Except as provided in Section 6701, a minor may make a
contract in the same manner as an adult, subject to the power of
disaffirmance under Chapter 2 (commencing with Section 6710),
and subject to Part 1 (commencing with Section 300) of Division 3
(validity of marriage).

6701. A minor cannot do any of the following:
   (a) Give a delegation of power.
   (b) Make a contract relating to real property or any interest
       therein.
   (c) Make a contract relating to any personal property not in the
       immediate possession or control of the minor.

CHAPTER 2. DISAFFIRMANCE OF CONTRACTS

6710. Except as otherwise provided by statute, a contract of a
minor may be disaffirmed by the minor before majority or within a
reasonable time afterwards or, in case of the minor’s death within
that period, by the minor’s heirs or personal representative.

6711. A minor cannot disaffirm an obligation, otherwise valid,
entered into by the minor under the express authority or direction
of a statute.

6712. A contract, otherwise valid, entered into during minority,
may not be disaffirmed on that ground either during the actual
minority of the person entering into the contract, or at any time
thereafter, if all of the following requirements are satisfied:

   (a) The contract is to pay the reasonable value of things necessary
       for the support of the minor or the minor’s family.
   (b) These things have been actually furnished to the minor or to
       the minor’s family.
   (c) The contract is entered into by the minor when not under the
       care of a parent or guardian able to provide for the minor or the
       minor’s family.

6713. If, before the contract of a minor is disaffirmed, goods the
minor has sold are transferred to another purchaser who bought
them in good faith for value and without notice of the transferor’s
defect of title, the minor cannot recover the goods from an innocent
purchaser.
CHAPTER 3. CONTRACTS IN ART, ENTERTAINMENT, AND PROFESSIONAL SPORTS

6750. This chapter applies to the following contracts:

(a) A contract pursuant to which a person is employed or agrees to render artistic or creative services. "Artistic or creative services" includes, but is not limited to, services as an actor, actress, dancer, musician, comedian, singer, or other performer or entertainer, or as a writer, director, producer, production executive, choreographer, composer, conductor, or designer.

(b) A contract pursuant to which a person agrees to purchase, or otherwise secure, sell, lease, license, or otherwise dispose of literary, musical, or dramatic properties, either tangible or intangible, or any rights therein for use in motion pictures, television, the production of phonograph records, the legitimate or living stage, or otherwise in the entertainment field.

(c) A contract pursuant to which a person is employed or agrees to render services as a participant or player in a professional sport, including, but not limited to, services as a professional boxer, professional wrestler, or professional jockey.

6751. (a) A contract, otherwise valid, of a type described in Section 6750, entered into during minority, cannot be disaffirmed on that ground either during the minority of the person entering into the contract, or at any time thereafter, if the contract has been approved by the superior court in the county in which the minor resides or is employed or, if the minor neither resides in nor is employed in this state, by the superior court of the county in which any party to the contract has its principal office in this state for the transaction of business.

(b) Approval of the court may be given on petition of either party to the contract, after such reasonable notice to the other party to the contract as is fixed by the court, with opportunity to such other party to appear and be heard.

(c) Approval of the court given under this section extends to the whole of the contract and all of its terms and provisions, including, but not limited to, any optional or conditional provisions contained in the contract for extension, prolongation, or termination of the term of the contract.

6752. (a) Notwithstanding any other statute, in an order approving a contract of a minor of a type described in Section 6750, the court may require that the portion of the net earnings of the minor, not exceeding one-half thereof, that the court determines is just and proper, be set aside and preserved for the benefit of the minor, either in a trust fund or other savings plan approved by the court.

(b) The court may withhold approval of the contract until the parent or parents or guardian, as the case may be, execute and file with the court written consent to the making of the order described in subdivision (a).
(c) "Net earnings of the minor" for the purposes of this section means the total sum received for the services of the minor pursuant to the contract less all of the following:

(1) All sums required by law to be paid as taxes to any government or governmental agency.
(2) Reasonable sums expended for the support, care, maintenance, education, and training of the minor.
(3) Fees and expenses paid in connection with procuring the contract or maintaining the employment of the minor.
(4) Attorney's fees for services rendered in connection with the contract and other business of the minor.

6753. The court has continuing jurisdiction over a trust or other savings plan established pursuant to Section 6752 and may at any time, on good cause shown, order that the trust or other savings plan be amended or terminated, notwithstanding the provisions of the declaration of trust or other savings plan. The order may be made only after such reasonable notice to the beneficiary and to the parent or parents or guardian, if any, as is fixed by the court, with opportunity of all such parties to appear and be heard.

PART 4. MEDICAL TREATMENT

CHAPTER 1. DEFINITIONS

6900. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this part.
6901. "Dental care" means X-ray examination, anesthetic, dental or surgical diagnosis or treatment, and hospital care by a dentist licensed under the Dental Practice Act.
6902. "Medical care" means X-ray examination, anesthetic, medical or surgical diagnosis or treatment, and hospital care under the general or special supervision and upon the advice of or to be rendered by a physician and surgeon licensed under the Medical Practice Act.
6903. "Parent or guardian" means either parent if both parents have legal custody, or the parent or person having legal custody, or the guardian, of a minor.

CHAPTER 2. CONSENT BY PERSON HAVING CARE OF MINOR OR BY COURT

6910. The parent or guardian of a minor may authorize in writing an adult into whose care a minor has been entrusted to consent to medical care or dental care, or both, for the minor.
6911. (a) Upon application by a minor, the court may summarily grant consent for medical care or dental care or both for the minor if the court determines all of the following:

(1) The minor is 16 years of age or older and resides in this state.
(2) The consent of a parent or guardian is necessary to permit the
medical care or dental care or both, and the minor has no parent or
guardian available to give the consent.
(b) No fee may be charged for proceedings under this section.

CHAPTER 3. CONSENT BY MINOR

6920. Subject to the limitations provided in this chapter,
notwithstanding any other provision of law, a minor may consent to
the matters provided in this chapter, and the consent of the minor’s
parent or guardian is not necessary.

6921. A consent given by a minor under this chapter is not subject
to disaffirmance because of minority.

6922. (a) A minor may consent to the minor’s medical care or
dental care if all of the following conditions are satisfied:
(1) The minor is 15 years of age or older.
(2) The minor is living separate and apart from the minor’s
parents or guardian, whether with or without the consent of a parent
or guardian and regardless of the duration of the separate residence.
(3) The minor is managing the minor’s own financial affairs,
regardless of the source of the minor’s income.
(b) The parents or guardian are not liable for medical care or
dental care provided pursuant to this section.
(c) A physician and surgeon or dentist may, with or without
the consent of the minor patient, advise the minor’s parent or guardian
of the treatment given or needed if the physician and surgeon or
dentist has reason to know, on the basis of the information given by
the minor, the whereabouts of the parent or guardian.

6924. (a) As used in this section:
(1) “Mental health treatment or counseling services” means the
provision of mental health treatment or counseling on an outpatient
basis by any of the following:
(A) A governmental agency.
(B) A person or agency having a contract with a governmental
agency to provide the services.
(C) An agency that receives funding from community united
funds.
(D) A runaway house or crisis resolution center.
(E) A professional person, as defined in paragraph (2).
(2) “Professional person” means any of the following:
(A) A person designated as a mental health professional in
Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter
1 of Title 9 of the California Code of Regulations.
(B) A marriage, family and child counselor as defined in Chapter
13 (commencing with Section 4980) of Division 2 of the Business and
Professions Code.
(C) A licensed educational psychologist as defined in Article 5
(commencing with Section 4996) of Chapter 13 of Division 2 of the
Business and Professions Code.
(D) A credentialed school psychologist as described in Section
(E) A clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.

(F) The chief administrator of an agency referred to in paragraph (1).

(b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis if both of the following requirements are satisfied:

(1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services.

(2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or (B) is the alleged victim of incest or child abuse.

(c) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor’s parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor’s parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person’s opinion, it would be inappropriate to contact the minor’s parent or guardian.

(d) The minor’s parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian.

(e) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor’s parent or guardian.

6925. (a) A minor may consent to medical care related to the prevention or treatment of pregnancy.

(b) This section does not authorize a minor:

(1) To be sterilized without the consent of the minor’s parent or guardian.

(2) To receive an abortion without the consent of a parent or guardian other than as provided in Section 25958 of the Health and Safety Code.

6926. (a) A minor who is 12 years of age or older and who may have come into contact with an infectious, contagious, or communicable disease may consent to medical care related to the diagnosis or treatment of the disease, if the disease or condition is one that is required by law or regulation adopted pursuant to law to be reported to the local health officer, or is a related sexually transmitted disease, as may be determined by the State Director of Health Services.
(b) The minor’s parents or guardian are not liable for payment for medical care provided pursuant to this section.

6927. A minor who is 12 years of age or older and who is alleged to have been raped may consent to medical care related to the diagnosis or treatment of the condition and the collection of medical evidence with regard to the alleged rape.

6928. (a) "Sexually assaulted" as used in this section includes, but is not limited to, conduct coming within Section 261, 286, or 288a of the Penal Code.

(b) A minor who is alleged to have been sexually assaulted may consent to medical care related to the diagnosis and treatment of the condition, and the collection of medical evidence with regard to the alleged sexual assault.

(c) The professional person providing medical treatment shall attempt to contact the minor’s parent or guardian and shall note in the minor’s treatment record the date and time the professional person attempted to contact the parent or guardian and whether the attempt was successful or unsuccessful. This subdivision does not apply if the professional person reasonably believes that the minor’s parent or guardian committed the sexual assault on the minor.

6929. (a) As used in this section:

(1) "Counseling" means the provision of counseling services by a provider under a contract with the state or a county to provide alcohol or drug abuse counseling services pursuant to Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code or pursuant to Division 10.5 (commencing with Section 11750) of the Health and Safety Code.

(2) "Drug or alcohol" includes, but is not limited to, any substance listed in any of the following:

(A) Section 380 or 381 of the Penal Code.

(B) Division 10 (commencing with Section 11000) of the Health and Safety Code.

(C) Subdivision (f) of Section 647 of the Penal Code.

(3) "Professional person" means a physician and surgeon, registered nurse, psychologist, clinical social worker, or marriage, family, and child counselor.

(b) A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem.

(c) The treatment plan of a minor authorized by this section shall include the involvement of the minor’s parent or guardian, if appropriate, as determined by the professional person or treatment facility treating the minor. The professional person providing medical care or counseling to a minor shall state in the minor’s treatment record whether and when the professional person attempted to contact the minor’s parent or guardian, and whether the attempt to contact the parent or guardian was successful or unsuccessful, or the reason why, in the opinion of the professional person, it would not be appropriate to contact the minor’s parent or
guardian.
(d) The minor's parents or guardian are not liable for payment for any care provided to a minor pursuant to this section, except that if the minor's parent or guardian participates in a counseling program pursuant to this section, the parent or guardian is liable for the cost of the services provided to the minor and the parent or guardian.
(e) This section does not authorize a minor to receive methadone treatment without the consent of the minor's parent or guardian.

PART 5. ENLISTMENT IN ARMED FORCES

6950. (a) Upon application by a minor, the court may summarily grant consent for enlistment by the minor in the armed forces of the United States if the court determines all of the following:
(1) The minor is 16 years of age or older and resides in this state.
(2) The consent of a parent or guardian is necessary to permit the enlistment, and the minor has no parent or guardian available to give the consent.
(b) No fee may be charged for proceedings under this section.

PART 6. EMANCIPATION OF MINORS LAW

CHAPTER 1. GENERAL PROVISIONS

7000. This part may be cited as the Emancipation of Minors Law.
7001. It is the purpose of this part to provide a clear statement defining emancipation and its consequences and to permit an emancipated minor to obtain a court declaration of the minor's status. This part is not intended to affect the status of minors who may become emancipated under the decisional case law that was in effect before the enactment of Chapter 1059 of the Statutes of 1978.
7002. A person under the age of 18 years is an emancipated minor if any of the following conditions is satisfied:
(a) The person has entered into a valid marriage, whether or not the marriage has been dissolved.
(b) The person is on active duty with the armed forces of the United States.
(c) The person has received a declaration of emancipation pursuant to Section 7122.

CHAPTER 2. EFFECT OF EMANCIPATION

7050. An emancipated minor shall be considered as being an adult for the following purposes:
(a) The minor's right to support by the minor's parents.
(b) The right of the minor's parents to the minor's earnings and to control the minor.
(c) The application of Sections 300 and 601 of the Welfare and Institutions Code.
(d) Ending all vicarious or imputed liability of the minor's parents or guardian for the minor's torts. Nothing in this section affects any liability of a parent, guardian, spouse, or employer imposed by the Vehicle Code, or any vicarious liability that arises from an agency relationship.

(e) The minor's capacity to do any of the following:

(1) Consent to medical, dental, or psychiatric care, without parental consent, knowledge, or liability.

(2) Enter into a binding contract or give a delegation of power.

(3) Buy, sell, lease, encumber, exchange, or transfer an interest in real or personal property, including, but not limited to, shares of stock in a domestic or foreign corporation or a membership in a nonprofit corporation.

(4) Sue or be sued in the minor's own name.

(5) Compromise, settle, arbitrate, or otherwise adjust a claim, action, or proceeding by or against the minor.

(6) Make or revoke a will.

(7) Make a gift, outright or in trust.

(8) Convey or release contingent or expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy, and consent to a transfer, encumbrance, or gift of marital property.

(9) Exercise or release the minor's powers as donee of a power of appointment unless the creating instrument otherwise provides.

(10) Create for the minor's own benefit or for the benefit of others a revocable or irrevocable trust.

(11) Revoke a revocable trust.

(12) Elect to take under or against a will.

(13) Renounce or disclaim any interest acquired by testate or intestate succession or by inter vivos transfer, including exercise of the right to surrender the right to revoke a revocable trust.

(14) Make an election referred to in Section 13502 of, or an election and agreement referred to in Section 13503 of, the Probate Code.

(15) Establish the minor's own residence.

(16) Apply for a work permit pursuant to Section 49110 of the Education Code without the request of the minor's parents.

(17) Enroll in a school or college.

7051. An insurance contract entered into by an emancipated minor has the same effect as if it were entered into by an adult and, with respect to that contract, the minor has the same rights, duties, and liabilities as an adult.

7052. With respect to shares of stock in a domestic or foreign corporation held by an emancipated minor, a membership in a nonprofit corporation held by an emancipated minor, or other property held by an emancipated minor, the minor may do all of the following:

(a) Vote in person, and give proxies to exercise any voting rights, with respect to the shares, membership, or property.
(b) Waive notice of any meeting or give consent to the holding of any meeting.
(c) Authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners.

CHAPTER 3. COURT DECLARATION OF EMANCIPATION


7110. It is the intent of the Legislature that proceedings under this part be as simple and inexpensive as possible. To that end, the Judicial Council is requested to prepare and distribute to the clerks of the superior courts appropriate forms for the proceedings that are suitable for use by minors acting as their own counsel.

7111. The issuance of a declaration of emancipation does not entitle the minor to any benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code which would not otherwise accrue to an emancipated minor.

Article 2. Procedure for Declaration

7120. (a) A minor may petition the superior court of the county in which the minor resides or is temporarily domiciled for a declaration of emancipation.
(b) The petition shall set forth with specificity all of the following facts:
(1) The minor is at least 14 years of age.
(2) The minor willingly lives separate and apart from the minor’s parents or guardian with the consent or acquiescence of the minor’s parents or guardian.
(3) The minor is managing his or her own financial affairs.
(4) The source of the minor’s income is not derived from any activity declared to be a crime by the laws of this state or the laws of the United States.

7121. Before the petition is heard, such notice as the court determines is reasonable shall be given to the minor’s parents, guardian, or other person entitled to the custody of the minor, or proof shall be made to the court that their addresses are unknown or that for other reasons the notice cannot be given. The clerk of the court shall also notify the district attorney of the county where the matter is to be heard of the proceeding. If the minor is a ward or dependent child of the court, notice shall be given to the probation department.

7122. (a) The court shall sustain the petition if it finds that the minor is a person described by Section 7120 and that emancipation would not be contrary to the minor’s best interest.
(b) If the petition is sustained, the court shall forthwith issue a declaration of emancipation, which shall be filed by the county clerk.
(c) A declaration is conclusive evidence that the minor is
emancipated.

7123.  (a) If the petition is denied, the minor has a right to file a petition for a writ of mandate.

(b) If the petition is sustained, the parents or guardian have a right to file a petition for a writ of mandate if they have appeared in the proceeding and opposed the granting of the petition.

Article 3. Voiding or Rescinding Declaration

7130.  (a) A declaration of emancipation obtained by fraud or by the withholding of material information is voidable.

(b) A declaration of emancipation of a minor who is indigent and has no means of support is subject to rescission.

7131. A petition to void a declaration of emancipation on the ground that the declaration was obtained by fraud or by the withholding of material information may be filed by any person or by any public or private agency. The petition shall be filed in the court that made the declaration.

7132. A petition to rescind a declaration of emancipation on the ground that the minor is indigent and has no means of support may be filed by the minor declared emancipated or by the minor's conservator. The petition shall be filed in the county in which the minor or the conservator resides.

7133.  (a) Before the petition is heard, such notice as the court determines is reasonable shall be given to the minor's parents or guardian, or proof shall be made to the court that their addresses are unknown or that for other reasons the notice cannot be given.

(b) No liability accrues to a parent or guardian not given actual notice, as a result of voiding or rescinding the declaration of emancipation, until that parent or guardian is given actual notice.

7134. If the petition is sustained, the court shall forthwith issue an order voiding or rescinding the declaration of emancipation, which shall be filed by the county clerk.

7135. Voiding or rescission of the declaration of emancipation does not alter any contractual obligation or right or any property right or interest that arose during the period that the declaration was in effect.

Article 4. Identification Cards and Information

7140. On application of a minor declared emancipated under this chapter, the Department of Motor Vehicles shall enter identifying information in its law enforcement computer network, and the fact of emancipation shall be stated on the department's identification card issued to the emancipated minor.

7141. A person who, in good faith, has examined a minor's identification card and relies on a minor's representation that the minor is emancipated, has the same rights and obligations as if the minor were in fact emancipated at the time of the representation.
7142. No public entity or employee is liable for any loss or injury resulting directly or indirectly from false or inaccurate information contained in the Department of Motor Vehicles records system or identification cards as provided in this part.

7143. If a declaration of emancipation is voided or rescinded, notice shall be sent immediately to the Department of Motor Vehicles which shall remove the information relating to emancipation in its law enforcement computer network. Any identification card issued stating emancipation shall be invalidated.

DIVISION 12. PARENT AND CHILD RELATIONSHIP

PART 1. CHILD OF WIFE COHABITING WITH HER HUSBAND

7500. Except as provided in Section 7501, the child of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage.

7501. (a) Notwithstanding Section 7500, if the court finds that the conclusions of all the experts, as disclosed by the evidence based on blood tests performed pursuant to Part 2 (commencing with Section 7550), are that the husband is not the father of the child, the question of paternity of the husband shall be resolved accordingly.

(b) The notice of motion for blood tests under this section may be filed not later than two years from the child's date of birth by the husband, or for the purposes of establishing paternity by the presumed father or the child through or by the child's guardian ad litem. As used in this subdivision, "presumed father" has the meaning given in Sections 7611 and 7612.

(c) The notice of motion for blood tests under this section may be filed by the mother of the child not later than two years from the child's date of birth if the child's biological father has filed an affidavit with the court acknowledging paternity of the child.

(d) The notice of motion for blood tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court.

(e) Subdivision (a) does not apply in any of the following cases:

1. A case which reached final judgment of paternity on or before September 30, 1980.

2. A case coming within Section 7613.

3. A case in which the wife, with the consent of the husband, conceived by means of a surgical procedure.

PART 2. BLOOD TESTS TO DETERMINE PATERNITY

7550. This part may be cited as the Uniform Act on Blood Tests to Determine Paternity.

7551. In a civil action or proceeding in which paternity is a
relevant fact, the court may upon its own initiative or upon suggestion made by or on behalf of any person whose blood is involved, and shall upon motion of any party to the action or proceeding made at a time so as not to delay the proceedings unduly, order the mother, child, and alleged father to submit to blood tests. If a party refuses to submit to the tests, the court may resolve the question of paternity against that party or enforce its order if the rights of others and the interests of justice so require. A party's refusal to submit to the tests is admissible in evidence in any proceeding to determine paternity.

7552. The tests shall be made by experts qualified as examiners of blood types who shall be appointed by the court. The experts shall be called by the court as witnesses to testify to their findings and are subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood types, perform independent tests under order of the court, the results of which may be offered in evidence. The number and qualifications of these experts shall be determined by the court.

7553. The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order. The court may order that it be paid by the parties in the proportions and at the times the court prescribes, or that the proportion of any party be paid by the county, and that, after payment by the parties or the county or both, all or part or none of it be taxed as costs in the action or proceeding.

7554. (a) If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the tests, are that the alleged father is not the father of the child, the question of paternity shall be resolved accordingly.

(b) If the experts disagree in their findings or conclusions, or if the tests show the probability of the alleged father's paternity, the question, subject to Section 352 of the Evidence Code, shall be submitted upon all the evidence, including evidence based upon the tests.

7555. (a) There is a rebuttable presumption, affecting the burden of proof, of paternity, if the court finds that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is 100 or greater. This presumption may only be rebutted by a preponderance of the evidence.

(b) As used in this section:

(1) “Genetic markers” mean separate identifiable genes or complexes of genes generally isolated as a result of blood typing, at least seven of which are normally tested in a paternity determination.

(2) “Paternity index” means the commonly accepted indicator used for denoting the existence of paternity. It represents the mathematically computed probability that the putative father is the true father of the child, as opposed to any other man of similar ethnic
background. The paternity index, computed using results of various paternity tests following accepted statistical principles for the computation of probability, shall be in accordance with the method of expression accepted at the International Conference on Parentage Testing at Airlie House, Virginia, May 1982, sponsored by the American Association of Blood Banks.

7556. This part applies to criminal actions subject to the following limitations and provisions:

(a) An order for the tests shall be made only upon application of a party or on the court's initiative.

(b) The compensation of the experts shall be paid by the county under order of court.

(c) The court may direct a verdict of acquittal upon the conclusions of all the experts under Section 7554; otherwise, the case shall be submitted for determination upon all the evidence.

7557. Nothing in this part prevents a party to an action or proceeding from producing other expert evidence on the matter covered by this part; but, where other expert witnesses are called by a party to the action or proceeding, their fees shall be paid by the party calling them and only ordinary witness fees shall be taxed as costs in the action or proceeding.

PART 3. UNIFORM PARENTAGE ACT

CHAPTER 1. GENERAL PROVISIONS

7600. This part may be cited as the Uniform Parentage Act.

7601. "Parent and child relationship" as used in this part means the legal relationship existing between a child and the child's natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. The term includes the mother and child relationship and the father and child relationship.

7602. The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

7603. Section 3140 is applicable to proceedings pursuant to this part.

7604. (a) A court may order pendente lite relief consisting of an award of custody or the grant of reasonable visitation rights pursuant to Part 2 (commencing with Section 3020) of Division 8, if the court finds both of the following:

(1) Based on the tests authorized by Section 7501, a parent and child relationship exists pursuant to Section 7500.

(2) The award of custody or the granting of visitation rights would be in the best interest of the child.

(b) In making an award authorizing visitation pursuant to this section, if a domestic violence prevention order has been directed to a parent, the court shall consider whether the best interest of the child requires that any visitation granted to that parent shall be
limited to situations in which a third person, specified by the court, is present. The court shall include in its deliberations a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order. A parent may submit the name of a person to the court that the parent deems suitable to be present during visitation.

CHAPTER 2. ESTABLISHING PARENT AND CHILD RELATIONSHIP

7610. The parent and child relationship may be established as follows:
(a) Between a child and the natural mother, it may be established by proof of her having given birth to the child, or under this part.
(b) Between a child and the natural father, it may be established under this part.
(c) Between a child and an adoptive parent, it may be established by proof of adoption.

7611. A man is presumed to be the natural father of a child if he meets the conditions as set forth in Part 1 (commencing with Section 7500) or in any of the following subdivisions:
(a) He and the child’s natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a judgment of separation is entered by a court.
(b) Before the child’s birth, he and the child’s natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
(1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or
(2) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.
(c) After the child’s birth, he and the child’s natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
(1) With his consent, he is named as the child’s father on the child’s birth certificate; or
(2) He is obligated to support the child under a written voluntary promise or by court order.
(d) He receives the child into his home and openly holds out the child as his natural child.
(e) If the child was born and resides in a nation with which the United States engages in an Orderly Departure Program or successor program, he acknowledges that he is the child’s father in a declaration under penalty of perjury, as specified in Section 2015.5 of
the Code of Civil Procedure. This subdivision shall remain in effect only until January 1, 1997, and on that date shall become inoperative.

7612. (a) Except as provided in Part 1 (commencing with Section 7500), a presumption under Section 7611 is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence.

(b) If two or more presumptions arise under Section 7611 which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

(c) The presumption under Section 7611 is rebutted by a judgment establishing paternity of the child by another man.

7613. (a) If, under the supervision of a licensed physician and surgeon and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband’s consent must be in writing and signed by him and his wife. The physician and surgeon shall certify their signatures and the date of the insemination, and retain the husband’s consent as part of the medical record, where it shall be kept confidential and in a sealed file. However, the physician and surgeon’s failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician and surgeon or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician and surgeon for use in artificial insemination of a woman other than the donor’s wife is treated in law as if he were not the natural father of a child thereby conceived.

7614. (a) A promise in writing to furnish support for a child, growing out of a presumed or alleged father and child relationship, does not require consideration and, subject to Section 7632, is enforceable according to its terms.

(b) In the best interest of the child or the mother, the court may, and upon the promisor’s request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

CHAPTER 3. JURISDICTION AND VENUE

7620. (a) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this part with respect to a child who may have been conceived by that act of intercourse.

(b) An action under this part may be brought in the county in which the child resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.
CHAPTER 4. DETERMINATION OF PARENT AND CHILD RELATIONSHIP

Article 1. Determination of Father and Child Relationship

7630. (a) A child, the child’s natural mother, or a man presumed to be the child’s father under subdivision (a), (b), or (c) of Section 7611, may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under subdivision (a), (b), or (c) of Section 7611.

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under subdivision (a), (b), or (c) of Section 7611 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under subdivision (d) of Section 7611.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7611 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. An action under this subdivision shall be consolidated with a proceeding pursuant to Section 7662 if a proceeding has been filed under Chapter 5 (commencing with Section 7660). The parental rights of the alleged natural father shall be determined as set forth in Section 7664.

7631. Except as to cases coming within Part 1 (commencing with Section 7500), a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7611, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. An action under this section shall be brought within 30 days after (1) the man is served as prescribed in Section 7666 with a notice that he is or could be the father of the child or (2) the birth of the child, whichever is later. The commencement of the action suspends a pending proceeding in connection with the adoption of the child until a judgment in the action is final.

7632. Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this chapter.

7633. An action under this chapter may be brought before the
birth of the child.

7634. The district attorney may, in the district attorney's discretion, bring an action under this chapter in any case in which the district attorney believes it to be appropriate.

7635. (a) The child may, if under the age of 12 years, and shall, if 12 years of age or older, be made a party to the action. If the child is a minor and a party to the action, the child shall be represented by a guardian ad litem appointed by the court.

(b) The natural mother, each man presumed to be the father under Section 7611, and each man alleged to be the natural father, may be made parties and shall be given notice of the action in the manner prescribed in Section 7666 and an opportunity to be heard.

(c) The court may align the parties.

7636. The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes except for actions brought pursuant to Section 270 of the Penal Code.

7637. (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(b) The judgment or order may include an order, made in accordance with, and subject to the requirements and limitations of, Article 3 (commencing with Section 4100) of Chapter 2 of Part 2 of Division 9, that requires one parent to pay to the other parent a reasonable amount for the cost of the support of the child for a period before the filing of the proceeding.

(c) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including, but not limited to, all of the following:

1. Any agreements made between the parents before the date of the filing of the action.

2. Any previous payments made for the support of the child by the parent from whom support is sought.

3. Any bad faith on the part of either parent.

4. Any undue delay in seeking to establish an order for child support, the reasons for the undue delay, and whether either parent has been prejudiced as a result of the delay.

5. Any other factors deemed relevant by the court.

7638. The procedure in an action under this part to change the name of a minor or adult child for whom a parent and child relationship is established pursuant to Section 7636, upon application in accordance with Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure shall conform to those provisions,
except that the application for the change of name may be included with the petition filed under this part and except as provided in Sections 1277 and 1278 of the Code of Civil Procedure.

7640. The court may order reasonable fees of counsel, experts, and the child's guardian ad litem, and other costs of the action and pretrial proceedings, including blood tests, to be paid by the parties in proportions and at times determined by the court.

7641. (a) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this part or under prior law, the obligation of the father may be enforced in the same or other proceedings by any of the following:
   (1) The mother.
   (2) The child.
   (3) The public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral.
   (4) Any other person, including a private agency, to the extent the person has furnished or is furnishing these expenses.
   (b) The court may order support payments to be made to any of the following:
      (1) The mother.
      (2) The clerk of the court.
      (3) A person, corporation, or agency designated to administer the payments for the benefit of the child under the supervision of the court.
   (c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments, including imprisonment for contempt, apply.

7642. The court has continuing jurisdiction to modify a judgment or order made under this part. A judgment or order relating to an adoption may only be modified in the same manner and under the same conditions as an order of adoption may be modified under Section 9100 or 9102.

7643. (a) Notwithstanding any other law concerning public hearings and records, a hearing or trial held under this part may be held in closed court without admittance of any person other than those necessary to the action or proceeding. Except as provided in subdivision (b), all papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in a public agency or elsewhere, are subject to inspection only in exceptional cases upon an order of the court for good cause shown.
   (b) Papers and records pertaining to the action or proceeding
that are part of the permanent record of the court are subject to inspection by the parties to the action and their attorneys.

Article 2. Determination of Mother and Child Relationship

7650. Any interested person may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this part applicable to the father and child relationship apply.

Chapter 5. Termination of Parental Rights in Adoption Proceedings

7660. If a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child who has (1) a presumed father under Section 7611 or (2) a father as to whom the child is a legitimate child under the law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding and have the rights provided under Part 2 (commencing with Section 8600) of Division 13, unless the father's relationship to the child has been previously terminated or determined by a court not to exist or the father has voluntarily relinquished for or consented to the adoption of the child.

7661. If a father relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child, the mother shall be given notice of the adoption proceeding and have the rights provided under Part 2 (commencing with Section 8600) of Division 13, unless the mother's relationship to the child has been previously terminated by a court or the mother has voluntarily relinquished for or consented to the adoption of the child.

7662. If a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child who does not have (1) a presumed father under Section 7611 or (2) a father as to whom the child is a legitimate child under the law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an adoption proceeding and the alleged father, if any, has not, in writing, denied paternity, waived his right to notice, or voluntarily relinquished for or consented to the adoption, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition to terminate the parental rights of the father, unless either of the following occurs:

(a) The father's relationship to the child has been previously terminated or determined not to exist by a court.

(b) The father has been served as prescribed in Section 7666 with a written notice alleging that he is or could be the natural father of the child to be adopted or placed for adoption and has failed to bring an action for the purpose of declaring the existence of the father and child relationship pursuant to subdivision (c) of Section 7630 within
30 days of service of the notice or the birth of the child, whichever is later.

7663. (a) In an effort to identify the natural father, the court shall cause inquiry to be made of the mother and any other appropriate person by any of the following:

1. The State Department of Social Services.
2. A licensed county adoption agency.
3. The licensed adoption agency to which the child is to be relinquished.
4. In the case of a stepparent adoption, at the option of the board of supervisors, a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department.

(b) The inquiry shall include all of the following:

1. Whether the mother was married at the time of conception of the child or at any time thereafter.
2. Whether the mother was cohabiting with a man at the time of conception or birth of the child.
3. Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
4. Whether any man has formally or informally acknowledged or declared his possible paternity of the child.

(c) The department or the licensed adoption agency shall report the findings to the court.

7664. (a) If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with Section 7666, unless he has been served with a written notice alleging that he is or could be the natural father of the child to be adopted or placed or relinquished for adoption and has failed to bring an action pursuant to subdivision (c) of Section 7630 to declare the existence of the father and child relationship within 30 days after service of the notice or the birth of the child, whichever is later. If any of them fails to appear or, if appearing, fails to claim parental rights, his parental rights with reference to the child shall be terminated.

(b) If the natural father or a man representing himself to be the natural father claims parental rights, the court shall determine if he is the father. The court shall then determine if it is in the best interest of the child that the father retain his parental rights, or that an adoption of the child be allowed to proceed. The court, in making that determination, may consider all relevant evidence, including the efforts made by the father to obtain custody, the age and prior placement of the child, and the effects of a change of placement on the child. If the court finds that it is in the best interest of the child that the father should be allowed to retain his parental rights, it shall order that his consent is necessary for an adoption. If the court finds that the man claiming parental rights is not the father, or that if he
is the father it is in the child's best interest that an adoption be allowed to proceed, it shall order that that person's consent is not required for an adoption. This finding terminates all parental rights and responsibilities with respect to the child. Section 3041 does not apply to a proceeding under this chapter.

(c) Nothing in this part changes the rights of a presumed father under Section 7611.

7665. If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child.

7666. (a) Except as provided in subdivision (b), notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the Code of Civil Procedure for the service of process in a civil action in this state, except that publication or posting of the notice of the proceeding is not required. Proof of giving the notice shall be filed with the court before the petition is heard.

(b) If a person identified as the natural father or possible natural father cannot be located or his whereabouts is unknown or cannot be ascertained, the court may issue an order dispensing with notice to that person.

7667. (a) Notwithstanding any other provision of law, an action to terminate the parental rights of a father of a child as specified in this part shall be set for hearing not more than 45 days after filing of the petition therefor and completion of service thereon or the entry of an order dispensing with notice of the proceedings. The petition shall either specify the date of the hearing or state that a hearing will be held on a date as determined pursuant to this section, which shall be separately noticed.

(b) The matter so set shall have precedence over all other civil matters on the date set for trial, except an action to terminate parental rights pursuant to Part 4 (commencing with Section 7800).

7668. (a) The court may continue the proceedings for not more than 30 days as necessary to appoint counsel and to enable counsel to prepare for the case adequately or for other good cause.

(b) In order to obtain an order for a continuance of the hearing, written notice shall be filed within two court days of the date set for the hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance.

(c) Continuances shall be granted only upon a showing of good cause. Neither a stipulation between counsel nor the convenience of the parties is in and of itself a good cause.

(d) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. If a continuance is granted, the facts proven which require the continuance shall be entered upon the minutes of the
court.

7669. An order requiring or dispensing with a father's consent for the adoption of a child may be appealed from in the same manner as an order of the juvenile court declaring a person to be a ward of the juvenile court.

7670. There shall be no filing fee charged for a petition filed pursuant to Section 7662.

CHAPTER 6. PROTECTIVE AND TEMPORARY CUSTODY ORDERS

Article 1. Orders in Summons

7700. In addition to the contents required by Section 412.20 of the Code of Civil Procedure, in a proceeding under this part, the summons shall contain a temporary restraining order restraining all parties from removing from the state any minor child or children for whom the proceeding seeks to establish a parent and child relationship, without the prior written consent of the other party or an order of the court.

Article 2. Ex Parte Orders

7710. During the pendency of a proceeding under this part, upon application, the court may, in the manner provided by Part 4 (commencing with Section 240) of Division 2, issue ex parte orders doing any one or more of the following:

(a) Enjoining a party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, telephoning, or disturbing the peace of the other party or the minor child.

(b) Excluding one party from the dwelling of the party who has care, custody, and control of the child upon a showing of both of the following:

(1) The party to be excluded has assaulted or threatens to assault the other party or the minor child.

(2) Physical or emotional harm would otherwise result to the party or the minor child.

(c) Enjoining a party from specified behavior which the court determines is necessary to effectuate orders under subdivision (a) or (b).

(d) Determining the temporary custody of a minor child who is the subject of a proceeding under this part and the right of a party to visit the minor child upon the conditions the court determines.

7711. A mutual restraining order specified in subdivision (a) of Section 7710 may not be issued unless both parties personally appear and each party presents evidence of abuse or domestic violence specified in subdivision (a) of Section 7710.
Article 3. Orders Issuable After Notice and Hearing

7720. (a) The court may issue, after notice and a hearing, any of the orders set forth in Section 7710.
    (b) Upon notice and a hearing, the court may also issue any of the following orders:
    (1) An order that restitution be paid to the plaintiff for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing incurred as a direct result of the abuse or any actual physical injuries sustained therefrom.
    (2) An order that restitution be paid by the plaintiff for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order.
    (3) An order requiring the defendant to pay any public or private agency for the reasonable cost of providing services to the plaintiff required as a direct result of the abuse inflicted by the opposing party or any injuries sustained therefrom.
    (c) An order for restitution under subdivision (b) shall not include damages for pain and suffering.

7721. After notice and a hearing, the court may order the exclusion of one party from the common dwelling of both parties or from the dwelling of the party who has care, custody, and control of the minor child upon a showing only that physical or emotional harm would otherwise result to the party or the minor child.

7722. A restraining order granted after notice and a hearing pursuant to this article shall remain in effect, in the discretion of the court, not to exceed three years, except as provided in Section 7750, unless otherwise terminated by the court, extended by mutual consent of the parties, or extended by further order of the court on the motion of a party.

Article 4. Required Statements in Order

7730. An order issued pursuant to this chapter shall state on its face the date of expiration of the order.

7731. The temporary restraining order shall state 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 three years without further notice to you.”

Article 5. Registration and Enforcement of Orders

7740. The court shall order the party who obtained the order or the attorney for the party to deliver or the clerk to mail a copy of any order, or extension, modification, or termination thereof, granted
pursuant to this chapter, by the close of the business day on which
the order, extension, modification, or termination was granted, and
any subsequent proof of service thereof, to each local law
enforcement agency designated by the party or the attorney for the
party, having jurisdiction over the residence of the party who has
care, custody, and control of the minor child and such other locations
where the court determines that acts of domestic violence against
the party and the minor child are likely to occur.

7741. Each appropriate law enforcement agency shall make
available to any law enforcement officer responding to the scene of
reported domestic violence, through an existing system for
verification, information as to the existence, terms, and current
status of an order issued pursuant to this chapter.

7742. (a) A restraining order against domestic violence issued
pursuant to subdivision (a), (b), or (c) of Section 7710 may, upon the
request of the plaintiff, be served upon the defendant by a law
enforcement officer who is present at the scene of reported domestic
violence involving the parties to the action.

(b) The plaintiff shall provide the officer with an endorsed copy
of the order and a proof of service which the officer shall complete
and transmit to the issuing court.

7743. A willful and knowing violation of an order granted
pursuant to this chapter is a crime punishable under Section 273.6 of
the Penal Code.

Article 6. Protective Orders Included in Judgment

7750. (a) A judgment entered under this part may include any
orders issued pursuant to subdivision (a), (b), or (c) of Section 7710.

(b) If an order is included in the judgment pursuant to subdivision
(a), the judgment shall state on its face both of the following:

(1) Which provisions of the judgment are the orders.

(2) The date of expiration of the orders, which shall be not more
than three years from the date the judgment is issued unless
extended by the court after notice and hearing.

(c) The judgments, or orders, or extensions thereof shall be
transmitted to law enforcement agencies in the manner provided by
Section 7740.

(d) A willful and knowing violation of an order included in the
judgment pursuant to subdivision (a) is a crime punishable under
Section 273.6 of the Penal Code.

PART 4. FREEDOM FROM PARENTAL CUSTODY AND
CONTROL

CHAPTER 1. GENERAL PROVISIONS

7800. The purpose of this part is to serve the welfare and best
interest of a child by providing the stability and security of an
adoptive home when those conditions are otherwise missing from the child's life.

7801. This part shall be liberally construed to serve and protect the interests and welfare of the child.

7802. A proceeding may be brought under this part for the purpose of having a minor child declared free from the custody and control of either or both parents.

7803. A declaration of freedom from parental custody and control pursuant to this part terminates all parental rights and responsibilities with regard to the child.

7804. In a proceeding under this part, the court may appoint a suitable party to act in behalf of the child and may order such further notice of the proceedings to be given as the court deems proper.

7805. (a) A petition filed in a proceeding under this part, or a report of the probation officer or county department designated by the board of supervisors to administer the public social services program filed in a proceeding under this part, may be inspected only by the following persons:

(1) Court personnel.

(2) The child who is the subject of the proceeding.

(3) The parents or guardian of the child.

(4) The attorneys for the parties.

(5) Any other person designated by the judge.

(b) In a proceeding before the court of appeal or Supreme Court to review a judgment or order entered in a proceeding under this part, the court record and briefs filed by the parties may be inspected only by the following persons:

(1) Court personnel.

(2) A party to the proceeding.

(3) The attorneys for the parties.

(4) Any other person designated by the presiding judge of the court before which the matter is pending.

(c) Notwithstanding any other provision of law, if it is believed that the welfare of the child will be promoted thereby, the court and the probation officer may furnish information, pertaining to a petition under this part, to any of the following:

(1) The State Department of Social Services.

(2) A county welfare department.

(3) A public welfare agency.

(4) A private welfare agency licensed by the State Department of Social Services.

7806. There shall be no filing fee charged for a proceeding brought under this part.

7807. Sections 3020, 3021, 3040 to 3043, inclusive, and 3409 do not apply in a proceeding under this part.

7808. This part does not apply to a minor adjudged a dependent child 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, the exclusive means for the termination of parental rights are provided in the following statutes:
(a) Section 366.26 of the Welfare and Institutions Code.
(b) Sections 8604 to 8606, inclusive, and 8700 of this code.
(c) Chapter 5 (commencing with Section 7660) of Part 3 of this code.

CHAPTER 2. CIRCUMSTANCES WHERE PROCEEDING MAY BE BROUGHT

7820. A proceeding may be brought under this part for the purpose of having a child under the age of 18 years declared free from the custody and control of either or both parents if the child comes within any of the descriptions set out in this chapter.
7821. A finding pursuant to this chapter shall be supported by clear and convincing evidence.
7822. (a) A proceeding under this part may be brought where the child has been left without provision for the child's identification by the child's parent or parents or by others or has been left by both parents or the 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.
(b) The failure to provide identification, failure to provide support, or failure to communicate is 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.
(c) If 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.
(d) 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.
7823. (a) A proceeding under this part may be brought where all of the following requirements are satisfied:
(1) The child has been neglected or cruelly treated by either or both parents.
(2) 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 before the filing of a petition pursuant to this part.

(b) Physical custody by the parent or parents for insubstantial periods of time does not interrupt the running of the one-year period.

7824. (a) "Disability" as used in this section means any physical or mental incapacity which renders the parent or parents unable to care for and control the child adequately.

(b) A proceeding under this part may be brought where all of the following requirements are satisfied:

(1) The child is one whose parent or parents (A) 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 (B) are morally depraved.

(2) 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 before the filing of a petition pursuant to this part.

(c) Physical custody by the parent or parents for insubstantial periods of time does not interrupt the running of the one-year period.

7825. A proceeding under this part may be brought where both of the following requirements are satisfied:

(a) The child is one whose parent or parents are convicted of a felony.

(b) The facts of the crime of which the parent or parents were convicted are of such a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

7826. A proceeding under this part may be brought where both of the following requirements are satisfied:

(a) The child is one whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill.

(b) 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, if any, of which 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.

7827. (a) "Mentally disabled" as used in this section means that a parent or parents suffer a mental incapacity or disorder which renders the parent or parents unable to care for and control the child adequately.
(b) A proceeding under this part may be brought where the child is one whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future.

(c) Except as provided in subdivision (d), 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, is required to support a finding under this section.

(d) If the parent or parents reside in another state or in a foreign country, the evidence required by this section may be supplied by the affidavits of two experts, each of whom shall be either of the following:

1. 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.

2. 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.

(e) If the rights of a parent are sought to be terminated pursuant to this section, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Article 4 (commencing with Section 7860) of Chapter 3, whether or not a request for the appointment is made by the parent.

7828. (a) A proceeding under this part may be brought where all of the following requirements are satisfied:

1. The child is one 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.

2. 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 the one-year 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.

(b) If the child 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 is calculated from the date of the dispositional hearing at which the child was placed in out-of-home placement pursuant to that section.

(c) If the child 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 is
calculated from the date the child entered out-of-home placement.
(d) 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, does not interrupt the running of the one-year period.
(e) 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 child 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.

7829. A proceeding under this part may be brought where both of the following requirements are satisfied:
(a) The child has been found to be a dependent child of the juvenile court.
(b) 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 child’s parent or guardian.

CHAPTER 3. PROCEDURE

Article 1. Authorized Petitioners

7840. (a) A petition may be filed under this part for an order or judgment declaring a child free from the custody and control of either or both parents by any of the following:
(1) The State Department of Social Services, a county welfare department, a licensed private or public adoption agency, a county adoption department, or a county probation department which is planning adoptive placement of the child with a licensed adoption agency.
(2) The State Department of Social Services acting as an adoption agency in counties which are not served by a county adoption agency.
(b) The fact that a child is in a foster care home subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code does not prevent the filing of a petition under subdivision (a).
(c) The county counsel or, if there is no county counsel, the district attorney of the county specified in Section 7845 shall, in a proper case, institute the proceeding upon the request of any of the
state or county agencies mentioned in subdivision (a). The proceeding shall be instituted pursuant to this part within 30 days of the request.

(d) If, at the time of the filing of a petition by a department or agency specified in subdivision (a), the child is in the custody of the petitioner, the petitioner may continue to have custody of the child pending the hearing on the petition unless the court, in its discretion, makes such other order regarding custody pending the hearing as it finds will best serve and protect the interest and welfare of the child.

7841. Any interested person may file a petition under this part for an order or judgment declaring a child free from the custody and control of either or both parents.

Article 2. Venue

7845. The petition shall be filed in either of the following:
(a) The county in which a minor described in Chapter 2 (commencing with Section 7820) resides or is found.
(b) The county in which any of the acts which are set forth in Chapter 2 (commencing with Section 7820) are alleged to have occurred.

Article 3. Investigation and Report

7850. Upon the filing of a petition under Section 7841, the clerk of the court shall, in accordance with the direction of the court, immediately notify the juvenile probation officer, or the county department designated by the board of supervisors to administer the public social services program, who shall immediately investigate the circumstances of the child and the circumstances which are alleged to bring the child within any of the provisions of Chapter 2 (commencing with Section 7820).

7851. (a) The juvenile probation officer or the county department shall render to the court a written report of the investigation with a recommendation to the court of the proper disposition to be made in the proceeding in the best interest of the child.
(b) The report shall include all of the following:
(1) A statement that the person making the report explained to the child the nature of the proceeding to end parental custody and control.
(2) A statement of the child’s feelings and thoughts concerning the pending proceeding.
(3) A statement of the child’s attitude towards the child’s parent or parents and particularly whether or not the child would prefer living with his or her parent or parents.
(4) A statement that the child was informed of the child’s right to attend the hearing on the petition and the child’s feelings concerning attending the hearing.
(c) If the age, or the physical, emotional, or other condition of the child precludes the child's meaningful response to the explanations, inquiries, and information required by subdivision (b), a description of the condition shall satisfy the requirement of that subdivision.

(d) The court shall receive the report in evidence and shall read and consider its contents in rendering the court's judgment.

Article 4. Appointment of Counsel

7860. At the beginning of the proceeding on a petition filed pursuant to this part, counsel shall be appointed as provided in this article. The public defender or private counsel may be appointed as counsel pursuant to this article. The same counsel shall not be appointed to represent both the child and the child's parent.

7861. The court shall consider whether the interests of the child require the appointment of counsel. If the court finds that the interests of the child require representation by counsel, the court shall appoint counsel to represent the child, whether or not the child is able to afford counsel. The child shall not be present in court unless the child so requests or the court so orders.

7862. If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless that representation is knowingly and intelligently waived.

7863. Private counsel appointed under this article shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount so determined shall be paid by the real parties in interest, other than the child, in proportions 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.

7864. 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.

Article 5. Time for Hearing; Continuance

7870. (a) It is the public policy of this state that judicial proceedings to declare a child free from parental custody and control shall be fully determined as expeditiously as possible.

(b) Notwithstanding any other provision of law, a proceeding to declare a child free from parental custody and control pursuant to this part shall be set for trial not more than 45 days after filing notification therefor and completion of service thereon in the manner prescribed by law for service of civil process. The matter so set has precedence over all other civil matters on the date set for trial.

(c) The court may continue the proceeding as provided in Section 7864 or Section 7871.

7871. (a) A continuance may be granted only upon a showing of
good cause. Neither a stipulation between counsel nor the
convenience of the parties is in and of itself a good cause.

(b) Unless the court for good cause entertains an oral motion for
continuance, written notice of a motion for a continuance of the
hearing shall be filed within two court days of the date set for the
hearing, together with affidavits or declarations detailing specific
facts showing that a continuance is necessary.

(c) A continuance shall be granted only for that period of time
shown to be necessary by the evidence considered at the hearing on
the motion. Whenever a continuance is granted, the facts proven
which require the continuance shall be entered upon the minutes of
the court.

Article 6. Notice of Proceeding and Attendance at Hearing

7880. (a) Upon the filing of the petition, a citation shall issue
requiring any person having the custody or control of the child, or
the person with whom the child is, to appear at a time and place
stated in the citation.

(b) The citation shall also require the person to appear with the
child except that, if the child is under the age of 10 years, appearance
with the child is required only upon order of the court after necessity
has been shown.

(c) Service of the citation shall be made in the manner prescribed
by law for service of civil process at least 10 days before the time
stated in the citation for the appearance.

7881. (a) Notice of the proceeding shall be given by service of a
citation on the father or mother of the child, if the place of residence
of the father or mother is known to the petitioner. If the place of
residence of the father or mother is not known to the petitioner, then
the citation shall be served on the grandparents and adult brothers,
sisters, uncles, aunts, and first cousins of the child, if there are any and
if their residences and relationships to the child are known to the
petitioner.

(b) The citation shall advise the person or persons that they may
appear at the time and place stated in the citation. The citation shall
also advise the person or persons of the rights and procedures set
forth in Article 4 (commencing with Section 7860). If the petition is
filed for the purpose of freeing the child for placement for adoption,
the citation shall so state.

(c) The citation shall be served in the manner provided by law for
the service of a summons in a civil action, other than by publication.
If one parent has relinquished the child for the purpose of adoption,
or has signed a consent for adoption as provided in Sections 8700,
8814, or 9003, notice as provided in this section need not be given to
the parent who has signed the relinquishment or consent.

(d) Service of the citations required by this section shall be made
at least 10 days before the time stated in the citation for the
appearance.
7882. (a) If the father or mother of the child or a person alleged to be or claiming to be the father or mother cannot, with reasonable diligence, be served as provided for in Section 7881, or if his or her place of residence is not known to the petitioner, the petitioner or the petitioner's agent or attorney shall make and file an affidavit, which shall state the name of the father or mother or alleged father or mother and his or her place of residence, if known to the petitioner, and the name of the father or mother or alleged father or mother whose place of residence is unknown to the petitioner.

(b) Upon the filing of the affidavit, the court shall make an order that (1) the service shall be made by the publication of a citation requiring the father or mother or alleged father or mother to appear at the time and place stated in the citation and (2) the citation shall be published pursuant to Section 6064 of the Government Code in a newspaper to be named and designated in the order as most likely to give notice to the father or mother or alleged father or mother to be served.

(c) In case of publication where the residence of a parent or alleged parent is known, the court shall also direct a copy of the citation to be forthwith served upon that parent or alleged parent by mail by deposit in the post office properly addressed and with the postage thereon fully prepaid, directed to that parent or alleged parent at the place of residence. When publication is ordered, service of a copy of the citation in the manner provided for in Section 7881 is equivalent to publication and deposit in the post office.

(d) If one or both of the parents of the child are unknown or if the names of one or both of the child’s parents are uncertain, that fact shall be set forth in the affidavit and the court shall order the citation to be directed to either or both of the child’s parents, naming and otherwise describing the child, and to all persons claiming to be a parent of the child.

(e) Service is complete at the expiration of the time prescribed by the order for publication or when service is made as provided for in Section 7881, whichever event first occurs.

7883. If a person personally served with a citation within this state as provided in Section 7880 fails without reasonable cause to appear and abide by the order of the court, or to bring the child before the court if so required in the citation, the failure constitutes a contempt of court.

7884. (a) Unless requested by the child concerning whom the petition has been filed and any parent or guardian present, the public shall not be admitted to a proceeding under this part.

(b) Notwithstanding subdivision (a), the judge may admit those persons the judge determines have a direct and legitimate interest in the particular case or in the work of the court.
Article 7. Hearing and Subsequent Proceedings

7890. In a proceeding under this part, the court shall consider the wishes of the child, bearing in mind the age of the child, and shall act in the best interest of the child.

7891. (a) Except as otherwise provided in this section, if the child subject of the petition is 10 years of age or older, the child shall be heard by the court in chambers on at least the following matters:
   (1) The feelings and thoughts of the child concerning the custody proceeding about to take place.
   (2) The feelings and thoughts of the child about the child's parent or parents.
   (3) The child's preference as to custody, according to Section 3020 and Chapter 2 (commencing with Section 3040) of Part 2 of Division 8.
   (b) The court shall inform the child of the child's right to attend the hearing. However, counsel for the child may waive the in chambers hearing by the court.
   (c) This section does not apply if the child is confined because of illness or other incapacity to an institution or residence and is therefore unable to attend.

7892. (a) The testimony of the child may be taken in chambers and outside the presence of the child's parent or parents if the child'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 child is likely to be intimidated by a formal courtroom setting.
   (3) The child is afraid to testify in front of the child's parent or parents.
   (b) The testimony of a child also may be taken in chambers and outside the presence of the guardian or guardians of a child under the circumstances specified in subdivision (a).
   (c) A finding pursuant to this section shall be supported by clear and convincing evidence.
   (d) After testimony in chambers, the parent or parents of the child may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

7893. (a) If the court, by order or judgment, declares a child free from the custody and control of both parents under this part, or one parent if the other no longer has custody and control, the court shall at the same time take one of the following actions:
   (1) Appoint a guardian for the child.
   (2) At the request of the State Department of Social Services or a licensed adoption agency, or where the court finds it is in the child's best interest, refer the child to a licensed adoption agency for adoptive placement by the agency.
(b) When the court refers the child to a licensed adoption agency for adoptive placement by the agency:
   (1) The agency is responsible for the care of the child and is entitled to the exclusive custody and control of the child at all times until a petition for adoption has been granted.
   (2) After the referral, no petition for guardianship may be filed without the consent of the agency.
   (3) No petition for adoption may be heard until the appellate rights of the natural parents have been exhausted.

7894. (a) An order and judgment of the court declaring a child free from the custody and control of a parent or parents under this part is conclusive and binding upon the child, upon the parent or parents, and upon all other persons who have been served with citations by publication or otherwise as provided in this part.
   (b) After making the order and judgment, the court has no power to set aside, change, or modify it.
   (c) Nothing in this section limits the right to appeal from the order and judgment.

7895. (a) Upon appeal from a judgment freeing a child who is a dependent child of the juvenile court from parental custody and control, the appellate court shall appoint counsel for the appellant as provided by this section.
   (b) Upon motion by the appellant and a finding that the appellant is unable to afford counsel, the appellate court shall appoint counsel for the indigent appellant, and appellant's counsel shall be provided a free copy of the reporter's and clerk's transcript. All of those costs are a charge against the state.
   (c) The reporter's and clerk's transcripts shall be prepared and transmitted immediately after filing of the notice of appeal, at state expense and without advance payment of fees. If the appellant is able to afford counsel, the state may seek reimbursement from the appellant for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

PART 5. INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

7900. The Interstate Compact on Placement of Children as set forth in Section 7901 is hereby adopted and entered into with all other jurisdictions joining therein.

7901. The provisions of the interstate compact referred to in Section 7900 are as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Article 1. Purpose and Policy
It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

Article 2. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) "Sending agency" means a party state, or officer or employee thereof; subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

Article 3. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Before sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish
the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date, and place of birth of the child.
(2) The identity and address or addresses of the parents or legal guardian.
(3) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.
(4) A full statement of the reasons for the proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

Article 4. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. A violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any punishment or penalty, any violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

Article 5. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. That jurisdiction shall also include the power to effect or cause the return of the child or
its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of that case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) of this article.

Article 6. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, before being sent to the other party jurisdiction for institutional care and the court finds that both of the following exist:

(a) Equivalent facilities for the child are not available in the sending agency's jurisdiction.

(b) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

Article 7. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his or her jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article 8. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his or her parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his or her guardian and leaving the child with any such relative or nonagency guardian in the receiving state.
(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

Article 9. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any of these jurisdictions when that jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of the statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made before the effective date of withdrawal.

Article 10. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

7902. Financial responsibility for a child placed pursuant to the Interstate Compact on the Placement of Children shall be determined in accordance with Article 5 of the compact in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of other state laws also may be invoked.

7903. The phrase "appropriate public authorities" as used in Article 3 of the Interstate Compact on the Placement of Children means, with reference to this state, the State Department of Social Services, and that department shall receive and act with reference to notices required by Article 3 of the compact.

7904. The phrase "appropriate authority in receiving state" as
used in paragraph (a) of Article 5 of the Interstate Compact on the Placement of Children, with reference to this state, means the State Department of Social Services.

7905. The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article 5 of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof is not binding unless it has the approval in writing of the Controller in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

7906. Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under the law of this state shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of Article 5 of the Interstate Compact on the Placement of Children.

7907. No provision of law restricting out-of-state placement of children for adoption shall apply to placements made pursuant to the Interstate Compact on the Placement of Children.

7908. A court having jurisdiction to place delinquent children may place a delinquent child in an institution in another state pursuant to Article 6 of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article 5 of the compact.

7909. "Executive head" as used in Article 7 of the Interstate Compact on the Placement of Children means the Governor. The Governor shall appoint a compact administrator in accordance with the terms of Article 7 of the compact.

7910. Approval of an interstate placement of a child for adoption shall not be granted by the compact administrator if the placement is in violation of either Section 8801 of this code or Section 273 of the Penal Code.

PART 6. PRIORITIES FOR FOSTER CARE PLACEMENT

7950. (a) With full consideration for the proximity of the natural parents to the placement so as to facilitate visitation and family reunification, when a child is being considered for placement in foster care, the following order of placement preference regarding racial or ethnic background shall be used, except where application of these priorities would not be in the best interest of the child:

(1) Placement shall, if possible, be made in the home of a relative. Diligent efforts shall be made to locate an appropriate relative. Before any child may be placed in long-term foster care, each relative whose name has been submitted to the agency as a possible caretaker, either by himself or herself or by other persons, shall be
evaluated as an appropriate placement resource.

(2) If a relative is not available after 30 days from the time the child comes under the jurisdiction of the juvenile court, or if placement with available relatives is not in the child’s best interest, placement shall be made with a foster parent with the same racial or ethnic identification as the child. If the child has a mixed racial or ethnic background, placement shall be made with a family of the racial or ethnic group with which the child has the more significant contacts.

(3) If placement cannot be made under the rules set forth in paragraphs (1) and (2), placement shall be made with a family of a different racial background or ethnic identification where there is evidence of sensitivity to the child’s race, ethnicity, and culture. The child’s religious background shall also be considered in determining an appropriate placement.

(b) Nothing in this section precludes either of the following:

(1) A search for an appropriate relative being conducted simultaneously with a search for a foster family.

(2) The child remaining at the same placement site while the search for an appropriate relative or foster family is being conducted.

7951. A determination of good cause not to follow the rules set forth in Section 7950 may be based on one or more of the following considerations:

(a) Request of the parent or parents.

(b) The extraordinary physical or emotional needs of the child.

(c) The unavailability of suitable parents for placement after a diligent search has been completed for families meeting the preference criteria.

7952. (a) Every public or private agency is encouraged to maintain records for the placement of each child to show that a diligent search has been conducted for families meeting the criteria of this part, and in accordance with preference of placement criteria established by the State Department of Social Services.

(b) Records of agencies maintained pursuant to this section may be reviewed upon request by the state department.

7953. This part does not apply in determining the foster care setting in which the child may be placed for a period not intended to exceed 30 days.

7954. A minor 10 years of age or older being considered for placement in a foster home has the right to make a brief statement to the court making a decision on placement. The court may disregard any preferences expressed by the minor. The minor’s right to make a statement is not limited to the initial placement, but continues for any proceedings concerning continued placement or a decision to return to parental custody.
DIVISION 13. ADOPTION

PART 1. DEFINITIONS

8500. Unless the provision or context otherwise requires, the definitions in this part govern the construction of this division.

8503. "Adoptive parent" means a person who has obtained an order of adoption of a minor child or, in the case of an adult adoption, an adult.

8506. "Agency adoption" means the adoption of a minor, other than an intercountry adoption, in which the department or a licensed adoption agency is a party to, or joins in, the adoption petition.

8509. "Applicant" means a person who has submitted a written application to adopt a child from the department or a licensed adoption agency and who is being considered by the department or agency for the adoptive placement of a child.

8512. "Birth parent" means the biological parent or, in the case of a person previously adopted, the adoptive parent.

8515. "Delegated county adoption agency" means a licensed county adoption agency that has agreed to provide the services described in Chapter 3 (commencing with Section 8800) of Part 2.

8518. "Department" means the State Department of Social Services.

8521. (a) "Full-service adoption agency" means a licensed entity engaged in the business of providing adoption services, which does all of the following:

1. Assures care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

2. Assesses the birth parents, prospective adoptive parents, or child.


4. Supervises adoptive placements.

(b) Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

8524. "Independent adoption" means the adoption of a child in which neither the department nor an agency licensed by the department is a party to, or joins in, the adoption petition.

8527. "Intercountry adoption" means the adoption of a foreign-born child for whom federal law makes a special immigration visa available. Intercountry adoption includes completion of the adoption in the child's native country or completion of the adoption in this state.

8530. "Licensed adoption agency" means an agency licensed by the department to provide adoption services, including a licensed county adoption agency and a licensed private adoption agency.

8533. (a) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, which
does all of the following:

(1) Assesses the prospective adoptive parents.

(2) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved prospective adoptive parents.

(3) Cooperatively supervises adoptive placements with a full-service adoption agency, but does not disrupt a placement or remove a child from a placement.

(b) Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

8542. "Prospective adoptive parent" means a person who has filed or intends to file a petition under Part 2 (commencing with Section 8600) to adopt a child who has been or who is to be placed in the person's physical care or a petition under Part 3 (commencing with Section 9300) to adopt an adult.

8545. "Special-needs child" means a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group that should remain intact, mental, physical, medical, or emotional handicaps, or age of three years or more.

8548. "Stepparent adoption" means an adoption of a child by a stepparent where one birth parent retains custody and control of the child.

PART 2. ADOPTION OF UNMARRIED MINORS

CHAPTER 1. GENERAL PROVISIONS

8600. An unmarried minor may be adopted by an adult as provided in this part.

8601. (a) Except as otherwise provided in subdivision (b), a prospective adoptive parent or parents shall be at least 10 years older than the child.

(b) If the court is satisfied that the adoption of a child by a stepparent, or by a sister, brother, aunt, uncle, or first cousin and, if that person is married, by that person and that person's spouse, is in the best interest of the parties and is in the public interest, it may approve the adoption without regard to the ages of the child and the prospective adoptive parent or parents.

8602. The consent of a child, if over the age of 12 years, is necessary to the child's adoption.

8603. A married person, not lawfully separated from the person's spouse, may not adopt a child without the consent of the spouse, provided that the spouse is capable of giving that consent.

8604. (a) Except as provided in subdivision (b), a child having a presumed father under Section 7611 may not be adopted without the consent of the child's birth parents, if living.
(b) If one birth parent has been awarded custody by judicial order, or has custody by agreement of both parents, and the other birth parent for a period of one year willfully fails to communicate with and to pay for the care, support, and education of the child when able to do so, then the birth parent having sole custody may consent to the adoption, but only after the birth parent not having custody has been served with a copy of a citation in the manner provided by law for the service of a summons in a civil action that requires the birth parent not having custody to appear at the time and place set for the appearance in court under Section 8718, 8823, 8913, or 9007.

(c) Failure of a birth parent to pay for the care, support, and education of the child for the period of one year or failure of a birth parent to communicate with the child for the period of one year is prima facie evidence that the failure was willful and without lawful excuse.

8605. A child not having a presumed father under Section 7611 may not be adopted without the consent of the child’s mother, if living.

8606. Notwithstanding Sections 8604 and 8605, the consent of a birth parent is not necessary in the following cases:

(a) Where the birth parent has been judicially deprived of the custody and control of the child (1) by a court order declaring the child to be free from the custody and control of either or both birth parents pursuant to Part 4 (commencing with Section 7800) of Division 12 of this code, or Section 366.25 or 366.26 of the Welfare and Institutions Code, or (2) by a similar order of a court of another jurisdiction, pursuant to a law of that jurisdiction authorizing the order.

(b) Where the birth parent has, in a judicial proceeding in another jurisdiction, voluntarily surrendered the right to the custody and control of the child pursuant to a law of that jurisdiction providing for the surrender.

(c) Where the birth parent has deserted the child without provision for identification of the child.

(d) Where the birth parent has relinquished the child for adoption as provided in Section 8700.

(e) Where the birth parent has relinquished the child for adoption to a licensed or authorized child-placing agency in another jurisdiction pursuant to the law of that jurisdiction.

8607. 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 3010 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 regarding the authority of the court under Part 4.
(commencing with Section 7800) of Division 12 to declare the child abandoned by the birth parent or parents.

8608. (a) The department shall adopt regulations specifying the form and content of the reports required by Sections 8706, 8817, and 8909. In addition to any other material that may be required by the department, the form shall include inquiries designed to elicit information on any illness, disease, or defect of a genetic or hereditary nature.

(b) All licensed adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to adoptees or prospective adoptive parents of pertinent medical information reported to the department or the licensed adoption agency, upon the request of the person reporting the medical information.

8609. (a) Any person or organization that, without holding a valid and unrevoked license to place children for adoption issued by the department, advertises in any periodical or newspaper, by radio, or other public medium, that he, she, or it will place children for adoption, or accept, supply, provide, or obtain children for adoption, or that causes any advertisement to be published in or by any public medium soliciting, requesting, or asking for any child or children for adoption is guilty of a misdemeanor.

(b) Any person, other than a birth parent, or any organization, association, or corporation that, without holding a valid and unrevoked license to place children for adoption issued by the department, places any child for adoption is guilty of a misdemeanor.

8610. (a) The petitioners in a proceeding for adoption of a child shall file with the court a full accounting report of all disbursements of anything of value made or agreed to be made by them or on their behalf in connection with the birth of the child, the placement of the child with the petitioners, any medical or hospital care received by the child's birth mother or by the child in connection with the child's birth, any other expenses of either birth parent, or the adoption. The accounting report shall be made under penalty of perjury and shall be submitted to the court on or before the date set for the hearing on the adoption petition, unless the court grants an extension of time.

(b) The accounting report shall be itemized in detail and shall show the services relating to the adoption or to the placement of the child for adoption that were received by the petitioners, by either birth parent, by the child, or by any other person for whom payment was made by or on behalf of the petitioners. The report shall also include the dates of each payment, the names and addresses of each attorney, physician and surgeon, hospital, licensed adoption agency, or other person or organization who received any funds of the petitioners in connection with the adoption or the placement of the child with them, or participated in any way in the handling of those funds, either directly or indirectly.

(c) This section does not apply to an adoption by a stepparent where one birth parent or adoptive parent retains custody and
control of the child.

8611. All court hearings in an adoption proceeding shall be held in private, and the court shall exclude all persons except the officers of the court, the parties, their witnesses, counsel, and representatives of the agencies present to perform their official duties under the law governing adoptions.

8612. (a) The court shall examine all persons appearing before it pursuant to this part. The examination of each person shall be conducted separately but within the physical presence of every other person unless the court, in its discretion, orders otherwise.

(b) The prospective adoptive parent or parents shall execute and acknowledge an agreement in writing that the child will be treated in all respects as their lawful child.

(c) If satisfied that the interest of the child will be promoted by the adoption, the court may make and enter an order of adoption of the child by the prospective adoptive parent or parents.

8613. (a) If the prospective adoptive parent is commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, so that it is impossible or impracticable, because of the prospective adoptive parent’s absence from this state, or otherwise, to make an appearance in person, and the circumstances are established by satisfactory evidence, the appearance may be made for the prospective adoptive parent by counsel, commissioned and empowered in writing for that purpose. The power of attorney may be incorporated in the adoption petition.

(b) Where the prospective adoptive parent is permitted to appear by counsel, the agreement may be executed and acknowledged by the counsel, or may be executed by the absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5 of the Civil Code.

(c) Where the prospective adoptive parent is permitted to appear by counsel, or otherwise, the court may, in its discretion, cause an examination of the prospective adoptive parent, other interested person, or witness to be made upon deposition, as it deems necessary. The deposition shall be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof shall be borne by the petitioner.

(d) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition shall be filed in the office of the county clerk.

(e) The provisions of this section permitting an appearance through counsel are equally applicable to the spouse of a prospective adoptive parent who resides with the prospective adoptive parent outside this state.

(f) Where, pursuant to this section, neither prospective adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the law otherwise requires that the child
execute any document during the course of the hearing, the child may do so through counsel.

(g) Where none of the parties appears, the court may not make an order of adoption until after a report has been filed with the court pursuant to Section 8715, 8807, 8914, or 9001.

8614. Upon the request of the adoptive parents or the adopted child, a county clerk may issue a certificate of adoption that states the date and place of adoption, the birthday of the child, the names of the adoptive parents, and the name the child has taken. Unless the child has been adopted by a stepparent, the certificate shall not state the name of the birth parents of the child.

8615. (a) Notwithstanding any other law, an action may be brought in the county in which the petitioner resides for the purpose of obtaining for a child adopted by the petitioner a new birth certificate specifying that a deceased spouse of the petitioner who was in the home at the time of the initial placement of the child is a parent of the child.

(b) In an adoption proceeding, the petitioner may request that the new birth certificate specify that a deceased spouse of the petitioner who was in the home at the time of the initial placement of the child is a parent of the child.

(c) The inclusion of the name of a deceased person in a birth certificate issued pursuant to a court order under this section does not affect any matter of testate or intestate succession, and is not competent evidence on the issue of the relationship between the adopted child and the deceased person in any action or proceeding.

8616. After adoption, the adopted child and the adoptive parents shall sustain towards each other the legal relationship of parent and child and have all the rights and are subject to all the duties of that relationship.

8617. The birth parents of an adopted child are, from the time of the adoption, relieved of all parental duties towards, and all responsibility for, the adopted child, and have no right over the child.

8618. A child adopted pursuant to this part may take the family name of the adoptive parent.

8619. The department shall adopt rules and regulations it determines are reasonably necessary to ensure that the birth parent or parents of Indian ancestry, seeking to relinquish a child for adoption, provide sufficient information to the department or to the licensed adoption agency so that a certificate of degree of Indian blood can be obtained from the Bureau of Indian Affairs. The department shall immediately request a certificate of degree of Indian blood from the Bureau of Indian Affairs upon obtaining the information. A copy of all documents pertaining to the degree of Indian blood and tribal enrollment, including a copy of the certificate of degree of Indian blood, shall become a permanent record in the adoption files and shall be housed in a central location and made available to authorized personnel from the Bureau of Indian Affairs when required to determine the adopted person's
eligibility to receive services or benefits because of the adopted person's status as an Indian. This information shall be made available to the adopted person upon reaching the age of majority.

CHAPTER 2. AGENCY ADOPTIONS

8700. (a) Either birth parent may relinquish a child to the department or a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department or licensed adoption agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child and acknowledged before the officer, is prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

(b) A birth parent who is a minor has the right to relinquish the birth parent's child for adoption to a licensed adoption agency, and the relinquishment is not subject to revocation by reason of the minority.

(c) If a birth parent resides outside this state and the child is being cared for and is placed for adoption by a licensed adoption agency, the birth parent may relinquish the child to the agency by a written statement signed by the birth parent before a notary on a form prescribed by the agency, and previously signed by an authorized official of the agency, which signifies the willingness of the agency to accept the relinquishment.

(d) The relinquishment authorized by this section has no effect until a certified copy is filed with the department. Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the adoption agency and the birth parent or parents relinquishing the child.

(e) The filing of the relinquishment with the department terminates all parental rights and responsibilities with regard to the child.

8701. At or before the time a relinquishment is signed, the department or licensed adoption agency shall advise the birth parent signing the relinquishment, verbally and in writing, that the birth parent may, at any time in the future, request from the department or agency all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The birth parent shall be advised that this information includes, but is not limited to, all of the following:

(a) Whether the child has been placed for adoption.

(b) The approximate date that an adoption was completed.

(c) If the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered.

8702. (a) The department shall adopt a statement to be presented to the birth parents at the time a relinquishment is signed
and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner and in words calculated to ensure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parents of a child who is the subject of an adoption petition all of the following facts:

1. It is in the child’s best interest that the birth parent keep the department or licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.

2. It is extremely important that the birth parent keep an address current with the department or licensed adoption agency to whom the child was relinquished for adoption in order to permit a response to inquiries concerning medical or social history.

3. Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to request the department or the licensed adoption agency to disclose the name and address of the adoptee’s birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

4. The birth parent may change the decision whether to permit disclosure of the birth parent’s name and address, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department or to the licensed adoption agency that joined in the adoption petition.

5. The relinquishment 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 proceeding, their attorneys, and the department, except upon order of a judge of the superior court.

(b) The department shall adopt a form to be signed by the birth parents at the time the relinquishment is signed, which shall provide as follows:

“Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee’s birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

□ YES
□ NO
□ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE.”

8703. When the parental rights of a birth parent are terminated pursuant to Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 or Part 4 (commencing with Section 7800) of Division 12,
or pursuant to Section 366.25 or 366.26 of the Welfare and Institutions Code, the department or licensed adoption agency responsible for the adoptive placement of the child shall send a written notice to the birth parent, if the birth parent’s address is known, that contains the following statement:

“You are encouraged to keep the department or this agency informed of your current address in order to permit a response to any inquiry concerning medical or social history made by or on behalf of the child who was the subject of the court action terminating parental rights.”

8704. (a) The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights is responsible for the care of the child, and is entitled to the exclusive custody and control of the child until an order of adoption is granted. Any placement for temporary care, or for adoption, made by the department or a licensed adoption agency may be terminated in its discretion at any time before the granting of an order of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the department or licensed adoption agency.

(b) No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both birth parents and referred to the department or a licensed adoption agency for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department or licensed adoption agency. After the adoption petition has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department or licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the court may nevertheless order the adoption if it finds that the refusal to consent is not in the child’s best interest.

(c) Notwithstanding any other law, if the child has been in foster care for a period of more than four months, the child has substantial emotional ties to the foster parent or parents, the child’s removal from the foster parent or parents would be seriously detrimental to the child’s well-being, and the foster parent or parents make a written request to be considered to adopt the child, the foster parent or parents shall be considered with respect to the child along with all other prospective adoptive parents. The department or licensed adoption agency shall take into consideration any relevant factors that it deems necessary in determining which adoptive placement is
in the child’s best interest.

(d) The decision of the department or licensed adoption agency for the adoptive placement of the child shall be presumed to be in the child’s best interest. This presumption may be rebutted in an action, brought by the foster parent or parents, by a preponderance of the evidence that foster care has been provided by the requesting foster parent or parents for more than four months, that the child has substantial emotional ties to the foster parent or parents, and that the adoptive placement of the child with someone other than the foster parent or parents would be seriously detrimental to the child’s well-being.

(e) Subdivisions (c) and (d) do not apply to a child who has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code.

§ 8705. (a) Where a child is in the custody of a public agency or licensed adoption agency, if it is established that the persons whose consent to the adoption is required by law are deceased, an action may be brought by the department or a licensed adoption agency requesting the court to make an order establishing that the requesting agency has the right to custody and control of the child and the authority to place the child for adoption. The department or agency bringing the action shall give notice in the form prescribed by the court to all known relatives of the child up to and including the third degree of lineal or collateral consanguinity.

(b) This section does not apply where a guardian of the person of the child has been appointed pursuant to nomination by a will.

§ 8706. (a) An agency may not place a child for adoption unless a written report on the child’s medical background and, if available, the medical background of the child’s biological parents so far as ascertainable, has been submitted to the prospective adoptive parents and they have acknowledged in writing the receipt of the report.

(b) The report on the child’s background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child’s developmental history and family life.

§ 8707. (a) The department shall establish a statewide photo-listing service to serve all licensed adoption agencies in the state as a means of recruiting adoptive families. The department shall adopt regulations governing the operations of the photo-listing service and shall establish procedures for monitoring compliance with this section.

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

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

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

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

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

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

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

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

8708. Where a child is being considered for adoption, the following order of placement preferences regarding racial background and ethnic identification shall be used, subject to this section and Section 8709, in determining the placement of the child:

(a) In the home of a relative.

(b) If a relative is not available, or if placement with available relatives is not in the child’s best interest, with an adoptive family with the same racial background or ethnic identification as the child. If the child has a mixed racial or ethnic background, placement shall be made with a family of the racial or ethnic group with which the child has the more significant contacts.

(c) If placement cannot be made under the rules set forth in this section within 90 days from the time the child is relinquished for adoption or has been declared free from parental custody or control, the child is free for adoption with a family of a different racial background or ethnic identification where there is evidence of
sensitivity to the child’s race, ethnicity, and culture. The child’s religious background shall also be considered in determining an appropriate placement. Unless it can be documented that a diligent search meeting the requirements of Section 8710 for a family meeting the placement criteria has been made, a child may not be placed for adoption with a family of a different racial background or ethnic identification pursuant to this subdivision.

8709. A determination of good cause not to follow the rules provided in Section 8708 may be based on one or more of the following considerations:

(a) Request of the birth parent or parents.
(b) Extraordinary physical or emotional needs of the child.
(c) The child is legally free for adoption for a period exceeding 90 days, during which a diligent search was conducted, and no family meeting the placement preference criteria is available for placement. Documentation is necessary in order to make a finding of good cause under this subdivision.
(d) Application of the rules provided in Section 8708 would not be in the child’s best interest.

8710. (a) The department shall adopt rules governing the diligent search required by subdivision (c) of Section 8708.
(b) Every public and private adoption agency shall maintain records for the placement of each child to show that a diligent search has been conducted for families meeting the criteria of Section 8708 and in accordance with the diligent search rules adopted by the department. In conducting a diligent search, each agency shall use all appropriate resources, as necessary, in a directed effort to recruit a family meeting the placement preference criteria through (1) the use of all appropriate intra-agency and interagency, state, regional, and national exchanges and listing books, (2) child-specific recruitment in electronic and printed media coverage, and (3) the use of agency contacts with parent groups to advocate for specific waiting children.
(c) Records of agencies maintained pursuant to this section may be reviewed upon request by the department.

8711. Sections 8708 to 8710, inclusive, apply only in determining the placement of a child who has been relinquished for adoption or has been declared free from the custody and control of the birth parents.

8712. (a) The department or licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or licensed adoption agency may also secure the person’s full criminal record, if any.
(b) The criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective
adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

8713. (a) In no event may a child who has been freed for adoption be removed from the county in which the child was placed, by any person who has not petitioned to adopt the child, without first obtaining the written consent of the department or licensed adoption agency responsible for the child.

(b) During the pendency of an adoption proceeding:

(1) The child proposed to be adopted may not be concealed within the county in which the adoption proceeding is pending.

(2) The child may not be removed from the county in which the adoption proceeding is pending unless the petitioners or other interested persons first obtain permission for the removal from the court, after giving advance written notice of intent to obtain the court’s permission to the department or licensed adoption agency responsible for the child. Upon proof of giving notice, permission may be granted by the court if, within a period of 15 days after the date of giving notice, no objections are filed with the court by the department or licensed adoption agency responsible for the child. If the department or licensed adoption agency files objections within the 15-day period, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to any limitations that appear to be in the child’s best interest.

(c) This section does not apply in any of the following situations:

(1) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, unless a notice of recommendation of denial of petition has been personally served on the petitioners or the court has issued an order prohibiting the child’s removal from the county pending consideration of any of the following:

(A) The suitability of the petitioners.
(B) The care provided the child.
(C) The availability of the legally required agency consents to the adoption.
(2) Where the child has been returned to and remains in the custody and control of the child's birth parent or parents.

(3) Where written consent for the removal of the child is obtained from the department or licensed adoption agency responsible for the child.

(d) A violation of this section is a violation of Section 280 of the Penal Code.

(e) Neither this section nor Section 280 of the Penal Code may be construed to render lawful any act that is unlawful under any other applicable law.

8714. (a) A person desiring to adopt a child may for that purpose file a petition in the county in which the petitioner resides. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(b) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth. The name the child had before adoption shall appear in the joinder signed by the licensed adoption agency.

(c) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(d) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

8715. The department or licensed adoption agency, whichever is a party to or joins in the petition, shall submit a full report of the facts of the case to the court. The department may also submit a report in those cases in which a licensed adoption agency is a party or joins in the adoption petition.

8716. Where a petition is filed for the adoption of a child who has been placed for adoption by a licensed county adoption agency or the department, the agency or department may, at the time of filing a favorable report with the court, require the petitioners to pay to the agency, as agent of the state, or to the department, a fee of five hundred dollars ($500). The agency or department may defer, waive, or reduce the fee if its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, if the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

8717. When any report or findings are submitted to the court by the department or licensed adoption agency, a copy of the report or findings, whether favorable or unfavorable, shall be given to the petitioner's attorney in the proceeding, if the petitioner has an
attorney of record, or to the petitioner.

8718. The prospective adoptive parents and the child proposed to
be adopted shall appear before the court pursuant to Sections 8612
and 8613.

8719. If the petitioners move to withdraw the adoption petition
or to dismiss the proceeding, the court clerk shall immediately notify
the department at Sacramento of the action.

8720. (a) If the department or licensed adoption agency finds
that the home of the petitioners is not suitable for the child or that
the required agency consents are not available and the department
or agency recommends that the petition be denied, or if the
petitioners desire to withdraw the petition and the department or
agency recommends that the petition be denied, the clerk upon
receipt of the report of the department or agency shall immediately
refer it to the court for review.

(b) Upon receipt of the report, the court shall set a date for a
hearing of the petition and shall give reasonable notice of the hearing
to the department or licensed adoption agency, the petitioners, and,
if necessary, the birth parents, by certified mail, return receipt
requested, to the address of each as shown in the proceeding.

(c) The department or licensed adoption agency shall appear to
represent the child.

CHAPTER 3. INDEPENDENT ADOPTIONS

8800. (a) The Legislature finds and declares that lawyering may
be deficient when conflict of interest deprives the client of
undivided loyalty and effort. The Legislature further finds and
declares that the relation between attorney and client is a fiduciary
relation of the very highest character, and binds the attorney to the
most conscientious fidelity.

(b) The Legislature finds that Rule 2-111(A)(2) of the State Bar
Rules of Professional Conduct provides that an attorney shall not
withdraw from employment until the attorney has taken reasonable
steps to avoid foreseeable prejudice to the rights of the client,
including giving due notice to the client, allowing time for
employment of other counsel, delivering to the client all papers and
property to which the client is entitled, and complying with
applicable laws and rules.

(c) The Legislature declares that in an independent adoption
proceeding, whether or not written consent is obtained, multiple
representation by an attorney should be avoided whenever a birth
parent displays the slightest reason for the attorney to believe any
controversy might arise. The Legislature finds and declares that it is
the duty of the attorney when a conflict of interest occurs to
withdraw promptly from any case, advise the parties to retain
independent counsel, refrain from taking positions in opposition to
any of these former clients, and thereafter maintain an impartial,
fair, and open attitude toward the new attorneys.
(d) Notwithstanding any other law, it is unethical for an attorney to undertake the representation of both the prospective adoptive parents and the birth parents of a child in any negotiations or proceedings in connection with an adoption unless a written consent is obtained from both parties. The written consent shall include all of the following:

(1) A notice to the birth parents, in the form specified in this section, of their right to have an independent attorney advise and represent them in the adoption proceeding and that the prospective adoptive parents may be required to pay the reasonable attorney's fees up to a maximum of five hundred dollars ($500) for that representation, unless a higher fee is agreed to by the parties.

(2) A notice to the birth parents that they may waive their right to an independent attorney and may be represented by the attorney representing the prospective adoptive parents.

(3) A waiver by the birth parents of representation by an independent attorney.

(4) An agreement that the attorney representing the prospective adoptive parents shall represent the birth parents.

(e) Upon the petition or motion of any party, or upon motion of the court, the court may appoint an attorney to represent a child's birth parent or parents in negotiations or proceedings in connection with the child's adoption.

(f) The birth parent or parents may have an attorney, other than the attorney representing the interests of the prospective adoptive parents, to advise them fully of the adoption procedures and of their legal rights. The birth parent or parents also may retain an attorney to represent them in negotiations or proceedings in connection with the child's adoption. The court may award attorney's fees and costs for just cause and based upon the ability of the parties to pay those fees and costs.

(g) In the initial communication between the attorney retained by or representing the prospective adoptive parents and the birth parents, or as soon thereafter as reasonable, but before any written consent for dual representation, the attorney shall advise the birth parents of their rights regarding an independent attorney and that it is possible to waive the independent attorney.

(h) Any written consent to dual representation shall be filed with the court before the filing of the birth parent's consent to adoption. 

8801. (a) The selection of a prospective adoptive parent or parents shall be personally made by the child's birth parent or parents and may not be delegated to an agent. The act of selection by the birth parent or parents shall be based upon his, her, or their personal knowledge of the prospective adoptive parent or parents.

(b) "Personal knowledge" as used in this section includes, but is not limited to, substantially correct knowledge of all of the following regarding the prospective adoptive parents: their full legal names, ages, religion, race or ethnicity, employment, whether other children or adults reside in their home, any health conditions
curtailing their normal daily activities or reducing their normal life expectancies, and their general area of residence or, upon request, their address.

8802. (a) A person desiring to adopt a child may for that purpose file a petition in the county in which the petitioner resides. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(b) The petition shall contain an allegation that the petitioners will file promptly with the department or delegated county adoption agency information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition does not affect the jurisdiction of the court to proceed.

(c) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth and the name the child had before adoption.

(d) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(e) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

8803. (a) During the pendency of an adoption proceeding:

1. The child proposed to be adopted may not be concealed within the county in which the adoption proceeding is pending.

2. The child may not be removed from the county in which the adoption proceeding is pending unless the petitioners or other interested persons first obtain permission for the removal from the court, after giving advance written notice of intent to obtain the court’s permission to the department or delegated county adoption agency responsible for the investigation of the proposed adoption. Upon proof of giving notice, permission may be granted by the court if, within a period of 15 days after the date of giving notice, no objections are filed with the court by the department or delegated county adoption agency. If the department or delegated county adoption agency files objections within the 15-day period, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to any limitations that appear to be in the child's best interest.

(b) This section does not apply in any of the following situations:
(1) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, unless a notice of recommendation of denial of petition has been personally served on the petitioners or the court has issued an order prohibiting the child's removal from the county pending consideration of any of the following:
   (A) The suitability of the petitioners.
   (B) The care provided the child.
   (C) The availability of the legally required consents to the adoption.

(2) Where the child has been returned to and remains in the custody and control of the child's birth parent or parents.
   (c) A violation of this section is a violation of Section 280 of the Penal Code.
   (d) Neither this section nor Section 280 of the Penal Code may be construed to render lawful any act that is unlawful under any other applicable law.

8804. (a) If the petitioners move to withdraw the adoption petition or to dismiss the proceeding, the court clerk shall immediately notify the department at Sacramento of the action. The department or delegated county adoption agency shall file a full report with the court recommending a suitable plan for the child in every case where the petitioners move to withdraw the adoption petition or where the department or agency recommends that the adoption petition be denied and shall appear before the court for the purpose of representing the child.

(b) Notwithstanding the petitioners' withdrawal or dismissal, the court may retain jurisdiction over the child for the purpose of making any order for the child's custody that the court deems to be in the child's best interest.

(c) If a 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, at the hearing the court shall order the child restored to the care and custody of the birth parent or parents.

8805. At the hearing, if the court sustains the recommendation of the department or delegated county adoption agency that the child be removed from the home of the petitioners because the department or agency recommends denial or if the petitioners move to withdraw the petition or if the court dismisses the petition and does not return the child to the birth parents, the court shall commit the child to the care of the department or delegated county adoption agency, whichever made the recommendation, for the department or agency to arrange adoptive placement or to make a suitable plan. In those counties not served by a delegated county adoption agency, the county welfare department shall act as the agent of the department and shall provide care for the child in accordance with rules and regulations established by the department.

8806. The department or delegated county adoption agency shall
accept the consent of the birth parents to the adoption of the child by the petitioners and, before filing its report with the court, shall ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child.

8807. (a) Except as provided in subdivisions (b) and (c), within 180 days after the filing of the petition, the department or delegated county adoption agency shall investigate the proposed independent adoption and submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition.

(b) In a case where the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption, the report shall be filed immediately.

(c) In its discretion, the court may allow additional time for the filing of the report, after at least five days' notice to the petitioner or petitioners and an opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

8808. The department or a delegated county adoption agency shall interview the petitioners and all persons whose consent is required and whose addresses are known as soon as possible and, in the case of residents of California, within 45 working days, excluding legal holidays, after the filing of the adoption petition. In order to facilitate these interviews, at the same time the petition is filed, the petitioners shall file with the district office of the department or with the delegated county adoption agency responsible for the investigation of the adoption, a copy of the petition together with the names, addresses, and telephone numbers of all parties to be interviewed, if known.

8809. (a) With respect to petitions for which a fee is charged, deferred, reduced, or waived under Section 8810, if the department or delegated county adoption agency fails without good cause to conduct the interviews of the petitioners and all persons whose consent is required as specified in Section 8808 and, within the period of time specified in Section 8808, the petitioners, upon giving 10 days' written notice to the department or delegated county adoption agency responsible for the investigation of the adoption, may request the court in which the adoption petition has been filed, or the superior court in the county in which a 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 court. Consent provided pursuant to this subdivision is in lieu of the otherwise applicable provisions of subdivisions (a) and (c) of Section 8814, but has the same effect.
(b) "Good cause" for failure to conduct an interview for purposes of this section 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 8808.

(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 8810 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 remains 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.

8810. (a) Except as otherwise provided in this section, if a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a fee of five hundred dollars ($500) to the department or delegated county adoption agency before the filing of a favorable report in the court by the department or agency. The department or agency may defer, waive, or reduce the fee when in its judgment the payment would cause economic hardship to the prospective adoptive parents and would be detrimental to the welfare of the adopted child.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions. Revenues produced by fees collected by the department or counties pursuant to subdivision (a) may not be used to supplant current funding for the adoption program.

(c) The department shall determine the impact of the fee required under this section on the independent adoption of children, including staffing, the time required to complete investigations and court reports, and the number of fee waivers or reduction requests made and granted or denied. The department shall report its findings to the Legislature on or before January 1, 1992.

(d) This section applies only to independent adoption petitions filed on or after September 1, 1989.

(e) This section remains 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.

8811. (a) The department or delegated county adoption agency shall require each person filing an adoption petition to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the
person has ever been convicted of a crime other than a minor traffic violation. The department or delegated county adoption agency may also secure the person’s full criminal record, if any.

(b) The criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the petitioner shall be paid by the petitioner. The department or delegated county adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

8813. At or before the time a consent to adoption is signed, the department or delegated county adoption agency shall advise the birth parent signing the consent, verbally and in writing, that the birth parent may, at any time in the future, request from the department or agency, all known information about the status of the child’s adoption, except for personal, identifying information about the adoptive family. The birth parent shall be advised that this information includes, but is not limited to, all of the following:

(a) Whether the child has been placed for adoption.

(b) The approximate date that an adoption was completed.

(c) If the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered.

8814. (a) The consent of the birth parent or parents to the adoption by the petitioners shall be signed in the presence of an agent of the department or of a delegated county adoption agency on a form prescribed by the department and shall be filed with the clerk of the superior court in the county of the petitioner’s residence.

(b) The consent described in subdivision (a), when reciting that the person giving it is entitled to the sole custody of the child and when acknowledged before that agent, is prima facie evidence of the right of the person making it to the sole custody of the child and that person’s sole right to consent.

(c) If the birth parent of a child to be adopted is outside this state at the time of signing the consent, the consent may be signed before a notary or other person authorized to perform notarial acts, and in that case the consent of the department or of the delegated county adoption agency is also necessary.

(d) A birth parent who is a minor has the right to sign a consent for the adoption of the birth parent’s child and the consent is not subject to revocation by reason of minority.

8815. (a) Consent of a birth parent to the adoption of the child
by the prospective adoptive parent or parents may not be withdrawn except with court approval. Request for that approval may be made by motion, or a birth parent seeking to withdraw consent may file with the clerk of the court where the adoption petition is pending, a petition for approval of withdrawal of consent, without the necessity of paying a fee for filing the petition. The motion or petition shall be in writing and shall set forth the reasons for withdrawal of consent, but otherwise may be in any form.

(b) The court clerk shall set the matter for hearing and shall give notice thereof to the department, to the prospective adoptive parent or parents, and to the birth parent or parents by certified mail, return receipt requested, to the address of each as shown in the proceeding, at least 10 days before the time set for hearing.

(c) The department or delegated county adoption agency shall, before the hearing of the motion or petition for withdrawal, file a full report with the court and shall appear at the hearing to represent the interests of the child.

(d) At the hearing, the parties may appear in person or with counsel. The hearing shall be held in chambers, but the court reporter shall report the proceedings and, on court order, the fee therefor shall be paid from the county treasury. If the court finds that withdrawal of the consent to adoption is reasonable in view of all the circumstances and that withdrawal of the consent is in the child’s best interest, the court shall approve the withdrawal of the consent. Otherwise the court shall withhold its approval. Consideration of the child’s best interest shall include, but is not limited to, an assessment of the child’s age, the extent of bonding with the prospective adoptive parent or parents, the extent of bonding or the potential to bond with the birth parent or parents, and the ability of the birth parent or parents to provide adequate and proper care and guidance to the child. If the court approves the withdrawal of consent, the adoption proceeding shall be dismissed.

(e) A court order granting or withholding approval of a withdrawal of consent to an adoption may be appealed in the same manner as an order of the juvenile court declaring a person to be a ward of the juvenile court.

8816. In an independent adoption where the consent of the birth parent or parents is not necessary, the department or delegated county adoption agency shall, before the hearing of the petition, file its consent to the adoption with the clerk of the court in which the petition is filed. The consent may not be given unless the child’s welfare will be promoted by the adoption.

8817. (a) A written report on the child’s medical background, and if available, the medical background of the child’s biological parents, so far as ascertainable, shall be made by the department or delegated county adoption agency as part of the study required by Section 8806.

(b) The report on the child’s background shall contain all known diagnostic information, including current medical reports on the
child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life.

(c) The report shall be submitted to the prospective adoptive parents who shall acknowledge its receipt in writing.

8818. (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. The statement shall, in a clear and concise manner and in words calculated to ensure 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 child's best interest 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 an address current with the department in order to permit a response to inquiries concerning medical or social history.

(3) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to request the department to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

(4) The birth parent may change the decision whether to permit disclosure of the birth parent's name and address, 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 proceeding, their attorneys, and the department, except upon order of a 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 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

☐ YES
☐ NO
☐ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE."
8819. When the parental rights of a birth parent are terminated pursuant to Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 or Part 4 (commencing with Section 7800) of Division 12, the department or delegated county adoption agency shall send a written notice to the birth parent, if the birth parent's address is known, that contains the following statement:

"You are encouraged to keep the department or this agency informed of your current address in order to permit a response to any inquiry concerning medical or social history made by or on behalf of the child who was the subject of the court action terminating parental rights."

8820. (a) The birth parent or parents or the petitioner may appeal in either of the following cases:

(1) If for a period of 180 days from the date of filing the adoption petition or upon the expiration of any extension of the period granted by the court, the department or delegated county adoption agency fails or refuses to accept the consent of the birth parent or parents to the adoption.

(2) In a case where the consent of the department or delegated county adoption agency is required by this chapter, if the department or agency fails or refuses to file or give its consent to the adoption.

(b) The appeal shall be filed in the court in which the adoption petition is filed. The court clerk shall immediately notify the department or delegated county adoption agency of the appeal and the department or agency shall, within 10 days, file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the birth parent or parents.

(c) After the filing of the report by the department or delegated county adoption agency, the court may, if it deems that the welfare of the child will be promoted by that adoption, allow the signing of the consent by the birth parent or parents in open court or, if the appeal is from the refusal of the department or delegated county adoption agency to consent thereto, grant the petition without the consent.

8821. When any report or findings are submitted to the court by the department or a delegated county adoption agency, a copy of the report or findings, whether favorable or unfavorable, shall be given to the petitioner's attorney in the proceeding, if the petitioner has an attorney of record, or to the petitioner.

8822. (a) If the findings of the department or delegated county adoption agency are that the home of the petitioners is not suitable for the child or that the required consents are not available and the department or agency recommends that the petition be denied, or if the petitioners desire to withdraw the petition and the department or agency recommends that the petition be denied, the clerk upon receipt of the report of the department or agency shall immediately refer it to the court for review.

(b) Upon receipt of the report, the court shall set a date for a
hearing of the petition and shall give reasonable notice of the hearing to the department or delegated county adoption agency, the petitioners, and the birth parents by certified mail, return receipt requested, to the address of each as shown in the proceeding.

(c) The department or delegated county adoption agency shall appear to represent the child.

8823. The prospective adoptive parents and the child proposed to be adopted shall appear before the court pursuant to Sections 8612 and 8613.

CHAPTER 4. INTERCOUNTRY ADOPTIONS

8900. Intercountry adoption services described in this chapter shall be exclusively provided by private adoption agencies licensed by the department specifically to provide these services.

8901. The department shall adopt regulations to administer the intercountry adoption program.

8902. For intercountry adoptions that will be finalized in this state, the licensed adoption agency shall provide all of the following services:

(a) Assessment of the suitability of the applicant's home.
(b) Placement of the foreign-born child in an approved home.
(c) Postplacement supervision.
(d) Submission to the court of a report on the intercountry adoptive placement with a recommendation regarding the granting of the petition.
(e) Services to applicants seeking to adopt related children living in foreign countries. The Legislature recognizes that these children have an impelling need for adoptive placement with their relatives.

8903. (a) For each intercountry adoption finalized in this state, the licensed adoption agency shall assume all responsibilities for the child including care, custody, and control as if the child had been relinquished for adoption in this state from the time the child left the child's native country.

(b) Notwithstanding subdivision (a), if the child's native country requires and has given full guardianship to the prospective adoptive parents, the prospective adoptive parents shall assume all responsibilities for the child including care, custody, control, and financial support.

(c) If the licensed adoption agency or prospective adoptive parents fail to meet the responsibilities under subdivision (a) or (b) and the child becomes a dependent of the court pursuant to Section 300 of the Welfare and Institutions Code, the state shall assume responsibility for the cost of care for the child. When the child becomes a dependent of the court and if, for any reason, is ineligible for AFDC under Section 14005.1 of the Welfare and Institutions Code and loses Medi-Cal eligibility, the child shall be deemed eligible for Medi-Cal under Section 14005.4 of the Welfare and Institutions Code and the State Director of Health Services has authority to provide
payment for the medical services to the child that are necessary to meet the child’s needs.

8904. For an intercountry adoption that will be finalized in a foreign country, the licensed adoption agency shall provide both of the following services:

   (a) Assessment of the suitability of the applicant’s home.
   (b) Certification to the Immigration and Naturalization Service that this state’s intercountry adoption requirements have been met.

8905. Licensed adoption agencies may work only with domestic and foreign adoption agencies with whom they have written agreements that specify the responsibilities of each. The agreements may not violate any statute or regulation of the United States or of this state.

8906. Nothing in this chapter may be construed to prohibit the licensed adoption agency from entering into an agreement with the prospective adoptive parents to share or transfer financial responsibility for the child.

8907. The costs incurred by a licensed adoption agency pursuant to programs established by this chapter shall be funded by fees charged by the agency for services required by this chapter. The agency’s fee schedule is required to be approved by the department initially and whenever it is altered.

8908. (a) A licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The licensed adoption agency may also secure the person’s full criminal record, if any.
   (b) The criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.
   (c) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child.

8909. (a) An agency may not place a child for adoption unless a written report on the child’s medical background and, if available, the medical background of the child’s biological parents, so far as ascertainable, has been submitted to the prospective adoptive parents and they have acknowledged in writing the receipt of the report.
   (b) The report on the child’s background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as
all known information regarding the child’s developmental history and family life.

8910. (a) In no event may a child who has been placed for adoption be removed from the county in which the child was placed, by any person who has not petitioned to adopt the child, without first obtaining the written consent of the licensed adoption agency responsible for the child.

(b) During the pendency of an adoption proceeding:

(1) The child proposed to be adopted may not be concealed within the county in which the adoption proceeding is pending.

(2) The child may not be removed from the county in which the adoption proceeding is pending unless the petitioners or other interested persons first obtain permission for the removal from the court, after giving advance written notice of intent to obtain the court’s permission to the licensed adoption agency responsible for the child. Upon proof of giving notice, permission may be granted by the court if, within a period of 15 days after the date of giving notice, no objections are filed with the court by the licensed adoption agency responsible for the child. If the licensed adoption agency files objections within the 15-day period, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to any limitations that appear to be in the child’s best interest.

(c) This section does not apply in any of the following situations:

(1) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, unless a notice of recommendation of denial of petition has been personally served on the petitioners or the court has issued an order prohibiting the removal of the child from the county pending consideration of any of the following:

(A) The suitability of the petitioners.

(B) The care provided the child.

(C) The availability of the legally required agency consents to the adoption.

(2) Where the child has been returned to and remains in the custody and control of the child’s birth parent or parents.

(3) Where written consent for the removal of the child is obtained from the licensed adoption agency responsible for the child.

(d) A violation of this section is a violation of Section 280 of the Penal Code.

(e) Neither this section nor Section 280 of the Penal Code may be construed to render lawful any act that is unlawful under any other applicable law.

8911. As a condition of placement, the prospective adoptive
parents shall file a petition to adopt the child under Section 8912 within 30 days of placement.

8912. (a) A person desiring to adopt a child may for that purpose file a petition in the county in which the petitioner resides. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(b) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth. The name the child had before adoption shall appear in the joinder signed by the licensed adoption agency.

(c) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(d) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

8913. The prospective adoptive parents and the child proposed to be adopted shall appear before the court pursuant to Sections 8612 and 8613.

8914. If the licensed adoption agency is a party to or joins in the adoption petition, it shall submit a full report of the facts of the case to the court. The department may also submit a report.

8915. When any report or findings are submitted to the court by a licensed adoption agency, a copy of the report or findings, whether favorable or unfavorable, shall be given to the petitioner's attorney in the proceeding, if the petitioner has an attorney of record, or to the petitioner.

8916. (a) If the petitioners move to withdraw the adoption petition or to dismiss the proceeding, the court clerk shall immediately notify the department at Sacramento of the action. The licensed adoption agency shall file a full report with the court recommending a suitable plan for the child in every case where the petitioners desire to withdraw the adoption petition or where the licensed adoption agency recommends that the adoption petition be denied and shall appear before the court for the purpose of representing the child.

(b) Notwithstanding the petitioners' withdrawal or dismissal, the court may retain jurisdiction over the child for the purpose of making any order for the child's custody that the court deems to be in the child's best interest.

8917. (a) If the licensed adoption agency finds that the home of the petitioners is not suitable for the child or that the required agency consents are not available and the agency recommends that the petition be denied, or if the petitioners desire to withdraw the
petition and the agency recommends that the petition be denied, the
clerk upon receipt of the report of the licensed adoption agency shall
immediately refer it to the court for review.

(b) Upon receipt of the report, the court shall set a date for a
hearing of the petition and shall give reasonable notice of the hearing
to the licensed adoption agency and the petitioners by certified mail,
return receipt requested, to the address of each as shown in the
proceeding.

(c) The licensed adoption agency shall appear to represent the
child.

8918. At the hearing, if the court sustains the recommendation
that the child be removed from the home of the petitioners because
the licensed adoption agency has recommended denial or the
petitioners desire to withdraw the petition or the court dismisses the
petition and does not return the child to the child’s parents, the court
shall commit the child to the care of the licensed adoption agency for
the agency to arrange adoptive placement or to make a suitable plan.

CHAPTER 5. STEPPARENT ADOPTIONS

9000. (a) A stepparent desiring to adopt a child of the
stepparent’s spouse may for that purpose file a petition in the county
in which the petitioner resides.

(b) The caption of the adoption petition shall contain the names
of the petitioners, but not the child’s name. The petition shall state
the child’s sex and date of birth and the name the child had before
adoption.

(c) If the child is the subject of a guardianship petition, the
adoption petition shall so state and shall include the caption and
docket number or have attached a copy of the letters of the
guardianship or temporary guardianship. The petitioners shall notify
the court of any petition for guardianship or temporary guardianship
filed after the adoption petition. The guardianship proceeding shall
be consolidated with the adoption proceeding.

(d) The order of adoption shall contain the child’s adopted name,
but not the name the child had before adoption.

9001. (a) The probation officer or, at option of the board of
supervisors, the county welfare department in the county in which
the adoption proceeding is pending shall make an investigation of
each case of stepparent adoption. The court may not make an order
of adoption until after the probation officer or welfare department
has filed its report and recommendation and they have been
considered by the court.

(b) Unless ordered by the court, no home study may be required
of the petitioner’s home in a stepparent adoption. The agency
conducting the investigation or any interested person may request
the court to order a home study or the court may order a home study
on its own motion.

(c) “Home study” as used in this section means a physical
investigation of the premises where the child is residing.

9002. In a stepparent adoption, the stepparent is liable for all reasonable costs incurred in connection with the stepparent adoption, including, but not limited to, costs incurred for the investigation required by Section 9001, up to a maximum of two hundred dollars ($200). The probation officer or county welfare department may defer, waive, or reduce the fee if its payment would cause economic hardship to the prospective adoptive parent detrimental to the welfare of the adopted child.

9003. (a) In a stepparent adoption, the consent of either or both birth parents shall be signed in the presence of a county clerk, probation officer, or county welfare department staff member of any county of this state. The county clerk, probation officer, or county welfare department staff member before whom the consent is signed shall immediately file the consent with the clerk of the court where the adoption petition is filed. The clerk shall immediately notify the probation officer or, at the option of the board of supervisors, the county welfare department of that county.

(b) If the birth parent of a child to be adopted is outside this state at the time of signing the consent, the consent may be signed before a notary or other person authorized to perform notarial acts.

(c) The consent, when reciting that the person giving it is entitled to sole custody of the child and when acknowledged before the county clerk, probation officer, or county welfare department staff member, is prima facie evidence of the right of the person signing the consent to the sole custody of the child and that person’s sole right to consent.

(d) A birth parent who is a minor has the right to sign a consent for the adoption of the birth parent’s child and the consent is not subject to revocation by reason of the minority.

9004. In a stepparent adoption, the form prescribed by the department for the consent of the birth parent shall contain substantially the following notice:

"Notice to the parent who gives the child for adoption: If you and your child lived together at any time as parent and child, the adoption of your child by a stepparent does not affect the child’s right to inherit your property or the property of other blood relatives."

9005. (a) Consent of the birth parent to the adoption of the child by the stepparent may not be withdrawn except with court approval. Request for that approval may be made by motion, or a birth parent seeking to withdraw consent may file with the clerk of the court where the adoption petition is pending, a petition for approval of withdrawal of consent, without the necessity of paying a fee for filing the petition. The petition or motion shall be in writing, and shall set forth the reasons for withdrawal of consent, but otherwise may be in any form.

(b) The court clerk shall set the matter for hearing and shall give notice thereof to the probation officer or county welfare department, to the prospective adoptive parent, and to the birth parent or parents.
by certified mail, return receipt requested, to the address of each as
shown in the proceeding, at least 10 days before the time set for
hearing.

(c) The probation officer or county welfare department shall,
before the hearing of the motion or petition for withdrawal, file a full
report with the court and shall appear at the hearing to represent the
interests of the child.

(d) At the hearing, the parties may appear in person or with
counsel. The hearing shall be held in chambers, but the court
reporter shall report the proceedings and, on court order, the fee
therefor shall be paid from the county treasury. If the court finds that
withdrawal of the consent to adoption is reasonable in view of all the
circumstances and that withdrawal of the consent is in the child’s
best interest, the court shall approve the withdrawal of the consent.
Otherwise the court shall withhold its approval. Consideration of the
child’s best interest shall include, but is not limited to, an assessment
of the child’s age, the extent of bonding with the prospective
adoptive parent, the extent of bonding or the potential to bond with
the birth parent, and the ability of the birth parent to provide
adequate and proper care and guidance to the child. If the court
approves the withdrawal of consent, the adoption proceeding shall
be dismissed.

(e) A court order granting or withholding approval of a
withdrawal of consent to an adoption may be appealed in the same
manner as an order of the juvenile court declaring a person to be a
ward of the juvenile court.

9006. (a) If the petitioner moves to withdraw the adoption
petition or to dismiss the proceeding, the court clerk shall
immediately notify the probation officer or county welfare
department of the action.

(b) If a birth parent has refused to give the required consent, the
adoPTION petition shall be dismissed.

9007. The prospective adoptive parent and the child proposed to
be adopted shall appear before the court pursuant to Sections 8612
and 8613.

CHAPTER 6. VACATION OF ADOPTION

9100. (a) If a child adopted pursuant to the law of this state
shows evidence of a developmental disability or mental illness as a
result of conditions existing before the adoption to an extent that the
child cannot be relinquished to an adoption agency on the grounds
that the child is considered unadoptable, and of which conditions the
adoptive parents or parent had no knowledge or notice before the
entry of the order of adoption, a petition setting forth those facts may
be filed by the adoptive parents or parent with the court that granted
the adoption petition. If these facts are proved to the satisfaction of
the court, it may make an order setting aside the order of adoption.

(b) The petition shall be filed within five years after the entry of
the order of adoption.

(c) The court clerk shall immediately notify the department at Sacramento of the petition. Within 60 days after the notice, the department shall file a full report with the court and shall appear before the court for the purpose of representing the adopted child.

9101. (a) If an order of adoption is set aside as provided in Section 9100, the court making the order shall direct the district attorney, the county counsel, or the county welfare department to take appropriate action under the Welfare and Institutions Code. The court may also make any order relative to the care, custody, or confinement of the child pending the proceeding the court sees fit.

(b) The county in which the proceeding for adoption was had is liable for the child’s support until the child is able to support himself or herself.

9102. (a) An action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption on the ground of any defect or irregularity of procedure in the adoption proceeding shall be commenced within three years after entry of the order.

(b) An action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption on any ground other than a defect or irregularity of procedure shall be commenced within five years after entry of the order.

CHAPTER 7. DISCLOSURE OF INFORMATION

9200. (a) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition filed in the office of the county clerk pursuant to this part is not open to inspection by any person other than the parties to the proceeding and their attorneys and the department, except upon the written authority of the judge of the superior court. A judge of the superior court may not authorize anyone to inspect the petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, or power of attorney or deposition or any portion of any of these documents, except in exceptional circumstances and for good cause approaching the necessitous. The petitioner may be required to pay the expenses for preparing the copies of the documents to be inspected.

(b) Upon written request of any party to the proceeding and upon the order of any judge of the superior court, the county clerk shall not provide any documents referred to in this section for inspection or copying to any other person, unless the name of the child’s birth parents or any information tending to identify the child’s birth parents is deleted from the documents or copies thereof.

(c) Upon the request of the adoptive parents or the child, a county clerk may issue a certificate of adoption that states the date and place of adoption, the child’s birth date, the names of the adoptive parents, and the name the child has taken. Unless the child has been adopted
by a stepparent, the certificate shall not state the name of the child’s birth parents.

9201. Notwithstanding any other law, the department and any licensed adoption agency may furnish information relating to an adoption petition to the juvenile court, county welfare department, public welfare agency, or private welfare agency licensed by the department, if it is believed the child’s welfare will be promoted thereby.

9202. (a) Notwithstanding any other law, the department or licensed adoption agency that made a medical report required by Section 8706, 8817, or 8909 shall provide a copy of the medical report, in the manner the department prescribes by regulation, to any of the following persons upon the person’s request:

(1) A person who has been adopted pursuant to this part and who has attained the age of 18 years or who presents a certified copy of the person’s marriage certificate.

(2) The adoptive parent of a person under the age of 18 years who has been adopted pursuant to this part.

(b) A person who is denied access to a medical report pursuant to regulations adopted pursuant to this section may petition the court for review of the reasonableness of the department’s or licensed adoption agency’s decision.

(c) The names and addresses of any persons contained in the report shall be removed unless the person requesting the report has previously received the information pursuant to subdivision (a) of Section 9203.

9203. (a) The department or a licensed adoption agency shall do the following:

(1) Upon request of a person who has been adopted pursuant to this part and who has attained the age of 21 years, disclose the identity of the person’s birth parent or parents and their most current address shown in the records of the department or licensed adoption agency, if the birth parent or parents have indicated consent to the disclosure in writing; and upon request of the birth parent of a person who has been adopted pursuant to this part and who has attained the age of 21 years, disclose the adopted name of the adoptee and the adoptee’s most current address shown in the records of the department or licensed adoption agency, if the adult adoptee has indicated in writing, pursuant to the registration program developed by the department, that the adult adoptee wishes the adult adoptee’s name and address to be disclosed.

(2) Disclose the identity of a birth parent and the birth parent’s most current address shown in the records of the department or licensed adoption agency upon the request of the adoptive parent of a person under the age of 21 years who has been adopted pursuant to this part, upon the finding by the department or licensed adoption agency that a medical necessity or other extraordinary circumstances justify the disclosure.

(b) The department shall prescribe the form of the request
required by this section. The form shall provide for an affidavit to be executed by the requester that to the best of the requester's knowledge the requester is an adoptee, the adoptee's birth parent, or the adoptee's adoptive parent. The department may adopt regulations requiring any additional means of identification from a requester that it deems necessary. The request shall advise an adoptee that if the adoptee consents, the adoptee's adoptive parents will be notified of the filing of the request before the release of the name and address of the adoptee's birth parent.

(c) Subdivision (a) is not applicable if a birth parent or an adoptee has indicated that he or she does not wish his or her name or address to be disclosed.

(d) The department shall either respond to a request for information pursuant to this section or forward the request to a licensed adoption agency pursuant to subdivision (e) within 20 working days of its receipt of the request.

(e) The department may forward requests for information pursuant to this section to any licensed adoption agency that was a party to the adoption.

(f) Notwithstanding any other law, the department shall announce the availability of the present method of arranging contact among an adult adoptee, the adult adoptee's birth parents, and adoptive parents authorized by Section 9204 utilizing a means of communication appropriate to inform the public effectively.

(g) The department or licensed adoption agency may charge a reasonable fee in an amount the department establishes by regulation to cover the costs of processing requests for information made pursuant to subdivision (a). The revenue resulting from the fees so charged shall be utilized by the department or licensed adoption agency to increase existing staff as needed to process these requests. Fees received by the department shall be deposited in the Adoption Information Fund. This revenue shall be in addition to any other funds appropriated in support of the state adoption program.

(h) The department or licensed adoption agency shall waive the fees authorized by this section for any person who is receiving public assistance pursuant to Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code.

(i) This section applies only to adoptions in which the relinquishment for or consent to adoption was signed on or after January 1, 1984.

9204. (a) Notwithstanding any other law, if an adult adoptee and the adult adoptee's birth parents have each filed a written consent with the department or licensed adoption agency, the department or licensed adoption agency may arrange for contact between those persons. Neither the department nor a licensed adoption agency may solicit, directly or indirectly, the execution of a written consent.

(b) The written consent authorized by this section shall be in a form prescribed by the department.

9205. (a) Notwithstanding any other law, the department or
adoption agency that joined in the adoption petition shall release the names and addresses of biological siblings to one another if both of the siblings have attained the age of 21 years and have filed the following with the department or agency:

1. A current address.

2. A written request for contact with any biological sibling whose existence is known to the person making the request.

3. A written waiver of the person's rights with respect to the disclosure of the person's name and address to the sibling, if the person is an adoptee.

(b) Upon inquiry and proof that a person is the biological sibling of an adoptee who has filed a waiver pursuant to this section, the department or agency may advise the sibling that a waiver has been filed by the adoptee. The department or agency may charge a reasonable fee, not to exceed fifty dollars ($50), for providing the service required by this section.

(c) An adoptee may revoke a waiver filed pursuant to this section by giving written notice of revocation to the department or agency.

(d) The department shall adopt a form for the request authorized by this section. The form shall provide for an affidavit to be executed by a person seeking to employ the procedure provided by this section that, to the best of the person's knowledge, the person is an adoptee or biological sibling of an adoptee. The form also shall contain a notice of an adoptee's rights pursuant to subdivision (c) 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 obtaining 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 the age of 18 years.

(e) The department or agency may 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 inform the public effectively.

9206. (a) Notwithstanding any other law, the department or licensed adoption agency shall release any letters, photographs, or other items of personal property in its possession to an adoptee, birth parent, or adoptive parent, upon written request. The material may be requested by any of the following persons:

1. The adoptee, if the adoptee has attained the age of 18 years.

2. The adoptive parent or parents, on behalf of an adoptee under the age of 18 years, as long as instructions to the contrary have not been made by the depositor.

3. The birth parent or parents.

(b) Notwithstanding any other law, all identifying names and
addresses shall be deleted from the letters, photographs, or items of personal property before delivery to the requester.

(c) Letters, photographs, and other items of personal property deposited on or after January 1, 1985, shall be accompanied by a release form or similar document signed by the person depositing the material, specifying to whom the material may be released. At its discretion, the department or licensed adoption agency may refuse for deposit items of personal property that, because of value or bulk, would pose storage problems.

(d) Notwithstanding subdivisions (a) and (b), only the following photographs deposited before January 1, 1985, shall be released:

1. Photographs of the adoptee that have been requested by the adoptee.
2. Photographs that have been deposited by the adoptee, the adoptive parent or parents, or the birth parent or parents, and for which there is a letter or other document on file indicating that person's consent to the release of the photographs.

(e) The department and licensed adoption agencies may charge a fee to cover the actual costs of any services required by this section in excess of normal postadoptive services provided by the department or agency. The department shall develop a fee schedule that shall be implemented by the department and licensed adoption agencies in assessing charges to the person who deposits the material or the person to whom the material is released. The fee may be waived by the department or licensed adoption agencies in cases in which it is established that a financial hardship exists.

(f) "Photograph" as used in this section means a photograph of the person depositing the photograph or the person making the request for the release.

PART 3. ADOPTION OF ADULTS AND MARRIED MINORS

CHAPTER 1. GENERAL PROVISIONS

9300. (a) An adult may be adopted by another adult as provided in this part.
(b) A married minor may be adopted in the same manner as an adult under this part.

9301. A married person who is not lawfully separated from the person's spouse may not adopt an adult without the consent of the spouse, provided that the spouse is capable of giving that consent.

9302. (a) A married person who is not lawfully separated from the person's spouse may not be adopted without the consent of the spouse, provided that the spouse is capable of giving that consent.
(b) The consent of the parents of the proposed adoptee, of the department, or of any other person is not required.

9303. (a) A person may not adopt more than one unrelated adult under this part within one year of the person's adoption of an unrelated adult, unless the proposed adoptee is the biological sibling
of a person previously adopted pursuant to this part or unless the proposed adoptee is disabled or physically handicapped.

(b) A person may not adopt an unrelated adult under this part within one year of an adoption of another person under this part by the prospective adoptive parent's spouse, unless the proposed adoptee is a biological sibling of a person previously adopted pursuant to this part.

9304. A person adopted pursuant to this part may take the family name of the adoptive parent.

9305. After adoption, the adoptee and the adoptive parent or parents shall sustain towards each other the legal relationship of parent and child and have all the rights and are subject to all the duties of that relationship.

9306. The birth parents of a person adopted pursuant to this part are, from the time of the adoption, relieved of all parental duties towards, and all responsibility for, the adopted person, and have no right over the adopted person.

9307. A hearing with regard to adoption under Chapter 2 (commencing with Section 9320) or termination of a parent and child relationship under Chapter 3 (commencing with Section 9340) may, in the discretion of the court, be open and public.

CHAPTER 2. PROCEDURE FOR ADULT ADOPTION

9320. (a) An adult may adopt another adult who is younger, except the spouse of the prospective adoptive parent, by an adoption agreement approved by the court, as provided in this chapter.

(b) The adoption agreement shall be in writing, executed by the prospective adoptive parent and the proposed adoptee, and shall state that the parties agree to assume toward each other the legal relationship of parent and child and to have all of the rights and be subject to all of the duties and responsibilities of that relationship.

9321. (a) The prospective adoptive parent and the proposed adoptee may file in the county in which either person resides a petition for approval of the adoption agreement.

(b) The petition for approval of the adoption agreement shall state all of the following:

(1) The length and nature of the relationship between the prospective adoptive parent and the proposed adoptee.
(2) The degree of kinship, if any.
(3) The reason the adoption is sought.
(4) A statement as to why the adoption would be in the best interest of the prospective adoptive parent, the proposed adoptee, and the public.
(5) The names and addresses of any living birth parents or adult children of the proposed adoptee.
(6) Whether the prospective adoptive parent or the prospective adoptive parent's spouse has previously adopted any other adult and, if so, the name of the adult, together with the date and place of the
adoption.

9322. When the petition for approval of the adoption agreement is filed, the court clerk shall set the matter for hearing.

9323. The court may require notice of the time and place of the hearing to be served on any other interested person and any interested person may appear and object to the proposed adoption.

9324. Both the prospective adoptive parent and the proposed adoptee shall appear at the hearing in person, unless an appearance is impossible, in which event an appearance may be made for either or both of the persons by counsel, empowered in writing to make the appearance.

9325. No investigation or report to the court by any public officer or agency is required, but the court may require the county probation officer or the department to investigate the circumstances of the proposed adoption and report thereon, with recommendations, to the court before the hearing.

9326. The prospective adoptive parent shall mail or personally serve notice of the hearing and a copy of the petition to the director of the regional center for the developmentally disabled, established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code, and to any living birth parents or adult children of the proposed adoptee, at least 30 days before the day of the hearing on an adoption petition in any case in which both of the following conditions exist:

(a) The proposed adoptee is an adult with developmental disabilities.

(b) The prospective adoptive parent is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities or is a spouse or employee of a provider.

9327. If the prospective adoptive parent is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities, or is a spouse or employee of a provider, and seeks to adopt an unrelated adult with developmental disabilities, the regional center for the developmentally disabled notified pursuant to Section 9326 shall file a written report with the court regarding the suitability of the proposed adoption in meeting the needs of the proposed adoptee and regarding any known previous adoption by the prospective adoptive parent.

9328. (a) At the hearing the court shall examine the parties, or the counsel of any party not present in person.

(b) If the court is satisfied that the adoption will be in the best interests of the persons seeking the adoption and in the public interest and that there is no reason why the petition should not be granted, the court shall approve the adoption agreement and make an order of adoption declaring that the person adopted is the child of the adoptive parent. Otherwise, the court shall withhold approval of the agreement and deny the petition.

(c) In determining whether or not the adoption of any person pursuant to this part is in the best interests of the persons seeking the
(d) For purposes of enabling a custodial parent receiving assistance under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code to participate in a pilot project authorized by this part, the district attorney, upon the request of the custodial parent, may execute a limited waiver of the obligation of representation under Section 11475.1 of the Welfare and Institutions Code. These limited waivers shall be signed by both the district attorney and custodial parent and shall only permit the custodial parent to participate in the proceedings under this part. It is not the intent of the Legislature in enacting this section to limit the duties of district attorneys with respect to seeking child support payments or to in any way limit or supersede other provisions of this code respecting temporary child support.

20007. (a) Child support advisers shall be available to assist parties in the preparation of all paperwork pursuant to this part, including, but not limited to, motions, responsive pleadings, and income and expense declarations. The court shall provide these advisers at no cost to the parties.

(b) Before any hearing pursuant to this part, child support advisers shall review the paperwork required by the court and shall advise the judge whether or not the matter is ready to proceed.

(c) Child support advisers may be volunteers and may include law students and other trained individuals familiar with the relevant statutes and forms.

(d) Child support advisers shall have quasi-judicial immunity.

20008. (a) Orders for temporary child support issued pursuant to this part shall comply with the uniform guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 and shall be based on the economic evidence supplied by the parties or otherwise available to the court. These orders shall also include provisions for health insurance coverage pursuant to Article 1 (commencing with Section 3750) of Chapter 7 of Part 1 of Division 9.

(b) The courts shall calculate child support orders based on standardized formulae accessed through existing computer programs.

20009. An informational publication describing the simplified procedures in effect in the counties included in the pilot project shall be prepared and distributed therein by the superior court in those counties.

20010. (a) A motion filed under this part requesting temporary child support or another temporary order shall include all of the following:

(1) A proposed order.
(2) An income and expense declaration of the moving party, in the form adopted by the Judicial Council.
(3) A declaration, under penalty of perjury, that the facts on which the motion is based are true and correct.
(4) The following, as applicable:
(A) In the case of a motion requesting temporary child support, a child support calculation in the form of a computer printout, which the moving party shall obtain upon conferring with the child support adviser.

(B) In the case of a motion requesting temporary order other than for child support, a statement of facts in support of the motion.

(b) The moving party shall obtain a hearing date and shall cause the notice of motion, the proposed order, the child support calculation, and the accompanying documents to be served on the party from whom support is requested.

(c) The responding party shall have 15 days from the date of service of the notice within which to confer with the child support adviser and file an objection. The objection and request shall be accompanied by an income and expense declaration in the form adopted by the Judicial Council. If the responding party files an objection and request for a hearing, the responding party shall be responsible for requesting a hearing date and giving notice thereof to the moving party. The original proof of service of the notice of the objection and request shall be filed at the same time as the filing of the objection and the request for a hearing.

(d) Notice pursuant to this section shall be by personal service.

(e) Where it appears from a party’s application for an order under this part or otherwise in the proceedings that the custody of, or visitation with, a minor child is contested, the court shall set those issues for mediation pursuant to Chapter 11 (commencing with Section 3155) of Part 2 of Division 8. The pendency of the mediation proceedings shall not delay a hearing on any other matter for which a temporary order is requested, including child support, and a separate hearing, if required, shall be scheduled respecting the custody and visitation issues following mediation in accordance with Chapter 11 (commencing with Section 3155) of Part 2 of Division 8. However, the court may grant a continuance for good cause shown.

2001. (a) In a contested proceeding for temporary child support under this part, both the moving party and the responding party shall provide all of the following documents to the court at the time of the hearing:

1) Copies of federal and state income tax returns for the preceding year.

2) Paycheck stubs for all paychecks received in the four months immediately before the hearing.

(b) A party who fails to submit documents to the court as required by this section may not be granted the relief that the party has requested.

(c) A tax return submitted pursuant to this section may be reviewed by the other party. A party may be examined by the other party as to the contents of such a tax return.

20012. The Senate Office of Research shall conduct a study of the effectiveness of the pilot projects in making the California child support system more equitable, responsive, cost-effective, and
accessible, particularly to those with middle and low incomes, and
shall make a report of its findings to the Legislature on or before July
1, 1994.

SEC. 11. Section 3301 of the Probate Code is repealed.
SEC. 12. Section 3302 of the Probate Code is repealed.
SEC. 13. Sections 1 to 12, inclusive, of this act shall become
SEC. 14. Any section of any act enacted by the Legislature during
the 1992 calendar year, which takes effect on or before January 1,
1993, and which amends, amends and renumbers, adds, repeals and
adds, or repeals a section repealed by this act, shall prevail over this
act, whether that act is chaptered before or after this act.

CHAPTER 163

An act to amend Section 1320 of the Business and Professions Code,
to amend Sections 56.30, 687, 1102.1, 1799.98, and 1812.30 of, to add
Section 43.1 to, to add Part 1 (commencing with Section 38) to
Division 1 of, to repeal Part 1 (commencing with Section 25) of
Division 1 of, and to repeal and add Section 1557 of, the Civil Code,
to amend Sections 124, 128, 259, 395, 396b, 397, 527, 527.6, 529, 583.161,
664.5, 674, 683.130, 683.310, 684.010, 695.020, 697.320, 699.510, 699.560,
703.070, 704.070, 704.110, 704.113, 704.114, 704.115, 704.120, 704.950,
706.011, 706.020, 706.031, 706.052, 706.124, 706.126, 708.510, 708.730,
724.250, 904.1, 917.7, 1006.5, 1209.5, 1219, 1276, 1277, 1278, 1279.5,
1710.10, and 2032 of, to add Sections 340.4, 680.145, and 1279.6 to, and
to repeal Sections 263, 412.21, 429.10, and 429.40 of, the Code of Civil
Procedure, to amend Section 420 of the Corporations Code, to amend
Sections 22401.6, 22662, 23702, and 24603 of the Education Code, to
amend Sections 1037.7, 1107, and 1152.5 of the Evidence Code, to
amend Sections 21204, 21209, 21209.3, 21210, 21215, 26832, 26833.5,
26840.1, 26840.3, 26840.8, 26841, 26861, 27752, 31760.3, 68514, 75050,
and 77003 of the Government Code, to amend Sections 1522.4,
10125.5, 10125.6, 10351, 10433.2, 10433.3, and 10605 of the Health and
Safety Code, to amend Section 10172 of the Insurance Code, to
amend Section 300 of the Labor Code, to amend Sections 70.5, 208,
270c, 270h, 273.5, 273.6, 277, 279, 280, 360, 2625, 11105.3, 11167, 11170,
12021, 12025.5, 12028.5, 12031, and 12076 of the Penal Code, to amend
Sections 104, 143, 144, 146, 1514, 1901, 3002, 3057, 3071, 3072, 3073, 3088,
5305, and 6408 of the Probate Code, to amend Section 11927 of the
Revenue and Taxation Code, to amend Section 17150.5 of the Vehicle
Code, to amend Sections 304, 361.5, 362.4, 366.2, 366.25, 366.26,
11155.5, 11350.1, 11475.1, 11476.1, 11478, 11478.1, 11478.2, 11478.8,
11489, 11490, 12300, 12350, 14010, 16100, 16101, 16106, 16120, and
16507.6 of, and to repeal Section 11475.3 of, the Welfare and
Institutions Code, relating to family law.
The people of the State of California do enact as follows:

SECTION 1. Section 1320 of the Business and Professions Code is amended to read:

1320. The department may deny, suspend, or revoke any license issued under this chapter for any of the following reasons:

(a) Conduct involving moral turpitude or dishonest reporting of tests.

(b) Violation by the applicant or licensee of this chapter or any rule or regulation adopted pursuant thereto.

(c) Aiding, abetting, or permitting the violation 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.

(d) Permitting a licensed trainee to perform tests or procure specimens unless under the direct and responsible supervision of a person duly licensed under this chapter or physician and surgeon other than another licensed trainee.

(e) Violation of any provision of this code governing the practice of medicine and surgery.

(f) Proof that an applicant or licensee has made false statements in any material regard on the application for a license or renewal issued under this chapter.

(g) 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 under this chapter.

(h) Proof that the applicant or licensee has used any degree, or certificate, as a means of qualifying for licensure which has been purchased or procured by barter or by any unlawful means or obtained from any institution which at the time said degree, certificate, or title was obtained was not recognized or accredited by the department of education of the state where said institution is or was located to give training in the field of study in which the degree, certificate, or title is claimed.

(i) Violation of any of the premarital or prenatal laws or regulations pertaining thereto in Part 5 (commencing with Section 580) of Division 3 of the Family Code and Article 1 (commencing with Section 1125) of Group 4 of Subchapter 1 of Chapter 2 of Part 1 of Title 17 of the California Code of Regulations, or of Article 2 (commencing with Section 3220) of Chapter 4 of Division 4 of the Health and Safety Code.

(j) Knowingly accepting an assignment for clinical laboratory tests or specimens from and the rendering a report thereon to persons not authorized by law to submit those specimens or assignments.
(k) Rendering a report on clinical laboratory work actually performed in another clinical laboratory without designating clearly the name and address of the laboratory in which the test was performed.

(l) Conviction of a felony or of any misdemeanor involving moral turpitude under the laws of any state or of the United States arising out of or in connection with the practice of clinical laboratory technology. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(m) Unprofessional conduct.

(n) The use of drugs or alcoholic beverages to the extent or in such manner as to be dangerous to a person licensed under this chapter, or any other person to the extent that that use impairs the ability of the licensee to conduct with safety to the public the practice of clinical laboratory technology.

SEC. 2. Part 1 (commencing with Section 25) of Division 1 of the Civil Code is repealed.

SEC. 3. Part 1 (commencing with Section 38) is added to Division 1 of the Civil Code, to read:

PART 1. PERSONS WITH UNSOUND MIND

38. A person entirely without understanding has no power to make a contract of any kind, but the person is liable for the reasonable value of things furnished to the person necessary for the support of the person or the person’s family.

39. A conveyance or other contract of a person of unsound mind, but not entirely without understanding, made before the incapacity of the person has been judicially determined, is subject to rescission, as provided in Chapter 2 (commencing with Section 1688) of Title 5 of Part 2 of Division 3.

40. (a) Subject to Section 1871 of the Probate Code, and subject to Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, after his or her incapacity has been judicially determined a person of unsound mind can make no conveyance or other contract, nor delegate any power or waive any right, until his or her restoration to capacity.

(b) Subject to Sections 1873 to 1876, inclusive, of the Probate Code, the establishment of a conservatorship under Division 4 (commencing with Section 1400) of the Probate Code is a judicial determination of the incapacity of the conservatee for the purposes of this section.

41. A person of unsound mind, of whatever degree, is civilly liable for a wrong done by the person, but is not liable in exemplary damages unless at the time of the act the person was capable of knowing that the act was wrongful.

SEC. 4. Section 43.1 is added to the Civil Code, to read:

43.1. A child conceived, but not yet born, is deemed an existing person, so far as necessary for the child’s interests in the event of the
child’s subsequent birth.

SEC. 5. Section 56.30 of the Civil Code is amended to read:

56.30. The disclosure and use of the following medical information shall not be subject to the limitations of this part:

(a) (Mental health and developmental disabilities) Information and records obtained in the course of providing services under Division 4 (commencing with Section 4001), 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) of the Welfare and Institutions Code.

(b) (Public social services) Information and records which are subject to Sections 10850, 14124.1, and 14124.2 of the Welfare and Institutions Code.

(c) (State health services, communicable diseases, developmental disabilities) Information and records maintained pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 1 of the Health and Safety Code and pursuant to Division 4 (commencing with Section 3000) of the Health and Safety Code.

(d) (Licensing and statistics) Information and records maintained pursuant to Division 2 (commencing with Section 1200) and Division 9 (commencing with Section 10000) of the Health and Safety Code; pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code; and pursuant to Section 8608, 8706, 8817, or 8909 of the Family Code.

(e) (Medical survey, workers’ safety) Information and records acquired and maintained or disclosed pursuant to Sections 1380 and 1382 of the Health and Safety Code and pursuant to Division 5 (commencing with Section 6300) of the Labor Code.

(f) (Industrial accidents) Information and records acquired, maintained, or disclosed pursuant to Division 1 (commencing with Section 50), Division 4 (commencing with Section 3201), Division 4.5 (commencing with Section 6100), and Division 4.7 (commencing with Section 6200) of the Labor Code.

(g) (Law enforcement) Information and records maintained by a health facility which are sought by a law enforcement agency under Chapter 3.5 (commencing with Section 1543) of Title 12 of Part 2 of the Penal Code.

(h) (Investigations of employment accident or illness) Information and records sought as part of an investigation of an on-the-job accident or illness pursuant to Division 5 (commencing with Section 6300) of the Labor Code or pursuant to Section 2950 of the Health and Safety Code.

(i) (Alcohol or drug abuse) Information and records subject to the federal alcohol and drug abuse regulations (Part 2 (commencing with Section 2.1) of subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations) or to Section 11977 of the Health and Safety Code dealing with narcotic and drug abuse.

(j) (Patient discharge data) Nothing in this part shall be
construed to limit, expand, or otherwise affect the authority of the California Health Facilities Commission to collect patient discharge information from health facilities pursuant to Section 441.18 of the Health and Safety Code.

(k) Medical information and records disclosed to, and their use by, the Insurance Commissioner, the Division of Industrial Accidents, the Workers' Compensation Appeals Board, or the Department of Insurance.

SEC. 6. Section 687 of the Civil Code is amended to read:

687. Community property is property that is community property under Part 2 (commencing with Section 760) of Division 4 of the Family Code.

SEC. 7. Section 1102.1 of the Civil Code is amended to read:

1102.1. This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

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

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

(e) Transfers from one coowner to one or more other 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 judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to such a judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.
(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

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

SEC. 8. Section 1557 of the Civil Code is repealed.

SEC. 9. Section 1557 is added to the Civil Code, to read:

1557. (a) The capacity of a minor to contract is governed by Division 11 (commencing with Section 6500) of the Family Code.

(b) The capacity of a person of unsound mind to contract is governed by Part 1 (commencing with Section 38) of Division 1.

SEC. 10. Section 1799.98 of the Civil Code is amended to read:

1799.98. (a) Nothing in this title shall be construed to make applicable or affect or operate as a waiver of any of the provisions of any of the following:

(1) Title 13 (commencing with Section 2787) of Part 4 of Division 3 of this code.

(2) Parts 1 (commencing with Section 700), 2 (commencing with Section 760), 3 (commencing with Section 900), and 4 (commencing with Section 1100) of Division 4 of the Family Code.

(3) Sections 4301 and 4302 of the Family Code.

(4) Subdivision (c) of Section 2035 of the Family Code.

(b) The delivery of notice pursuant to Section 1799.91 is not evidence that the person to whom the notice was delivered entered or did not enter the transaction in the capacity of a surety.

SEC. 11. Section 1812.30 of the Civil Code is amended to read:

1812.30. (a) No person, regardless of marital status, shall be denied credit in his or her own name if the earnings and other property over which he or she has management and control are such that a person of the opposite sex managing and controlling the same amount of earnings and other property would receive credit.

(b) No person, regardless of marital status, managing and controlling earnings and other property shall be offered credit on terms less favorable than those offered to a person of the opposite sex seeking the same type of credit and managing and controlling the same amount of earnings and other property.

(c) No unmarried person shall be denied credit if his or her earnings and other property are such that a married person managing and controlling the same amount of earnings and other property would receive credit.

(d) No unmarried person shall be offered credit on terms less favorable than those offered to a married person managing and controlling the same amount of earnings and other property.

(e) For accounts established after January 1, 1977 or for accounts in existence on January 1, 1977 where information on that account is received after January 1, 1977, a credit reporting agency which in its normal course of business receives information on joint credit accounts identifying the persons responsible for such accounts, or receives information which reflects the participation of both spouses, shall: (1) at the time such information is received file such
information separately under the names of each person or spouse, or file such information in another manner which would enable either person or spouse to automatically gain access to the credit history without having in any way to list or refer to the name of the other person, and (2) provide access to all information about the account in the name of each person or spouse.

(f) For all accounts established prior to January 1, 1977, a credit reporting agency shall at any time upon the written or personal request of a person who is or has been married, verify the contractual liability, liability by operation of law, or authorized use by such person, of joint credit accounts appearing in the file of the person's spouse or former spouse, and, if applicable, shall file such information separately and thereafter continue to do so under the names of each person responsible for the joint account or in another manner which would enable either person responsible for the joint account to automatically gain access to the credit history without having in any way to list or refer to the name of the other person.

(g) For the purposes of this chapter "credit" means obtainment of money, property, labor, or services on a deferred-payment basis.

(h) For the purposes of this chapter, earnings shall include, but not be limited to, spousal, family, and child support payments, pensions, social security, disability or survivorship benefits. Spousal, family, and child support payments shall be considered in the same manner as earnings from salary, wages, or other sources where the payments are received pursuant to a written agreement or court decree to the extent that the reliability of such payments is established. The factors which a creditor may consider in evaluating the reliability of such payments are the length of time payments have been received; the regularity of receipt; and whether full or partial payments have been made.

(i) Nothing in this chapter shall be construed to prohibit a person from: (1) utilizing an evaluation of the reliability of earnings provided that such an evaluation is applied to persons without regard to their sex or marital status; or (2) inquiring into and utilizing an evaluation of the obligations for which community property is liable pursuant to the Family Code for the sole purpose of determining the creditor's rights and remedies with respect to the particular extension of credit, provided that such is done with respect to all applicants without regard to their sex; or (3) utilizing any other relevant factors or methods in determining whether to extend credit to an applicant provided that such factors or methods are applicable to all applicants without regard to their sex or marital status. For the purpose of this subdivision, the fact that an applicant is of childbearing age is not a relevant factor.

(j) Credit applications for the obtainment of money, goods, labor, or services shall clearly specify that the applicant, if married, may apply for a separate account.

SEC. 12. Section 124 of the Code of Civil Procedure is amended to read:
124. Except as provided in Section 214 of the Family Code or any other provision of law, the sittings of every court shall be public.

SEC. 13. 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 3 (commencing with Section 7600) of Division 12 of the Family Code).

SEC. 14. Section 259 of the Code of Civil Procedure is amended to read:

259. Subject to the supervision of the court every court commissioner shall have power to do all of the following:

(a) Hear and determine ex parte motions, for orders and alternative writs and writs of habeas corpus in the superior court for which the court commissioner is appointed.

(b) Take proof and make and report findings thereon as to any matter of fact upon which information is required by the court. Any party to any contested proceeding may except to the report and the subsequent order of the court made thereon within five days after written notice of the court’s action. A copy of the exceptions shall be filed and served upon opposing party or counsel within the five days. The party may argue any exceptions before the court on giving notice of motion for that purpose within 10 days from entry thereof. After a hearing before the court on the exceptions, the court may sustain, or set aside, or modify its order.

(c) Take and approve any bonds and undertakings in actions or proceedings, and determine objections to the bonds and undertakings.
(d) Administer oaths and affirmations, and take affidavits and depositions in any action or proceeding in any of the courts of this state, or in any matter or proceeding whatever, and take acknowledgments and proof of deeds, mortgages, and other instruments requiring proof or acknowledgment for any purpose under the laws of this or any other state or country.

(e) Act as temporary judge when otherwise qualified so to act and when appointed for that purpose, or by written consent of an appearing party. While acting as temporary judge the commissioner shall receive no compensation therefor other than compensation as commissioner.

(f) Hear and report findings and conclusions to the court for approval, rejection, or change, all preliminary matters including motions or petitions for the custody and support of children, the allowance of temporary spousal support, costs and attorneys' fees, and issues of fact in contempt proceedings in proceedings for support, dissolution of marriage, nullity of marriage, or legal separation.

(g) Hear, report on, and determine all uncontested actions and proceedings subject to the requirements of subdivision (e).

(h) Charge and collect the same fees for the performance of official acts as are allowed by law to notaries public in this state for like services. This subdivision does not apply to any services of the commissioner, the compensation for which is expressly fixed by law. The fees so collected shall be paid to the treasurer of the county, for deposit in the general fund of the county.

(i) Provide an official seal, upon which must be engraven the words "Court Commissioner" and the name of the county, or city and county, in which the commissioner resides.

(j) Authenticate with the official seal the commissioner's official acts.

SEC. 15. Section 263 of the Code of Civil Procedure is repealed.
SEC. 16. Section 340.4 is added to the Code of Civil Procedure, to read:

340.4. An action by or on behalf of a minor for personal injuries sustained before or in the course of his or her birth must be commenced within six years after the date of birth, and the time the minor is under any disability mentioned in Section 352 shall not be excluded in computing the time limited for the commencement of the action.

SEC. 17. Section 395 of the Code of Civil Procedure is amended to read:

395. (a) Except as otherwise provided by law and subject to the power of the court to transfer actions or proceedings as provided in this title, the county in which the defendants or some of them reside at the commencement of the action is the proper county for the trial of the action. If the action is for injury to person or personal property or for death from wrongful act or negligence, either the county where the injury occurs or the injury causing death occurs or the
county in which the defendants, or some of them reside at the commencement of the action, shall be a proper county for the trial of the action. In a proceeding for dissolution of marriage, the county in which the petitioner has been a resident for three months next preceding the commencement of the proceeding is the proper county for the trial of the proceeding. In a proceeding to enforce an obligation of support under Section 3900 of the Family Code, the county in which the child resides is the proper county for the trial of the action. In a proceeding to establish and enforce a foreign judgment or court order for the support of a minor child, the county in which the child resides is the proper county for the trial of the action. Subject to subdivision (b), when a defendant has contracted to perform an obligation in a particular county, either the county where the obligation is to be performed or in which the contract in fact was entered into or the county in which the defendant or any such defendant resides at the commencement of the action shall be a proper county for the trial of an action founded on such obligation, and the county in which the obligation is incurred shall be deemed to be the county in which it is to be performed unless there is a special contract in writing to the contrary. If none of the defendants reside in the state or if residing in the state and the county in which they reside is unknown to the plaintiff, the action may be tried in any county which the plaintiff may designate in his or her complaint, and, if the defendant is about to depart from the state, the action may be tried in any county where either of the parties reside or service is made. If any person is improperly joined as a defendant or has been made a defendant solely for the purpose of having the action tried in the county or judicial district where he or she resides, his or her residence shall not be considered in determining the proper place for the trial of the action.

(b) Subject to the power of the court to transfer actions or proceedings as provided in this title, in an action arising from an offer or provision of goods, services, loans or extensions of credit intended primarily for personal, family or household use, other than an obligation described in Section 1812.10 or Section 2984.4 of the Civil Code, or an action arising from a transaction consummated as a proximate result of an unsolicited telephone call made by a seller engaged in the business of consummating transactions of that kind, the county in which the buyer or lessee in fact signed the contract, the county in which the buyer or lessee resided at the time the contract was entered into, or the county in which the buyer or lessee resides at the commencement of the action is the proper county for the trial thereof.

(c) If within the county there is a municipal or justice court having jurisdiction of the subject matter established, in the cases mentioned in subdivision (a), in the judicial district in which the defendant or any defendant resides, in which the injury to person or personal property or the injury causing death occurs, or, in which the obligation was contracted to be performed or, in cases mentioned in
subdivision (b), in the judicial district which the buyer or lessee resides, in which the buyer or lessee in fact signed the contract, in which the buyer or lessee resided at the time the contract was entered into, or in which the buyer or lessee resides at the commencement of the action, then such court is the proper court for the trial of such action. Otherwise, any municipal or justice court in such county having jurisdiction of the subject matter is a proper court for the trial thereof.

(d) Any provision of an obligation described in subdivision (b) or (c) waiving those subdivisions is void and unenforceable.

SEC. 18. Section 396b of the Code of Civil Procedure is amended to read:

396b. (a) Except as otherwise provided in Section 396a, if an action or proceeding is commenced in a court having jurisdiction of the subject matter thereof, other than the court designated as the proper court for the trial thereof, under this title, the action may, notwithstanding, be tried in the court where commenced, unless the defendant, at the time he or she answers, demurs, or moves to strike, or, at his or her option, without answering, demurring, or moving to strike and within the time otherwise allowed to respond to the complaint, files with the clerk, a notice of motion for an order transferring the action or proceeding to the proper court, together with proof of service, upon the adverse party, of a copy of those papers. Upon the hearing of the motion the court shall, if it appears that the action or proceeding was not commenced in the proper court, order the action or proceeding transferred to the proper court.

(b) In its discretion, the court may order the payment to the prevailing party of reasonable expenses and attorney's fees incurred in making or resisting the motion to transfer whether or not that party is otherwise entitled to recover his or her costs of action. In determining whether that order for expenses and fees shall be made, the court shall take into consideration (1) whether an offer to stipulate to change of venue was reasonably made and rejected, and (2) whether the motion or selection of venue was made in good faith given the facts and law the party making the motion or selecting the venue knew or should have known. As between the party and his or her attorney, those expenses and fees shall be the personal liability of the attorney not chargeable to the party. Sanctions shall not be imposed pursuant to this subdivision except on notice contained in a party's papers, or on the court's own noticed motion, and after opportunity to be heard.

(c) The court in a proceeding for dissolution of marriage or legal separation, may, prior to the determination of the motion to transfer, consider and determine motions for allowance of temporary spousal support, support of children, counsel fees and costs, and make all necessary and proper orders in connection therewith.

(d) In any case, if an answer is filed, the court may consider opposition to the motion to transfer, if any, and may retain the action in the county where commenced if it appears that the convenience
of the witnesses or the ends of justice will thereby be promoted.

(e) If the motion to transfer is denied, the court shall allow the defendant time to move to strike, demur, or otherwise plead if the defendant has not previously filed a response.

SEC. 19. Section 397 of the Code of Civil Procedure is amended to read:

397. The court may, on motion, change the place of trial in the following cases:

(a) When the court designated in the complaint is not the proper court.

(b) When there is reason to believe that an impartial trial cannot be had therein.

(c) When the convenience of witnesses and the ends of justice would be promoted by the change.

(d) When from any cause there is no judge of the court qualified to act.

(e) When a proceeding for dissolution of marriage has been filed in the county in which the petitioner has been a resident for three months next preceding the commencement of the proceeding, and the respondent at the time of the commencement of the proceeding is a resident of another county in this state, to the county of the respondent’s residence when the ends of justice would be promoted by the change. If a motion to change the place of trial is made pursuant to this paragraph, the court may, prior to the determination of such motion, consider and determine motions for allowance of temporary spousal support, support of children, temporary restraining orders, attorneys’ fees, and costs, and make all necessary and proper orders in connection therewith.

SEC. 20. Section 412.21 of the Code of Civil Procedure is repealed.

SEC. 21. Section 429.10 of the Code of Civil Procedure is repealed.

SEC. 22. Section 429.40 of the Code of Civil Procedure is repealed.

SEC. 23. Section 527 of the Code of Civil Procedure is amended to read:

527. (a) An injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. A copy of the complaint or of the affidavits, upon which the injunction was granted, must, if not previously served, be served therewith.

A temporary restraining order or a preliminary injunction, or both, may be granted in a class action, in which one or more of the parties sues or defends for the benefit of numerous parties upon the same grounds as in other actions, whether or not the class has been certified.

No preliminary injunction shall be granted without notice to the opposite party; nor shall any temporary restraining order be granted.
without notice to the opposite party, unless (1) it shall appear from facts shown by affidavit or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice and (2) the applicant or the applicant's attorney certifies to the court under oath (A) that within a reasonable time prior to the application he or she informed the opposing party or his or her attorney at what time and where the application would be made; (B) that he or she in good faith attempted to inform the opposing party and his or her attorney but was unable to so inform the opposing party or his or her attorney, specifying the efforts made to contact them; or (C) that for reasons specified he or she should not be required to so inform the opposing party or his or her attorney. In case a temporary restraining order shall be granted without notice, in the contingency above specified, the matter shall be made returnable on an order requiring cause to be shown why the injunction should not be granted, on the earliest day that the business of the court will admit of, but not later than 15 days or, if good cause appears to the court, 20 days from the date of the order. When the matter first comes up for hearing the party who obtained the temporary restraining order must be ready to proceed and must have served upon the opposite party at least two days prior to the hearing, a copy of the complaint and of all affidavits to be used in the application and a copy of the points and authorities in support of the application; if the party is not ready, or if he or she fails to serve a copy of his or her complaint, affidavits and points and authorities, as herein required, the court shall dissolve the temporary restraining order. The defendant, however, shall be entitled, as of course, to one continuance for a reasonable period, if he or she desires it, to enable him or her to meet the application for the preliminary injunction. The defendant may, in response to such order to show cause, present affidavits relating to the granting of the preliminary injunction, and if such affidavits are served on the applicant at least two days prior to the hearing, the applicant shall not be entitled to any continuance on account thereof. On the day upon which the order is made returnable, the hearing shall take precedence of all other matters on the calendar of the day, except older matters of the same character, and matters to which special precedence may be given by law. When the cause is at issue it shall be set for trial at the earliest possible date and shall take precedence of all other cases, except older matters of the same character, and matters to which special precedence may be given by law.

(b) This section does not apply to an order described in Section 240 of the Family Code.

SEC. 24. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing
and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. A temporary restraining order granted under this section shall remain in effect, at the court’s discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) In a proceeding under this section where there are allegations or threats of domestic violence, a support person may accompany a party in court and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and his or her attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The support person is not present as a legal adviser and shall not give legal advice. The support person shall assist the person who alleges he or she is a victim of domestic violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings where the person who alleges he or she is a victim of domestic violence and the other party must be present in close proximity. Nothing in this subdivision precludes the court from exercising its discretion to remove the support person from the courtroom if the
court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(g) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.

(h) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(i) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(j) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code or by Part 4 (commencing with Section 240) of Division 2 of the Family Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(l) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 25. Section 529 of the Code of Civil Procedure is amended to read:

529. (a) On granting an injunction, the court or judge must require an undertaking on the part of the applicant to the effect that the applicant will pay to the party enjoined such damages, not exceeding an amount to be specified, as the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction. Within five days after the service of the injunction, the person enjoined may object to the undertaking. If the court determines that the applicant's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the order granting the injunction must be dissolved.

(b) This section does not apply to any of the following persons:
   (1) Either spouse against the other in a proceeding for legal separation or dissolution of marriage.
   (2) The applicant for an order described in Section 240 of the Family Code.
   (3) A public entity or officer described in Section 995.220.

SEC. 26. Section 583.161 of the Code of Civil Procedure is
amended to read:

583.161. No petition filed pursuant to Section 2330 of the Family Code shall be dismissed pursuant to this chapter if an order for child support has been issued in connection with the proceeding and the order has not been (1) terminated by the court or (2) terminated by operation of law pursuant to Sections 3900, 3901, 4007, 4013, and 4101 of the Family Code.

SEC. 27. Section 664.5 of the Code of Civil Procedure is amended to read:

664.5. (a) In any contested action or special proceeding in a superior court, the party submitting an order or judgment for entry shall prepare and mail a copy of the notice of entry of judgment to all parties who have appeared in the action or proceeding and shall file with the court the original notice of entry of judgment together with the proof of service by mail. This subdivision does not apply in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation.

(b) Promptly upon entry of judgment in a contested action or special proceeding in a municipal or justice court, the clerk of the court shall mail notice of entry of judgment to all parties who have appeared in the action or special proceeding and shall execute a certificate of such mailing and place it in the court’s file in the cause.

(c) For purposes of this section, "judgment" includes any judgment, decree, or signed order from which an appeal lies.

(d) Upon order of the court in any action or special proceeding, the clerk shall mail notice of entry of any judgment or ruling, whether or not appealable.

SEC. 28. Section 674 of the Code of Civil Procedure is amended to read:

674. (a) Except as otherwise provided in Section 4506 of the Family Code, an abstract of a judgment or decree requiring the payment of money shall be certified by the clerk of the court where the judgment or decree was entered and shall contain all of the following:

(1) The title of the court where the judgment or decree is entered and cause and number of the action.

(2) The date of entry of the judgment or decree and of any renewals of the judgment or decree and where entered in the records of the court.

(3) The name and last known address of the judgment debtor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor’s attorney of record.

(4) The name and address of the judgment creditor.

(5) The amount of the judgment or decree as entered or as last renewed.

(6) The social security number and driver’s license number of the judgment debtor if they are known to the judgment creditor; and, if either or both of those numbers are not known to the judgment
creditor, that fact shall be indicated on the abstract of judgment.

(7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.

(8) The date of issuance of the abstract.

(b) An abstract of judgment, recorded after January 1, 1979, that does not list the social security number and driver’s license number of the judgment debtor, or either of them, as required by subdivision (a) or by Section 4506 of the Family Code, may be amended by the recording of a document entitled “Amendment to Abstract of Judgment.” The Amendment to Abstract of Judgment shall contain all of the information required by this section or by Section 4506 of the Family Code, shall list both the social security number and driver’s license number if both of those numbers were known at the date of recordation of the original abstract of judgment, or one of them, if only one was known, and shall set forth the date of recording and the book and page location in the records of the county recorder of the original abstract of judgment.

A recorded Amendment to Abstract of Judgment shall have priority as of the date of recordation of the original abstract of judgment, except as to any purchaser, encumbrancer, or lessee who obtained their interest after the recordation of the original abstract of judgment but prior to the recordation of the Amendment to Abstract of Judgment without actual notice of the original abstract of judgment. The purchaser, encumbrancer, or lessee without actual notice may assert as a defense against enforcement of the abstract of judgment the failure to comply with this section or Section 4506 of the Family Code regarding the contents of the original abstract of judgment notwithstanding the subsequent recordation of an Amendment to Abstract of Judgment. With respect to an abstract of judgment recorded between January 1, 1979, and July 10, 1985, the defense against enforcement for failure to comply with this section or Section 4506 of the Family Code may not be asserted by the holder of another abstract of judgment or involuntary lien, recorded without actual notice of the prior abstract, unless refusal to allow the defense would result in prejudice and substantial injury as used in Section 475. The recordation of an Amendment to Abstract of Judgment does not extend or otherwise alter the computation of time as provided in Section 697.310.

SEC. 29. Section 680.145 is added to the Code of Civil Procedure, to read:

680.145. “Child support” includes family support.

SEC. 30. Section 683.130 of the Code of Civil Procedure is amended to read:

683.130. (a) In the case of a lump-sum money judgment or a judgment for possession or sale of property, the application for renewal of the judgment may be filed at any time before the expiration of the 10-year period of enforceability provided by Section 683.020 or, if the judgment is a renewed judgment, at any time before the expiration of the 10-year period of enforceability of the renewed
judgment provided by Section 683.120.

(b) Except as otherwise specified in subdivisions (c), (d), and (e), in the case of a money judgment payable in installments, the application for renewal of the judgment may be filed:

(1) If the judgment has not previously been renewed, at any time as to past due amounts that at the time of filing are not barred by the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(2) If the judgment has previously been renewed, within the time specified by subdivision (a) as to the amount of the judgment as previously renewed and, as to any past due amounts that became due and payable after the previous renewal, at any time before the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(c) Notwithstanding any other provision of law to the contrary, in the case of a money judgment payable in installments for the payment of child support or family support, the application for renewal of the judgment may be filed:

(1) If the judgment has not previously been renewed, at any time as to past due amounts if the child has not attained the age of 23 years and, thereafter, at any time before the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(2) If the judgment has previously been renewed, within the time specified by subdivision (a) as to the amount of the judgment as previously renewed and, as to any past due amount that became due and payable after the previous renewal, at any time if the child has not attained the age of 23 years and, thereafter, at any time before the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(d) Any judgment for the payment of child support or family support, for which the enforcement of that support is sought by a writ of execution pursuant to Chapter 7 (commencing with Section 5100) of Part 5 of Division 9 of the Family Code, may be renewed at any time within 10 years after it was made or entered or previously renewed.

(e) A judgment for child, family, or spousal support shall not be renewed if the application is filed within five years from the time the judgment was previously renewed.

SEC. 31. Section 683.310 of the Code of Civil Procedure is amended to read:

683.310. Except as otherwise provided in Section 4502 of the Family Code, this chapter does not apply to a judgment or order made or entered pursuant to the Family Code.

SEC. 32. Section 684.010 of the Code of Civil Procedure is amended to read:

684.010. Subject to Chapter 1 (commencing with Section 283) of Title 5 of Part 1 of this code and Section 215 of the Family Code, when a notice, order, or other paper is required to be served under this title on the judgment creditor, it shall be served on the judgment
creditor's attorney of record rather than on the judgment creditor if
the judgment creditor has an attorney of record.

SEC. 33. Section 695.020 of the Code of Civil Procedure is
amended to read:

695.020. (a) Community property is subject to enforcement of a
money judgment as provided in the Family Code.
(b) Unless the provision or context otherwise requires, if
community property that is subject to enforcement of a money
judgment is sought to be applied to the satisfaction of a money
judgment:
(1) Any provision of this division that applies to the property of
the judgment debtor or to obligations owed to the judgment debtor
also applies to the community property interest of the spouse of the
judgment debtor and to obligations owed to the other spouse that are
community property.
(2) Any provision of this division that applies to property in the
possession or under the control of the judgment debtor also applies
to community property in the possession or under the control of the
spouse of the judgment debtor.

SEC. 34. Section 697.320 of the Code of Civil Procedure is
amended to read:

697.320. (a) A judgment lien on real property is created under
this section by recording an abstract or a certified copy of any of the
following money judgments with the county recorder:
(1) A judgment for child, family, or spousal support payable in
installments.
(2) A judgment entered pursuant to Section 667.7 (judgment
against health care provider requiring periodic payments).
(b) Unless the money judgment is satisfied or the judgment lien
is released, a judgment lien created under this section continues for
a period of 10 years from the date of its creation. The duration of a
judgment lien created under this section may be extended any
number of times by recording during the time the judgment lien is
in existence a certified copy of the judgment in the manner provided
in this section for the initial recording. Such rerecording has the
effect of extending the duration of the judgment lien created under
this section until 10 years from the date of the rerecording.

SEC. 35. Section 699.510 of the Code of Civil Procedure is
amended to read:

699.510. (a) Subject to subdivision (b), after entry of a money
judgment, a writ of execution shall be issued by the clerk of the court
upon application of the judgment creditor and shall be directed to
the levying officer in the county where the levy is to be made and
to any registered process server. A separate writ shall be issued for
each county where a levy is to be made. Writs may be issued
successively until the money judgment is satisfied, except that a new
writ may not be issued for a county until the expiration of 180 days
after the issuance of a prior writ for that county unless the prior writ
is first returned.
(b) If the judgment creditor seeks a writ of execution to enforce a judgment made, entered, or enforceable pursuant to the Family Code, in addition to the requirements of this article, the judgment creditor shall satisfy the requirements of any applicable provisions of Chapter 7 (commencing with Section 5100) of Part 5 of Division 9 of the Family Code and Sections 290, 291, 2026, and 3556 of the Family Code.

SEC. 36. Section 699.560 of the Code of Civil Procedure is amended to read:

699.560. (a) Except as provided in subdivisions (b) and (c), the levying officer to whom the writ of execution is delivered shall return the writ to the court, together with a report of the levying officer’s actions and an accounting of amounts collected and costs incurred, at the earliest of the following times:

1. Two years from the date of issuance of the writ.
2. Promptly after all of the duties under the writ are performed.
3. When return is requested in writing by the judgment creditor.
4. If no levy takes place under the writ within 180 days after its issuance, promptly after the expiration of the 180-day period.
5. Upon expiration of the time for enforcement of the money judgment.

(b) If a levy has been made under Section 700.200 upon an interest in personal property in the estate of a decedent, the writ shall be returned within the time prescribed in Section 700.200.

(c) If a levy has been made under Section 5103 of the Family Code on the judgment debtor’s right to the payment of benefits from an employee pension benefit plan, the writ shall be returned within the time prescribed in that section.

SEC. 37. Section 703.070 of the Code of Civil Procedure is amended to read:

703.070. Except as otherwise provided by statute:

(a) The exemptions provided by this chapter or by any other statute apply to a judgment for child, family, or spousal support.

(b) If property is exempt without making a claim, the property is not subject to being applied to the satisfaction of a judgment for child, family, or spousal support.

(c) Except as provided in subdivision (b), if property sought to be applied to the satisfaction of a judgment for child, family, or spousal support is shown to be exempt under subdivision (a) in appropriate proceedings, the court shall, upon noticed motion of the judgment creditor, determine the extent to which the exempt property nevertheless shall be applied to the satisfaction of the judgment. In making this determination, the court shall take into account the needs of the judgment creditor, the needs of the judgment debtor and all the persons the judgment debtor is required to support, and all other relevant circumstances. The court shall effectuate its determination by an order specifying the extent to which the otherwise exempt property is to be applied to the satisfaction of the judgment.

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SEC. 38. Section 704.070 of the Code of Civil Procedure is amended to read:

704.070. (a) As used in this section:

(1) "Earnings withholding order" means an earnings withholding order under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law).

(2) "Paid earnings" means earnings as defined in Section 706.011 that were paid to the employee during the 30-day period ending on the date of the levy. For the purposes of this paragraph, where earnings that have been paid to the employee are sought to be subjected to the enforcement of a money judgment other than by a levy, the date of levy is deemed to be the date the earnings were otherwise subjected to the enforcement of the judgment.

(3) "Earnings assignment order for support" means an earnings assignment order for support as defined in Section 706.011.

(b) Paid earnings that can be traced into deposit accounts or in the form of cash or its equivalent as provided in Section 703.080 are exempt in the following amounts:

(1) All of the paid earnings are exempt if prior to payment to the employee they were subject to an earnings withholding order or an earnings assignment order for support.

(2) Seventy-five percent of the paid earnings that are levied upon or otherwise sought to be subjected to the enforcement of a money judgment are exempt if prior to payment to the employee they were not subject to an earnings withholding order or an earnings assignment order for support.

SEC. 39. Section 704.110 of the Code of Civil Procedure is amended to read:

704.110. (a) As used in this section:

(1) "Public entity" means the state, or a city, city and county, county, or other political subdivision of the state, or a public trust, public corporation, or public board, or the governing body of any of them, but does not include the United States except where expressly so provided.

(2) "Public retirement benefit" means a pension or an annuity, or a retirement, disability, death, or other benefit, paid or payable by a public retirement system.

(3) "Public retirement system" means a system established pursuant to statute by a public entity for retirement, annuity, or pension purposes or payment of disability or death benefits.

(b) All amounts held, controlled, or in process of distribution by a public entity derived from contributions by the public entity or by an officer or employee of the public entity for public retirement benefit purposes, and all rights and benefits accrued or accruing to any person under a public retirement system, are exempt without making a claim.

(c) Notwithstanding subdivision (b), where an amount described in subdivision (b) becomes payable to a person and is sought to be applied to the satisfaction of a judgment for child, family, or spousal
support against that person:
(1) Except as provided in paragraph (2), the amount is exempt only to the extent that the court determines under subdivision (c) of Section 703.070.

(2) If the amount sought to be applied to the satisfaction of the judgment is payable periodically, the amount payable is subject to an earnings assignment order for support as defined in Section 706.011 or any other applicable enforcement procedure, but the amount to be withheld pursuant to the assignment order or other procedure shall not exceed the amount permitted to be withheld on an earnings withholding order for support under Section 706.052. The paying entity may deduct from each payment made pursuant to an earnings assignment order under this paragraph an amount reflecting the actual cost of administration caused by the assignment order up to two dollars ($2) for each payment.

(d) All amounts received by any person, a resident of the state, as a public retirement benefit or as a return of contributions and interest thereon from the United States or a public entity or from a public retirement system are exempt.

SEC. 40. Section 704.113 of the Code of Civil Procedure is amended to read:

704.113. (a) As used in this section, "vacation credits" means vacation credits accumulated by a state employee pursuant to Section 18050 of the Government Code or by any other public employee pursuant to any law for the accumulation of vacation credits applicable to the employee.

(b) All vacation credits are exempt without making a claim.

(c) Amounts paid periodically or as a lump sum representing vacation credits are subject to any earnings withholding order served under Chapter 5 (commencing with Section 706.010) or any earnings assignment order for support as defined in Section 706.011 and are exempt to the same extent as earnings of a judgment debtor.

SEC. 41. Section 704.114 of the Code of Civil Procedure is amended to read:

704.114. Notwithstanding any other provision of law, when a certified copy of any earnings assignment order for support is served on any public entity described in Section 704.110 other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the assignment order. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of the fact to the parties, and any agency through whom payments have been ordered under Article 4 (commencing with Section 4200) of Chapter 2 of Part 2 of Division 9 of the Family Code or Chapter 4 (commencing with Section 4350) of Part 3 of Division 9 of the Family Code. These moneys shall be subject to any procedure available to enforce an order for support,
but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting employee or his or her heirs. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for support upon the issuance of such a request by such an employee.

SEC. 42. Section 704.115 of the Code of Civil Procedure is amended to read:

704.115. (a) As used in this section, "private retirement plan" means:

(1) Private retirement plans, including, but not limited to, union retirement plans.

(2) Profit-sharing plans designed and used for retirement purposes.

(3) Self-employed retirement plans and individual retirement annuities or accounts provided for in the Internal Revenue Code of 1954 as amended, to the extent the amounts held in the plans, annuities, or accounts do not exceed the maximum amounts exempt from federal income taxation under that code.

(b) All amounts held, controlled, or in process of distribution by a private retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a private retirement plan are exempt.

(c) Notwithstanding subdivision (b), where an amount described in subdivision (b) becomes payable to a person and is sought to be applied to the satisfaction of a judgment for child, family, or spousal support against that person:

(1) Except as provided in paragraph (2), the amount is exempt only to the extent that the court determines under subdivision (c) of Section 703.070.

(2) If the amount sought to be applied to the satisfaction of the judgment is payable periodically, the amount payable is subject to an earnings assignment order for support as defined in Section 706.011 or any other applicable enforcement procedure, but the amount to be withheld pursuant to the assignment order or other procedure shall not exceed the amount permitted to be withheld on an earnings withholding order for support under Section 706.052.

(d) After payment, the amounts described in subdivision (b) and all contributions and interest thereon returned to any member of a private retirement plan are exempt.

(e) Notwithstanding subdivisions (b) and (d), except as provided in subdivision (f), the amounts described in paragraph (3) of subdivision (a) are exempt only to the extent necessary to provide for the support of the judgment debtor when the judgment debtor retires and for the support of the spouse and dependents of the judgment debtor, taking into account all resources that are likely to
be available for the support of the judgment debtor when the judgment debtor retires. In determining the amount to be exempt under this subdivision, the court shall allow the judgment debtor such additional amount as is necessary to pay any federal and state income taxes payable as a result of the applying of an amount described in paragraph (3) of subdivision (a) to the satisfaction of the money judgment.

(f) Where the amounts described in paragraph (3) of subdivision (a) are payable periodically, the amount of such periodic payment that may be applied to the satisfaction of a money judgment is the amount that may be withheld from a like amount of earnings under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law).

SEC. 43. Section 704.120 of the Code of Civil Procedure is amended to read:

704.120. (a) Contributions by workers payable to the Unemployment Compensation Disability Fund and by employers payable to the Unemployment Fund are exempt without making a claim.

(b) Before payment, amounts held for payment of the following benefits are exempt without making a claim:

(1) Benefits payable under Division 1 (commencing with Section 100) of the Unemployment Insurance Code.

(2) Incentives payable under Division 2 (commencing with Section 5000) of the Unemployment Insurance Code.

(3) Benefits payable under an employer's plan or system to supplement unemployment compensation benefits of the employees generally or for a class or group of employees.

(4) Unemployment benefits payable by a fraternal organization to its bona fide members.

(5) Benefits payable by a union due to a labor dispute.

(c) After payment, the benefits described in subdivision (b) are exempt.

(d) During the payment of benefits described in paragraph (1) of subdivision (b) to a judgment debtor under a support judgment, the judgment creditor may, through the appropriate district attorney, seek to apply the benefit payment to satisfy the judgment as provided by Section 11350.5 of the Welfare and Institutions Code.

(e) During the payment of benefits described in paragraphs (2) to (5), inclusive, of subdivision (b) to a judgment debtor under a support judgment, the judgment creditor may, directly or through the appropriate district attorney, seek to apply the benefit payments to satisfy the judgment by an earnings assignment order for support as defined in Section 706.011 or any other applicable enforcement procedure. If the benefit is payable periodically, the amount to be withheld pursuant to the assignment order or other procedure shall be 25 percent of the amount of each periodic payment or any lower amount specified in writing by the judgment creditor or court order, rounded down to the nearest whole dollar. Otherwise the amount to
be withheld shall be the amount the court determines under subdivision (c) of Section 703.070. The paying entity may deduct from each payment made pursuant to an assignment order under this subdivision an amount reflecting the actual cost of administration caused by the assignment order up to two dollars ($2) for each payment.

SEC. 44. Section 704.950 of the Code of Civil Procedure is amended to read:

704.950. (a) Except as provided in subdivisions (b) and (c), a judgment lien on real property created pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 does not attach to a declared homestead if both of the following requirements are satisfied:

1. A homestead declaration describing the declared homestead was recorded prior to the time the abstract or certified copy of the judgment was recorded to create the judgment lien.

2. The homestead declaration names the judgment debtor or the spouse of the judgment debtor as a declared homestead owner.

(b) This section does not apply to a judgment lien created under Section 697.320 by recording a certified copy of a judgment for child, family, or spousal support.

(c) A judgment lien attaches to a declared homestead in the amount of any surplus over the total of the following:

1. All liens and encumbrances on the declared homestead at the time the abstract of judgment or certified copy of the judgment is recorded to create the judgment lien.

2. The homestead exemption set forth in Section 704.730.

SEC. 45. Section 706.011 of the Code of Civil Procedure is amended to read:

706.011. As used in this chapter:

(a) "Earnings" means compensation payable by an employer to an employee for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise.

(b) "Earnings assignment order for support" means an order, made pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code or Section 3088 of the Probate Code, which requires an employer to withhold earnings for support.

(c) "Employee" means a public officer and any individual who performs services subject to the right of the employer to control both what shall be done and how it shall be done.

(d) "Employer" means a person for whom an individual performs services as an employee.

(e) "Judgment creditor," as applied to the state, means the specific state agency seeking to collect a judgment or tax liability.

(f) "Judgment debtor" includes a person from whom the state is seeking to collect a tax liability under Article 4 (commencing with Section 706.070), whether or not a judgment has been obtained on such tax liability.
(g) "Person" includes an individual, a corporation, a partnership or other unincorporated association, and a public entity.

SEC. 46. Section 706.020 of the Code of Civil Procedure is amended to read:

706.020. Except for an earning assignment order for support, the earnings of an employee shall not be required to be withheld by an employer for payment of a debt by means of any judicial procedure other than pursuant to this chapter.

SEC. 47. Section 706.031 of the Code of Civil Procedure is amended to read:

706.031. (a) Nothing in this chapter affects an earnings assignment order for support.

(b) An earnings assignment order for support shall be given priority over any earnings withholding order. An employer upon whom an earnings assignment order for support is served shall withhold and pay over the earnings of the employee pursuant to the assignment order notwithstanding the requirements of any earnings withholding order. When an employer is required to cease withholding earnings pursuant to an earnings withholding order, the employer shall notify the levying officer who served the earnings withholding order that a supervening earnings assignment order for support is in effect.

(c) Subject to subdivisions (b), (d), and (e), an employer shall withhold earnings of an employee pursuant to both an earnings assignment order for support and an earnings withholding order.

(d) The employer shall withhold pursuant to an earnings withholding order only to the extent that the sum of the amount withheld pursuant to any earnings assignment order for support and the amount withheld pursuant to the earnings withholding order does not exceed the amount that may be withheld under Article 3 (commencing with Section 706.050).

(e) The employer shall withhold pursuant to an earnings withholding order for taxes only to the extent that the sum of the amount withheld pursuant to any earnings assignment order for support and the amount withheld pursuant to the earnings withholding order for taxes does not exceed the amount that may be withheld under Article 4 (commencing with Section 706.070).

SEC. 48. Section 706.052 of the Code of Civil Procedure is amended to read:

706.052. (a) Except as provided in subdivision (b), one-half of the disposable earnings (as defined by Section 1672 of Title 15 of the United States Code) of the judgment debtor, plus any amount withheld from the judgment debtor's earnings pursuant to any earnings assignment order for support, is exempt from levy under this chapter where the earnings withholding order is a withholding order for support under Section 706.030.

(b) Except as provided in subdivision (c), upon motion of any interested party, the court shall make an equitable division of the judgment debtor's earnings that takes into account the needs of all
the persons the judgment debtor is required to support and shall
effectuate such division by an order determining the amount to be
withheld from the judgment debtor's earnings pursuant to the
withholding order for support.

(c) An order made under subdivision (b) may not authorize the
withholding of an amount in excess of the amount that may be
withheld for support under federal law under Section 1673 of Title
15 of the United States Code.

SEC. 49. Section 706.124 of the Code of Civil Procedure is
amended to read:

706.124. The "judgment debtor's financial statement" shall be
executed as provided in Section 703.530 and contain all of the
information required by that section and the following additional
information:

(a) Whether any earnings withholding orders are in effect with
respect to the earnings of the judgment debtor or the spouse or
dependents of the judgment debtor.

(b) Whether any earnings assignment orders for support are in
effect with respect to the earnings of the judgment debtor or the
spouse or dependents of the judgment debtor.

SEC. 50. Section 706.126 of the Code of Civil Procedure is
amended to read:

706.126. (a) The "employer's return" shall be executed under
oath. The form for the return provided to the employer shall state
all of the following information:

(1) The name and address of the levying officer to whom the form
is to be returned.

(2) A direction that the form be mailed to the levying officer by
first-class mail, postage prepaid, no later than 15 days after the date
of service of the earnings withholding order.

(3) The name, the address, and, if known, the social security
number of the judgment debtor.

(b) In addition, the employer's return form shall require the
employer to supply all of the following information:

(1) The date the earnings withholding order was served on the
employer.

(2) Whether the judgment debtor is employed by the employer
or whether the employer otherwise owes earnings to the employee.

(3) If the judgment debtor is employed by the employer or the
employer otherwise owes earnings to the employee, the amount of
the employee's earnings for the last pay period and the length of this
pay period.

(4) Whether the employer was required on the date of service to
comply with an earlier earnings withholding order and, if so, the
name of the judgment creditor who secured the earlier order, the
levying officer who served such order, the date it was issued, the date
it was served, the expiration date of such order, and which of the
earnings withholding orders the employer is required to comply with
under the applicable statutory rules concerning the priority of such

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orders.
(5) Whether the employer was required on the date of service to comply with an earnings assignment order for support and, if so, the court which issued such assignment order and the date it was issued and any other information the Judicial Council determines is needed to identify the order.
(6) The name and address of the person to whom notices to the employer are to be sent.
SEC. 51. Section 708.510 of the Code of Civil Procedure is amended to read:
708.510. (a) Except as otherwise provided by law, upon application of the judgment creditor on noticed motion, the court may order the judgment debtor to assign to the judgment creditor or to a receiver appointed pursuant to Article 7 (commencing with Section 708.610) all or part of a right to payment due or to become due, whether or not the right is conditioned on future developments, including but not limited to the following types of payments:
(1) Wages due from the federal government that are not subject to withholding under an earnings withholding order.
(2) Rents.
(3) Commissions.
(4) Royalties.
(5) Payments due from a patent or copyright.
(6) Insurance policy loan value.
(b) The notice of the motion shall be served on the judgment debtor. Service shall be made personally or by mail.
(c) Subject to subdivisions (d), (e), and (f), in determining whether to order an assignment or the amount of an assignment pursuant to subdivision (a), the court may take into consideration all relevant factors, including the following:
(1) The reasonable requirements of a judgment debtor who is a natural person and of persons supported in whole or in part by the judgment debtor.
(2) Payments the judgment debtor is required to make or that are deducted in satisfaction of other judgments and wage assignments, including earnings assignment orders for support.
(3) The amount remaining due on the money judgment.
(4) The amount being or to be received in satisfaction of the right to payment that may be assigned.
(d) A right to payment may be assigned pursuant to this article only to the extent necessary to satisfy the money judgment.
(e) When earnings or periodic payments pursuant to a pension or retirement plan are assigned pursuant to subdivision (a), the amount of the earnings or the periodic payments assigned shall not exceed the amount that may be withheld from a like amount of earnings under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law).
(f) Where a specific amount of the payment or payments to be assigned is exempt by another statutory provision, the amount of the
payment or payments to be assigned pursuant to subdivision (a) shall not exceed the amount by which the payment or payments exceed the exempt amount.

SEC. 52. Section 708.730 of the Code of Civil Procedure is amended to read:

708.730. (a) If money is owing and unpaid to the judgment debtor by a public entity, the judgment creditor may file, in the manner provided in this article, an abstract of the money judgment or a certified copy of the money judgment, together with an affidavit that states that the judgment creditor desires the relief provided by this article and states the exact amount then required to satisfy the judgment. The judgment creditor may state in the affidavit any fact tending to establish the identity of the judgment debtor.

(b) Promptly after filing the abstract or certified copy of the judgment and the affidavit with the public entity, the judgment creditor shall serve notice of the filing on the judgment debtor. Service shall be made personally or by mail.

(c) If the judgment is for support and related costs and money is owing and unpaid to the judgment debtor by a state agency, including, but not limited to, money owing and unpaid to the judgment debtor by a state agency on a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, and the district attorney is enforcing the support obligation pursuant to Section 11475.1 of the Welfare and Institutions Code, the claim may be submitted as follows: The district attorney may file the affidavit referred to in subdivision (a) without filing an abstract or certified copy of the judgment. In lieu thereof, the affidavit shall also state that an abstract of the judgment could be obtained. Where there is more than one judgment debtor, the district attorney may include all the judgment debtors in a single affidavit. Separate affidavits need not be submitted for each judgment debtor. The affidavit need not on its face separately identify each judgment debtor or the exact amount required to satisfy the judgment, so long as it incorporates by reference forms or other automated data transmittals, as required by the State Department of Social Services, which contain this information. Affidavits submitted pursuant to this subdivision by the district attorney shall meet the standards and procedures prescribed by the state agency to which the affidavit is submitted, except that those affidavits submitted with respect to moneys owed and unpaid to the judgment debtor as a result of a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporations Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, shall meet the standards and procedures prescribed
by the Franchise Tax Board.

In serving the notice required by subdivision (b), the Director of the State Department of Social Services or his or her designee may act in lieu of the judgment creditor as to judgments enforced under this division.

(d) If the judgment is for child, spousal, or family support and related costs and money is owing and unpaid to the judgment debtor by a state agency on a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, or as a result of the judgment debtor's winnings in the California State Lottery, the judgment creditor may file with the court an abstract or a certified copy of the judgment ordering the payment of child, spousal, or family support, together with a request that the court issue a Notice of Support Arrearage, as provided in Section 708.780, to which any personal income tax refunds and lottery winnings owed the judgment debtor by the State of California will be subject. The request shall be accompanied by an affidavit which shall state that the judgment creditor desires the relief provided by this subdivision and shall state the exact amount then required to satisfy the judgment. In addition, the affidavit shall specify the beginning and ending dates of all periods during which the arrearage for support occurred, specify the arrearage for each month, and state that each specified arrearage has been delinquent for at least 30 days. It shall also certify that the child or children are not recipients, and during the period for which payment is requested, were not recipients, of Aid to Families with Dependent Children and there was no assignment to a state or county agency of support and shall certify on information and belief that there is not current or past action by a district attorney pending for support or support enforcement on the judgment creditor's behalf.

The request shall have attached a proof of service showing that copies of the request, the affidavit, and the abstract or certified copy of the judgment ordering the payment of support have been served on the judgment debtor and the district attorney of the county in which the support judgment is entered. Service shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

This subdivision does not apply in any instance in which a district attorney initiated or participated as counsel in the action for support or if support is required to be paid through a district attorney's office.

This subdivision shall be operative only until January 1, 1994.

(e) For purposes of this section, "support" means an obligation owing on behalf of a child, spouse, or family, or combination thereof.

SEC. 53. Section 724.250 of the Code of Civil Procedure is amended to read:

724.250. (a) An acknowledgment of satisfaction of maturesd
installs under an installment judgment shall be made in the same manner and by the same person as an acknowledgment of satisfaction of judgment and shall contain the following information:

1. The title of the court.
2. The cause and number of the action.
3. The names and addresses of the judgment creditor, the judgment debtor, and the assignee of record if any. The judgment debtor’s name shall appear on the acknowledgment of satisfaction of matured installments as it appears on the certified copy of the judgment that was recorded to create the judgment lien.
4. The date of entry of the judgment and of any renewals of the judgment and where entered in the records of the court.
5. A statement that the matured installments under the installment judgment had been satisfied as of a specified date.
6. A statement whether a certified copy or abstract of the judgment has been recorded in any county and, if so, a statement of each county where the certified or abstract copy has been recorded and the book and page of the county records where the certified copy or abstract of the judgment has been recorded.

(b) If any amount of child or spousal support provided in a support order has been directed to be made to an officer designated by statute or by the court pursuant to Article 4 (commencing with Section 4200) of Chapter 2 of Part 2 of Division 9 of the Family Code or Chapter 4 (commencing with Section 4350) of Part 3 of Division 9 of the Family Code or any other provision of law and the directive is set forth in the certified copy or abstract of the judgment that was recorded to create the judgment lien on real property, or in a similarly recorded certified copy or abstract of an amended or supplemental order, the acknowledgment of satisfaction of matured installments under the installment judgment is not effective and does not affect the judgment lien unless the acknowledgment is executed by or approved in writing by the designated officer.

SEC. 54. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i), (2) a judgment of contempt which is made final and conclusive by Section 1222, (3) a judgment on appeal from a municipal court or a justice court or a small claims court, or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition, or a judgment or order for the payment of monetary sanctions, upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by
subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order made appealable by the provisions of the Probate Code or the Family Code.

(k) From a superior court judgment directing payment of monetary sanctions by a party or an attorney for a party only if the amount exceeds seven hundred fifty dollars ($750). Lesser sanction judgments against a party or an attorney for a party may be reviewed on an appeal by that party after entry of final judgment in the main action, or, at the discretion of the court of appeal, may be reviewed upon petition for an extraordinary writ.

SEC. 55. Section 917.7 of the Code of Civil Procedure is amended to read:

917.7. The perfecting of an appeal shall not stay proceedings as to those provisions of a judgment or order which award, change, or otherwise affect the custody, including the right of visitation, of a minor child in any civil action, in an action filed under the Juvenile Court Law, or in a special proceeding, or the provisions of a judgment or order for the temporary exclusion of a party from the family dwelling or the dwelling of the other party, as provided in the Family Code. However, the trial court may in its discretion stay execution of such provisions pending review on appeal or for such other period or periods as to it may appear appropriate. Further, in the absence of a writ or order of a reviewing court providing otherwise, the provisions of the judgment or order allowing, or eliminating restrictions against, removal of the minor child from the state are stayed by operation of law for a period of 30 days from the entry of the judgment or order and are subject to any further stays ordered by the trial court, as herein provided.

SEC. 56. Section 1006.5 of the Code of Civil Procedure is amended to read:

1006.5. (a) The Judicial Council shall adopt a standard of judicial administration governing the appearance of counsel by telephone at
any hearing of a demurrer, an order to show cause, or a motion heard before the action is called for trial.

(b) The standard of judicial administration shall provide that counsel for a party to a civil action may appear by telephone at any of those hearings unless (1) the action or proceeding is one filed pursuant to the Family Code, (2) any party notices an intent to present oral testimony, or (3) the court orders the personal appearance of counsel.

(c) Within six months after the Judicial Council has adopted that standard of judicial administration, the superior court of each county shall advise the Judicial Council whether it will incorporate the standard, a modified version thereof, or not provide for the appearance of counsel by telephone in its local rules.

SEC. 57. Section 1209.5 of the Code of Civil Procedure is amended to read:

1209.5. When a court of competent jurisdiction makes an order compelling a parent to furnish support or necessary food, clothing, shelter, medical attendance, or other remedial care for his or her child, proof that the order was made, filed, and served on the parent or proof that the parent was present in court at the time the order was pronounced and proof that the parent did not comply with the order is prima facie evidence of a contempt of court.

SEC. 58. 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 3 (commencing with Section 7600) of Division 12 of the Family Code).

SEC. 59. Section 1276 of the Code of Civil Procedure is amended to read:

1276. All applications for change of names shall be made to the superior court of the county where the person whose name is proposed to be changed resides either (a) by petition signed by the person or, if the person is under 18 years of age, by one of the person’s parents, if living, or if both parents are dead, then by the guardian of the person and, if there is no guardian, then by some near relative or friend of the person or (b) as provided in Section 7638 of the Family Code.

The petition or pleading shall specify the place of birth and residence of the person, his or her present name, the name proposed, and the reason for the change of name, and shall, if neither parent of the person is living, name, as far as known to the person proposing the name change, the near relatives of the person, and their place of residence.

In an action for a change of name commenced by the filing of a petition:

(a) If the person whose name is proposed to be changed is under 18 years of age and the petition is signed by only one parent, the petition shall specify the address, if known, of the other parent if living.

(b) If the person whose name is proposed to be changed is 12 years of age or over, has been relinquished to an adoption agency by his or her parent or parents, and has not been legally adopted, the petition shall be signed by the person and the adoption agency to which the person was relinquished. The near relatives of the person and their place of residence shall not be included in the petition unless they are known to the person whose name is proposed to be changed.

SEC. 60. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) Where an action for a change of name is commenced by the filing of a petition, the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be
posted by the clerk of the court in three of the most public places in
the county in which the court is located, for a like period. Proof shall
be made to the satisfaction of the court of this publication or posting,
at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the
order to show cause. If the order is published in a daily newspaper,
publishation once a week for four successive weeks shall be sufficient.

Where a petition has been filed for a minor and the other parent,
if living, does not join in consenting thereto, the petitioner shall
cause, not less than 30 days prior to the hearing, to be served notice
of the time and place of the hearing or a copy of the order to show
cause on the other parent pursuant to Section 413.10, 414.10, 415.10,
or 415.40.

(b) Where application for change of name is brought as part of an
action under the Uniform Parentage Act (Part 3 (commencing with
Section 7600) of Division 12 of the Family Code), whether as part of
a petition or cross-complaint or as a separate order to show cause in
a pending action thereunder, service of the application shall be made
upon all other parties to the action in a like manner as prescribed for
the service of a summons, as is set forth in Article 3 (commencing
with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting
of a hearing on the issue, notice of the hearing shall be given to all
parties in the action in a like manner and within the time limits
prescribed generally for the type of hearing (whether trial or order
to show cause) at which the issue of the change of name is to be
decided.

SEC. 61. Section 1278 of the Code of Civil Procedure is amended
to read:

1278. (a) Except as provided in subdivision (b), the application
shall be heard at the time designated by the court, only if objections
are filed by any person who can, in those objections, show to the
court good reason against the change of name. At the hearing, the
court may examine on oath any of the petitioners, remonstrants, or
other persons, touching the application, and may make an order
changing the name, or dismissing the application, as to the court may
seem right and proper.

If no objection is filed the court may, without hearing, enter the
order that the change of name is granted.

(b) Where the application for a change of name is brought as part
of an action under the Uniform Parentage Act (Part 3 (commencing
with Section 7600) of Division 12 of the Family Code), the hearing
on the issue of the change of name shall be conducted pursuant to
statutes and rules of court governing those proceedings, whether the
hearing is conducted upon an order to show cause or upon trial.

SEC. 62. Section 1279.5 of the Code of Civil Procedure is
amended to read:

1279.5. Nothing in this title shall be construed to abrogate the
common law right of any person to change one's name.

SEC. 63. Section 1279.6 is added to the Code of Civil Procedure,
to read:

1279.6. No person engaged in a trade or business of any kind or in the provision of a service of any kind shall do any of the following:

(a) Refuse to do business with a woman, or refuse to provide the service to a woman, regardless of her marital status, because she has chosen to use or regularly uses her birth name or former name.

(b) Impose, as a condition of doing business with a woman, or as a condition of providing the service to a woman, a requirement that the woman, regardless of her marital status, use a name other than her birth name or former name if she has chosen to use or regularly uses her birth name or former name.

SEC. 64. Section 1710.10 of the Code of Civil Procedure is amended to read:

1710.10. As used in this chapter:

(a) "Judgment creditor" means the person or persons who can bring an action to enforce a sister state judgment.

(b) "Judgment debtor" means the person or persons against whom an action to enforce a sister state judgment can be brought.

(c) "Sister state judgment" means that part of any judgment, decree, or order of a court of a state of the United States, other than California, which requires the payment of money, but does not include a support order as defined in Section 155 of the Family Code.

SEC. 65. Section 2032 of the Code of Civil Procedure is amended to read:

2032. (a) Any party may obtain discovery, subject to the restrictions set forth in Section 2019, by means of a physical or mental examination of (1) a party to the action, (2) an agent of any party, or (3) a natural person in the custody or under the legal control of a party, in any action in which the mental or physical condition (including the blood group) of that party or other person is in controversy in the action.

(b) A physical examination conducted under this section shall be performed only by a licensed physician and surgeon or other appropriate licensed health care practitioner. A mental examination conducted under this section shall be performed only by a licensed physician and surgeon, or by a licensed clinical psychologist who holds a doctorate degree in psychology and has had at least five years of postgraduate experience in the diagnosis of emotional and mental disorders. Nothing in this section affects tests under the Uniform Act on Blood Tests to Determine Paternity (Part 2 (commencing with Section 7550) of Division 12 of the Family Code).

(c) (1) As used in this subdivision, plaintiff includes a cross-complainant, and defendant includes a cross-defendant.

(2) In any case in which a plaintiff is seeking recovery for personal injuries, any defendant may demand one physical examination of the plaintiff, provided the examination does not include any diagnostic test or procedure that is painful, protracted, or intrusive, and is conducted at a location within 75 miles of the residence of the examinee. A defendant may make this demand without leave of
court after that defendant has been served or has appeared in the action, whichever occurs first. This demand shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the physician who will perform the examination.

(3) A physical examination demanded under this subdivision shall be scheduled for a date that is at least 30 days after service of the demand for it unless on motion of the party demanding the examination the court has shortened this time.

(4) The defendant shall serve a copy of the demand for this physical examination on the plaintiff and on all other parties who have appeared in the action.

(5) The plaintiff to whom this demand for a physical examination has been directed shall respond to the demand by a written statement that the examinee will comply with the demand as stated, will comply with the demand as specifically modified by the plaintiff, or will refuse, for reasons specified in the response, to submit to the demanded physical examination. Within 20 days after service of the demand the plaintiff to whom the demand is directed shall serve the original of the response to it on the defendant making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the defendant making the demand the court has shortened the time for response, or unless on motion of the plaintiff to whom the demand has been directed, the court has extended the time for response.

(6) If a plaintiff to whom this demand for a physical examination has been directed fails to serve a timely response to it, that plaintiff waives any objection to the demand. However, the court, on motion, may relieve that plaintiff from this waiver on its determination that (A) the plaintiff has subsequently served a response that is in substantial compliance with paragraph (5), and (B) the plaintiff’s failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The defendant may move for an order compelling response and compliance with a demand for a physical examination. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel response and compliance with a demand for a physical examination, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a plaintiff then fails to obey the order compelling response and compliance, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction the court may impose a monetary sanction under Section 2023.

(7) If a defendant who has demanded a physical examination under this subdivision, on receipt of the plaintiff’s response to that
demand, deems that any modification of the demand, or any refusal to submit to the physical examination is unwarranted, that defendant may move for an order compelling compliance with the demand. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel compliance with a demand for a physical examination, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(8) The demand for a physical examination and the response to it shall not be filed with the court. The defendant shall retain both the original of the demand, with the original proof of service affixed to it, and the original response until six months after final disposition of the action. At that time, the original may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(d) If any party desires to obtain discovery by a physical examination other than that described in subdivision (c), or by a mental examination, the party shall obtain leave of court. The motion for the examination shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the person or persons who will perform the examination. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt to arrange for the examination by an agreement under subdivision (e). Notice of the motion shall be served on the person to be examined and on all parties who have appeared in the action.

The court shall grant a motion for a physical or mental examination only for good cause shown. If a party stipulates that (1) no claim is being made for mental and emotional distress over and above that usually associated with the physical injuries claimed, and (2) no expert testimony regarding this usual mental and emotional distress will be presented at trial in support of the claim for damages, a mental examination of a person for whose personal injuries a recovery is being sought shall not be ordered except on a showing of exceptional circumstances. The order granting a physical or mental examination shall specify the person or persons who may perform the examination, and the time, place, manner, diagnostic tests and procedures, conditions, scope, and nature of the examination. If the place of the examination is more than 75 miles from the residence of the person to be examined, the order to submit to it shall be (1) made only on the court’s determination that there is good cause for the travel involved, and (2) conditioned on the advancement by the moving party of the reasonable expenses and costs to the examinee for travel to the place of examination.

(e) In lieu of the procedures and restrictions specified in
subdivisions (c) and (d), any physical or mental examination may be arranged by, and carried out under, a written agreement of the parties.

(f) If a party required by subdivision (c), (d), or (e) to submit to a physical or mental examination fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may, on motion of the party, impose a monetary sanction under Section 2023.

If a party required by subdivision (c), (d), or (e) to produce another for a physical or mental examination fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023, unless the party failing to comply demonstrates an inability to produce that person for examination. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(g) (1) The attorney for the examinee or for a party producing the examinee, or that attorney's representative, shall be permitted to attend and observe any physical examination conducted for discovery purposes, and to record stenographically or by audio tape any words spoken to or by the examinee during any phase of the examination. This observer may monitor the examination, but shall not participate in or disrupt it.

If in the judgment of the observer the examiner becomes abusive to the examinee or undertakes to engage in unauthorized diagnostic tests and procedures, the observer may suspend it to enable the party being examined or producing the examinee to make a motion for a protective order. If the observer begins to participate in or disrupt the examination, the person conducting the physical examination may suspend the examination to enable the party at whose instance it is being conducted to move for a protective order.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If the examinee submits or authorizes access to X-rays of any area of his or her body for inspection by the examining physician and surgeon, no additional X-rays of that area may be taken by the examining physician and surgeon except with consent of the examinee or on order of the court for good cause shown.

(2) The examiner and examinee shall have the right to record a mental examination on audio tape. However, nothing in this article shall be construed to alter, amend, or affect existing case law with respect to the presence of the attorney for the examinee or other persons during the examination by agreement or court order.

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(h) If a party submits to, or produces another for, a physical or mental examination in compliance with a demand under subdivision (c), an order of court under subdivision (d), or an agreement under subdivision (e), that party has the option of making a written demand that the party at whose instance the examination was made deliver to the demanding party (1) a copy of a detailed written report setting out the history, examinations, findings, including the results of all tests made, diagnoses, prognoses, and conclusions of the examiner, and (2) a copy of reports of all earlier examinations of the same condition of the examinee made by that or any other examiner. If this option is exercised, a copy of these reports shall be delivered within 30 days after service of the demand, or within 15 days of trial, whichever is earlier. The protection for work product under Section 2018 is waived, both for the examiner's writings and reports and to the taking of the examiner's testimony.

If the party at whose instance the examination was made fails to make a timely delivery of the reports demanded, the demanding party may move for an order compelling their delivery. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel delivery of medical reports, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling delivery of demanded medical reports, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to those sanctions, the court may impose a monetary sanction under Section 2023. The court shall exclude at trial the testimony of any examiner whose report has not been provided by a party.

(i) By demanding and obtaining a report of a physical or mental examination under subdivision (h), or by taking the deposition of the examiner, other than under subdivision (i) of Section 2034, the party who submitted to, or produced another for, a physical or mental examination waives in the pending action, and in any other action involving the same controversy, any privilege, as well as any protection for work product under Section 2018, that the party or other examinee may have regarding reports and writings as well as the testimony of every other physician and surgeon, psychologist, or licensed health care practitioner who has examined or may thereafter examine the party or other examinee in respect of the same physical or mental condition.

(j) A party receiving a demand for a report under subdivision (h) is entitled at the time of compliance to receive in exchange a copy
of any existing written report of any examination of the same condition by any other physician and surgeon, psychologist, or licensed health care practitioner. In addition, that party is entitled to receive promptly any later report of any previous or subsequent examination of the same condition, by any physician and surgeon, psychologist, or licensed health care practitioner.

If a party who has demanded and received delivery of medical reports under subdivision (h) fails to deliver existing or later reports of previous or subsequent examinations, a party who has complied with subdivision (h) may move for an order compelling delivery of medical reports. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel delivery of medical reports, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling delivery of medical reports, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to the sanction, the court may impose a monetary sanction under Section 2023. The court shall exclude at trial the testimony of any health care practitioner whose report has not been provided by a party ordered to do so by the court.

(k) Nothing in this section shall require the disclosure of the identity of an expert consulted by an attorney in order to make the certification required in an action for professional negligence under Sections 411.30 and 411.35.

SEC. 66. Section 420 of the Corporations Code is amended to read:

420. Neither a domestic nor foreign corporation nor its transfer agent or registrar is liable:

(a) For transferring or causing to be transferred on the books of the corporation to the surviving joint tenant or tenants any share or shares or other securities issued to two or more persons in joint tenancy, whether or not the transfer is made with actual or constructive knowledge of the existence of any understanding, agreement, condition or evidence that the shares or securities were held other than in joint tenancy or of a breach of trust by any joint tenant.

(b) To a minor or incompetent person in whose name shares or other securities are of record on its books or to any transferee of or transferor to either for transferring the shares or other securities on its books at the instance of or to the minor or incompetent or for the recognition of or dealing with the minor or incompetent as a shareholder or security holder, whether or not the corporation,
transfer agent or registrar had notice, actual or constructive, of the nonage or incompetency, unless a guardian or conservator of the property of the minor or incompetent has been appointed and the corporation, transfer agent or registrar has received written notice thereof.

(c) To any married person or to any transferee of such person for transferring shares or other securities on its books at the instance of the person in whose name they are registered, without the signature of such person’s spouse and regardless of whether the registration indicates that the shares or other securities are community property, in the same manner as if such person were unmarried.

(d) For transferring or causing to be transferred on the books of the corporation shares or other securities pursuant to a judgment or order of a court which has been set aside, modified or reversed unless, prior to the registration of the transfer on the books of the corporation, written notice is served upon the corporation or its transfer agent in the manner provided by law for the service of a summons in a civil action, stating that an appeal or other further court proceeding has been or is to be taken from or with regard to such judgment or order. After the service of such notice neither the corporation nor its transfer agent has any duty to register the requested transfer until the corporation or its transfer agent has received a certificate of the county clerk of the county in which the judgment or order was entered or made, showing that the judgment or order has become final.

(e) The Commercial Code shall not affect the limitations of liability set forth in this section. Section 1100 of the Family Code shall be subject to the provisions of this section and shall not be construed to prevent transfers, or result in liability to the corporation, transfer agent or registrar permitting or effecting transfers, which comply with this section.

SEC. 67. 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 acknowledgment because of an incapacitating mental or physical condition; (c) the member and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family 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 1101 of the Family 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. 68. Section 22662 of the Education Code is amended to read:

22662. Upon the legal separation or dissolution of marriage of a retiree, the court may include in the judgment or court order a determination of the community property rights of the parties in the retirement allowance of the retiree consistent with this section. Upon election under subdivision (d) of Section 2610 of the Family Code, the court order awarding the nonmember spouse a community property share in the benefits of a retiree shall be consistent with this section.

(a) If the court does not award the entire retirement allowance to the retiree and the retiree is receiving a retirement allowance under any section other than Section 24200, the court shall require only that the system pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance of the retiree.

(b) If the court does not award the entire retirement allowance to the retiree and the retiree is receiving an allowance which has been actuarially modified pursuant to Section 24200, the court shall order only one of the following:

1. The retiree shall maintain the retirement allowance without change.

2. The retiree shall cancel the retirement allowance pursuant to Section 24200.1 and select a new joint and survivor option or a new beneficiary or both, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance of the retiree, the option beneficiary, or both.

3. The retiree shall cancel the retirement allowance pursuant to Section 24200.1 and select an unmodified retirement benefit and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance of the retiree.

(c) If the option beneficiary, other than the nonmember spouse, dies before the retiree, the court shall order the retiree to select a new option beneficiary pursuant to Section 24200.2 and shall order the system to pay the nonmember spouse, by separate warrant, his or her share of the community property interest in the retirement allowance of the retiree or the new option beneficiary, or both.

(d) The right of the nonmember spouse to receive his or her community property share under this section shall terminate upon the death of the nonmember spouse. However, the nonmember spouse may designate a beneficiary to receive his or her community property share of accumulated retirement contributions in the event...
that accumulated retirement contributions become payable.

SEC. 69. Section 23702 of the Education Code is amended to read:
23702. A member or retiree may at any time designate a beneficiary to receive those benefits as may be payable under this part, except that no beneficiary designation may be made in derogation of the community property share of any nonmember spouse when any such benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for distribution pursuant to Section 2610 of the Family Code. Any change of beneficiary shall be in writing on a form prescribed by the system, executed by the member, witnessed by two witnesses, neither of whom may be beneficiaries. To be valid the instrument shall be received in the office of the system in Sacramento before the member’s death.

Except as otherwise stated in this section, the designation of beneficiary, other than an option beneficiary, may be revoked at the pleasure of the person making the nomination, and a different beneficiary designated in the same manner as herein provided.

SEC. 70. Section 24603 of the Education Code is amended to read:
24603. Payment pursuant to the board’s determination in good faith of the existence, identity or other facts relating to entitlement of persons constitutes a complete discharge of and release of the system from liability for the payment so made.

Notwithstanding Sections 751 and 1100 of the Family Code relating to community property interests, whenever payment or refund is made by this system to a member, former member, or beneficiary of a member pursuant to this part, the payment shall fully discharge the system from all adverse claims thereto unless, before payment is made, the system has received at its office in Sacramento a written notice of adverse claim.

SEC. 71. Section 1037.7 of the Evidence Code is amended to read:
1037.7. (a) "Domestic violence" is abuse perpetrated against a family or household member, or against a person as provided in subdivisions (d) and (e).

(b) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to herself, himself, or another.

(c) "Family or household member" means a spouse, former spouse, parent, child, any other adult person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who within the last six months regularly resided in the household.

(d) A person who is the parent of a minor child where (1) there exists the presumption that the male parent is the father of any minor child of the female parent pursuant to the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code, and (2) one parent has perpetrated abuse as defined in
subdivision (b) against the other parent.

(e) A person who is in, or has been in, a dating, courtship, or engagement relationship and abuse as defined in subdivision (b) has been perpetrated against that person by the person with whom they have had a dating, courtship, or engagement relationship.

SEC. 72. Section 1107 of the Evidence Code is amended 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 Sections 55 and 70 of the Family Code.

(d) This section is intended as a rule of evidence only and no substantive change affecting the Penal Code is intended.

SEC. 73. Section 1152.5 of the Evidence Code is amended to read:
1152.5. (a) Subject to the conditions and exceptions provided in this section, when persons agree to conduct and participate in a mediation for the purpose of compromising, settling, or resolving a dispute:

(1) Evidence of anything said or of any admission made in the course of the mediation is not admissible in evidence, and disclosure of any such evidence shall not be compelled, in any civil action in which, pursuant to law, testimony can be compelled to be given.

(2) Unless the document otherwise provides, no document prepared for the purpose of, or in the course of, or pursuant to, the mediation, or copy thereof, is admissible in evidence, and disclosure of any such document shall not be compelled, in any civil action in which, pursuant to law, testimony can be compelled to be given.

(b) Subdivision (a) does not limit the admissibility of evidence if all persons who conducted or otherwise participated in the mediation consent to its disclosure.

(c) This section does not apply unless, before the mediation begins, the persons who agree to conduct and participate in the mediation execute an agreement in writing that sets out the text of subdivisions (a) and (b) and states that the persons agree that this section shall apply to the mediation.

(d) This section does not apply where the admissibility of the evidence is governed by Section 1818 or 3156 of the Family Code.

(e) Nothing in this section makes admissible evidence that is inadmissible under Section 1152 or any other statutory provision, including, but not limited to, the sections listed in subdivision (d).
Nothing in this section limits the confidentiality provided pursuant to Section 65 of the Labor Code.

(f) Paragraph (2) of subdivision (a) does not limit either of the following:

1 The admissibility of the agreement referred to in subdivision (c).

2 The effect of an agreement not to take a default in a pending civil action.

SEC. 74. Section 21204 of the Government Code is amended to read:

21204. A member may at any time designate a beneficiary to receive such benefits as may be payable to his or her beneficiary or estate under this part, by a writing filed with the board, except that no designation may be made in derogation of the community property share of any nonmember spouse when any such benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 2610 of the Family Code.

The designation, subject to such conditions as may be imposed by board rule, may be by class, in which case the members of the class at the time of the member's death shall be entitled as beneficiaries. The designation shall also be subject to the board's conclusive determination, upon evidence satisfactory to it, of the existence, identity or other facts relating to entitlement of any person designated as beneficiary, and payment made by the system in reliance on any such determination made in good faith, notwithstanding that it may not have discovered a beneficiary otherwise entitled to share in the benefit, shall constitute a complete discharge and release of the system for further liability for the benefit.

SEC. 75. Section 21209 of the Government Code is amended to read:

21209. The sole purpose of this section is to notify the current spouse of the selection of benefits or change of beneficiary made by a member. Nothing in this section is intended to conflict with community property law. An application for a refund of the member's accumulated contributions, an election of optional settlement, or a change in beneficiary designation shall contain the signature of the current spouse of the member, unless the member declares, in writing under penalty of perjury, any of the following:

(a) The member is not married.

(b) The current spouse has no identifiable community property interest in the benefit.

(c) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(d) The current spouse has been advised of the application and has refused to sign the written acknowledgment.

(e) The current spouse is incapable of executing the
acknowledgment because of incapacitating mental or physical condition.

(f) The member and the current spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code which makes the community property law inapplicable to the marriage.

This section shall become operative on January 1, 1990.

SEC. 76. Section 21209.3 of the Government Code is amended to read:

21209.3. An application for a refund of the member’s accumulated contributions or an election of optional settlement and beneficiary designation shall contain the signature of the current spouse of the member, unless the member makes, in writing under penalty of perjury, any of the following declarations:

(a) That the member is not married.

(b) That the member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(c) That the current spouse has been advised of the application and has refused to sign the written acknowledgment.

(d) That the current spouse is incapable of executing the acknowledgment because of incapacitating mental or physical condition.

(e) That the member and the current spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code which makes the community property law inapplicable to the marriage.

No retirement or refund payment shall be made when there is no spousal signature or when the member has made no declaration under subdivisions (a) to (e), inclusive.

The sole purpose of this section is to notify the current spouse of the selection of specified benefits made by a member.

This section shall become operative on January 1, 1990.

SEC. 77. Section 21210 of the Government Code is amended to read:

21210. Notwithstanding Sections 751 and 1100 of the Family Code, whenever payment or refund is made by this system to a member, former member, beneficiary of a member or estate of a member pursuant to any provision of this part, such payment shall fully discharge this system from all adverse claims thereto unless, before such payment or refund is made, this system has received at its office in Sacramento written notice by or on behalf of some other person that such person claims to be entitled to such payment or refund.

SEC. 78. Section 21215 of the Government Code is amended to read:

21215. (a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the community property is divided in accordance with
subdivision (c) of Section 2610 of the Family Code, the court shall order that the accumulated contributions and service credit attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember, respectively. Any service credit or accumulated contributions which are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(c) The court shall address the rights of the nonmember to the following:

(1) The right to a retirement allowance, and the consequent right to elect an optional settlement and designate a beneficiary.

(2) The right to a refund of accumulated contributions.

(3) The right to redeposit accumulated contributions which are eligible for redeposit by the member under Sections 20654 and 20654.3.

(4) The right to purchase service credit which is eligible for purchase by the member under Article 4 (commencing with Section 20890) and Article 5 (commencing with Section 20930) of Chapter 7.

(5) The right to designate a beneficiary to receive his or her accumulated contributions payable where death occurs prior to retirement.

(6) The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember’s death.

(7) The right to elect coverage in the second tier, provided that the election is made within one year of the establishment of the nonmember account or prior to the nonmember’s retirement, whichever occurs first. Immediately upon establishment of a nonmember account, the board shall provide, by certified mail, the necessary form and information so that the election may be made.

(d) In the capacity of nonmember, he or she shall not be entitled to any disability or industrial disability retirement allowance, any basic death benefit, any special death benefit, any monthly allowance for survivors of a member or retired person, any insurance benefit, or retired member lump sum death benefit. No survivor continuance allowance shall be payable to a survivor of a nonmember.

SEC. 79. Section 26832 of the Government Code is amended to read:

26832. (a) Notwithstanding the fee authorized by Section 26833, a fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Three dollars ($3) of any six-dollar ($6) fee shall be transmitted monthly by each county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(b) As used in this section, “marriage dissolution record” means the judgment.
SEC. 80. Section 26833.5 of the Government Code is amended to read:

26833.5. No fee shall be charged to an indigent plaintiff for certified copies of any order issued pursuant to any of the following:
(a) Article 2 (commencing with Section 2035) of Chapter 4 of Division 6 of the Family Code.
(b) Division 10 (commencing with Section 5500) of the Family Code.
(c) Article 2 (commencing with Section 7710) or Article 3 (commencing with Section 7720) of Chapter 6 of Part 3 of Division 12 of the Family Code.

SEC. 81. Section 26840.1 of the Government Code is amended to read:

26840.1. (a) The fee for filing a marriage certificate pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code is fourteen dollars ($14), to be collected at the time an authorization for the performance of the marriage is issued or a blank authorization form is obtained from the county clerk pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code. Four dollars ($4) of the fee shall be paid to the State Registrar of Vital Statistics. One dollar ($1) of the fee shall be paid to the county treasurer and shall be used to defray any local costs incurred pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code.

(b) Notwithstanding subdivision (a), in addition to the amount authorized by subdivision (a) the county clerk may impose an additional amount, not to exceed three dollars ($3), if he or she determines that the additional amount is necessary to defray local costs.

SEC. 82. Section 26840.3 of the Government Code is amended to read:

26840.3. (a) The superior court in any county may, for the support of the family conciliation court or for conciliation and mediation services provided pursuant to Chapter 11 (commencing with Section 3155) of Part 2 of Division 8 of the Family Code, upon action of the board of supervisors to provide all space costs and indirect overhead costs from other sources, increase:

1. The fee for filing a petition, except a joint petition filed pursuant to Section 2401 of the Family Code, for dissolution of a marriage, legal separation, or nullity of a marriage, and the fee for a response to such a petition, by an amount not to exceed twenty-two dollars ($22).

2. The fee for issuing a marriage license, by an amount not to exceed five dollars ($5).

3. The fee for issuing a marriage certificate pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, by an amount not to exceed five dollars ($5).

(b) The funds shall be paid to the county treasury and an amount equal thereto shall be used exclusively to pay the costs of maintaining
the family conciliation court or conciliation and mediation services provided pursuant to Chapter 11 (commencing with Section 3155) of Part 2 of Division 8 of the Family Code.

SEC. 83. Section 26840.8 of the Government Code is amended to read:

26840.8. In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code or the county clerk, upon providing a blank authorization form pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, shall collect a fee of nineteen dollars ($19) at the time of providing the authorization. The fee shall be disposed of pursuant to Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 84. Section 26841 of the Government Code is amended to read:

26841. The superior court in any county may increase the fee for the filing of any paper in response to an order or an application for an order described in subdivision (b) or (c) of Section 2035 of the Family Code, issued pursuant to that section, or issued to any person in accordance with Division 10 (commencing with Section 5500) of the Family Code, by five dollars ($5), upon the adoption of a resolution to that effect by the board of supervisors. The five dollars ($5) shall be disposed of pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 85. Section 26861 of the Government Code is amended to read:

26861. A fee of fifteen dollars ($15) may be charged for performing a marriage ceremony pursuant to Section 401 of the Family Code, which shall be paid into the county treasury.

SEC. 86. Section 27752 of the Government Code is amended to read:

27752. A county financial evaluation officer is authorized to make financial evaluations and collect moneys pursuant to Section 3112 of the Family Code; Sections 987.4, 987.8, 1203, 1203.1, 1203.1b, 1203.1c, 1203.1e, 1205, and 1209 of the Penal Code; and Sections 353, 353.5, 376, 700, 727, 751, 903, 903.1, 903.2, 903.3, and 903.45 of the Welfare and Institutions Code.

SEC. 87. Section 31760.3 of the Government Code is amended to read:

31760.3. The sole purpose of this section is to notify the current spouse of the selection of benefits or change of beneficiary made by a member. Nothing in this section is intended to conflict with community property law. An application for a refund of the member's accumulated contributions, an election of optional settlement, or a change in beneficiary designation shall contain the signature of the current spouse of the member, unless the member
declares, in writing under penalty of perjury, any of the following:

(a) The member is not married.

(b) The current spouse has no identifiable community property interest in the benefit.

(c) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(d) The current spouse has been advised of the application and has refused to sign the written acknowledgment.

(e) The current spouse is incapable of executing the acknowledgment because of incapacitating mental or physical condition.

(f) The member and the current spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code which makes the community property law inapplicable to the marriage.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make this section applicable in the county.

SEC. 88. Section 68514 of the Government Code is amended to read:

68514. (a) The Judicial Council shall include as part of the Council’s Annual Report of the Administrative Office of the California Courts the total number of Order to Show Cause and Notices of Motions filed seeking retroactive child support pursuant to Sections 196, 4700, and 7010 of the Civil Code, or pursuant to Article 3 (commencing with Section 4100) of Chapter 2 of Part 2 of Division 9 of the Family Code, and the total number of orders granting retroactive support pursuant to these sections.

(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. 89. Section 75050 of the Government Code is amended to read:

75050. (a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the community property is divided pursuant to subdivision (c) of Section 2610 of the Family Code, the court shall order that the accumulated contributions and service credit attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and nonmember, respectively. Any service credit or accumulated contributions which are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(c) The court shall address the rights of the nonmember to the following:

(1) The right to a retirement allowance.

(2) The right to a refund of accumulated retirement contributions.
(3) The right to redeposit accumulated contributions which are eligible for redeposit by the member under Section 75028.5.

(4) The right to purchase service credit which is eligible for purchase by the member under Sections 75029 to 75030.5.

(5) The right to designate a beneficiary to receive his or her accumulated contributions payable where death occurs prior to retirement.

(6) The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember's death.

(d) In the capacity of nonmember, the nonmember shall not be entitled to any disability retirement allowance.

SEC. 90. 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 Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family 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. 91. 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.

SEC. 92. Section 10125.5 of the Health and Safety Code is
amended to read:

10125.5. (a) The second section of the certificate of live birth as specified in subdivision (b) of Section 10125 shall be confidential. Access to such portion of any certificate of live birth shall be limited to the following:

1. State Department of Health Services staff.
2. Local registrar's staff and local health department staff when approved by the local registrar or local health officer, respectively.
3. Persons with a valid scientific interest as determined by the State Registrar, who are engaged in demographic, epidemiological or other similar studies related to health, and who agree to maintain confidentiality as prescribed by this division and by regulation of the State Registrar.
4. The parent who signed the certificate or, if no parent signed the certificate, the mother.
5. The person named on the certificate.
6. Any person who has petitioned to adopt the person named on the certificate, subject to Section 10439 of the Health and Safety Code and Sections 9200 and 9203 of the Family Code.

(b) The State Department of Health Services shall maintain an accurate record of all persons who are given access to the confidential portion of the certificate. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of persons given access; dates of access; and specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the State Department of Health Services.

(c) All research proposed to be conducted using the confidential medical and social information on the birth certificate shall first be reviewed by the appropriate committee constituted for the protection of human subjects which is approved by the federal Department of Health and Human Services and has a general assurance pursuant to Part 46 of Title 45 of the Code of Federal Regulations. No information shall be released until the request for information has been reviewed by the Vital Statistics Advisory Committee and the committee has recommended to the State Registrar that the information shall be released.

SEC. 93. Section 10125.6 of the Health and Safety Code is amended to read:

10125.6. (a) The State Department of Health Services and the State Department of Social Services shall cooperatively develop an informational notice which advises the mother of a newborn child of her right to retroactive child support as provided by Article 3 (commencing with Section 4100) of Chapter 2 of Part 2 of Division 9 of the Family Code. The notice shall also advise the mother of her right to have a certified copy of the public portion of the certificate of birth mailed to the father pursuant to subdivision (b) of Section 10061.

(b) The State Department of Health Services and the State
Department of Social Services shall distribute copies of the notice formulated pursuant to subdivision (a) to each health facility that provides maternity services. Each such health facility shall provide a copy of the notice to each pregnant woman admitted for delivery of a child.

(c) 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. 94. Section 10351 of the Health and Safety Code is amended to read:

10351. (a) Sections 10325 and 10350 do not apply to marriages entered into pursuant to Section 307 of the Family Code. Subdivisions (b) and (c) govern the registration and the content of the License and Certificate of Declaration of Marriage of those marriages.

(b) Each marriage entered into pursuant to Section 307 of the Family Code shall be registered by the parties entering into the marriage or by a witness who signed under paragraph (2) of subdivision (a) of Section 307 within four days after the ceremony with the local registrar of marriages for the county in which the License and Certificate of Declaration of Marriage was issued.

(c) The License and Certificate of Declaration of Marriage entered into pursuant to Section 307 of the Family Code shall contain as nearly as can be ascertained the following:

(1) The personal data of parties married, including the date of birth, full name, birthplace, residence, names and birthplaces of their parents, maiden name of their mothers, the number of previous marriages, marital status, and the maiden name of the female, if previously married and if her name has been changed.

(2) The license to marry.

(3) The county and date of issuance of the license.

(4) The marriage license number.

(5) The certification of the parties entering into the marriage, which shall show the following:

(A) The fact, time, and place of entering into the marriage.

(B) The signature and address of two witnesses to the marriage ceremony.

(C) The religious society or denomination of the parties married, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination.

(6) The signatures of the parties married.

(7) Any other items that the State Registrar shall designate.

The License and Certificate of Declaration of Marriage shall not contain any reference to the race or color of parties married or to a person performing or solemnizing the marriage.

SEC. 95. Section 10433.2 of the Health and Safety Code is amended to read:

10433.2. If both adopting parents were in the home at the time of the initial placement of the child for adoption the newly amended
birth record may include the names of both adopting parents despite the death of one of the adopting parents, upon receipt of an order from the court granting the adoption which directs under the authority of Section 8615 of the Family Code that the names of both adopting parents shall be included on the newly amended birth record.

SEC. 96. Section 10433.3 of the Health and Safety Code is amended to read:

10433.3. Notwithstanding any other provision of law, an adopting parent who has adopted a child for whom an amended record has already been prepared under authority of this article may have another amended record prepared for such child, upon application, furnishing a copy of the court order made in an action brought pursuant to Section 8615 of the Family Code, and payment of the required fee.

SEC. 97. Section 10605 of the Health and Safety Code is amended to read:

10605. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven-dollar ($7) fee is exempt from subdivision (e) and shall be paid to either a county children’s trust fund or to the State Children’s Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to this section shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day
of the month following the month in which the fee was received.

(f) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section 114.

SEC. 98. Section 10172 of the Insurance Code is amended to read:
10172. Notwithstanding Sections 751 and 1100 of the Family Code, when the proceeds of, or payments under, a life insurance policy become payable and the insurer makes payment thereof in accordance with the terms of the policy, or in accordance with the terms of any written assignment thereof if the policy has been assigned, such payment shall fully discharge the insurer from all claims under such policy unless, before such payment is made, the insurer has received, at its home office, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy.

SEC. 99. Section 300 of the Labor Code is amended to read:
300. (a) As used in this section, the phrase "assignment of wages" includes the sale or assignment of, or giving of an order for, wages or salary but does not include an order or assignment made pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code or Section 3088 of the Probate Code.

(b) No assignment of wages, earned or to be earned, is valid unless all of the following conditions are satisfied:

(1) The assignment is contained in a separate written instrument, signed by the person by whom the wages or salary have been earned or are to be earned, and identifying specifically the transaction to which the assignment relates.

(2) Where the assignment is made by a married person, the written consent of the spouse of the person making the assignment is attached to the assignment. No such consent is required of any married person (A) after entry of a judgment decreeing a legal separation from such person's spouse or (B) if the married person and the spouse of the married person are living separate and apart after entry of an interlocutory judgment of dissolution of their marriage, if a written statement by the person making the assignment, setting forth such facts, is attached to or included in the assignment.

(3) Where the assignment is made by a minor, the written consent of a parent or guardian of the minor is attached to the assignment.

(4) Where the assignment is made by a person who is unmarried or who is an adult or who is both unmarried and an adult, a written statement by the person making the assignment, setting forth such facts, is attached to or included in the assignment.

(5) No other assignment exists in connection with the same transaction or series of transactions and a written statement by the person making the assignment to that effect is attached to or included in the assignment.

(6) A copy of the assignment and of the written statement
provided for in paragraphs (2), (4), and (5), authenticated by a
notary public, is filed with the employer, accompanied by an
itemized statement of the amount then due to the assignee.

(7) At the time the assignment is filed with the employer, no other
assignment of wages of the employee is subject to payment and no
earnings withholding order against the employee’s wages or salary is
in force.

(c) Under any assignment of wages, a sum not to exceed 50 per
centum of the assignor’s wages or salary shall be withheld by, and be
collectible from, the assignor’s employer at the time of each payment
of such wages or salary.

(d) The employer is entitled to rely upon the statements of fact
in the written statement provided for in paragraphs (2), (4), and (5)
of subdivision (b), without the necessity of inquiring into the truth
thereof, and the employer shall incur no liability whatsoever by
reason of any payments made by the employer to an assignee under
any assignment in reliance upon the facts so stated.

(e) An assignment of wages to be earned is revocable at any time
by the maker thereof. Any power of attorney to assign or collect
wages or salary is revocable at any time by the maker thereof. No
revocation of such an assignment or power of attorney is effective as
to the employer until the employer receives written notice of
revocation from the maker.

(f) No assignment of wages, earned or to be earned, is valid under
any circumstances if the wages or salary earned or to be earned are
paid under a plan for payment at a central place or places established
under the provisions of Section 204a.

(g) This section does not apply to deductions which the employer
may be requested by the employee to make for the payment of life,
retirement, disability or unemployment insurance premiums, for the
payment of taxes owing from the employee, for contribution to
funds, plans or systems providing for death, retirement, disability,
unemployment, or other benefits, for the payment for goods or
services furnished by the employer to the employee or the
employee’s family at the request of the employee, or for charitable,
educational, patriotic or similar purposes.

(h) No assignment of wages is valid unless at the time of the
making thereof, such wages or salary have been earned, except for
necessities of life and then only to the person or persons furnishing
such necessities of life directly and then only for the amount needed
to furnish such necessities.

SEC. 100. Section 70.5 of the Penal Code is amended to read:

70.5. Every commissioner of civil marriages or every deputy
commissioner of civil marriages who accepts any money or other
thing of value for performing any marriage pursuant to Section 401
of the Family Code, including any money or thing of value
voluntarily tendered by the persons about to be married or who have
been married by the commissioner of civil marriages or deputy
commissioner of civil marriages, other than a fee expressly imposed
by law for performance of a marriage, whether the acceptance occurs before or after performance of the marriage and whether or not performance of the marriage is conditioned on the giving of such money or the thing of value by the persons being married, is guilty of a misdemeanor.

It is not a necessary element of the offense described by this section that the acceptance of the money or other thing of value be committed with intent to commit extortion or with other criminal intent.

This section does not apply to the request or acceptance by any retired commissioner of civil marriages of a fee for the performance of a marriage.

This section is inapplicable to the acceptance of a fee for the performance of a marriage on Saturday, Sunday, or a legal holiday.

SEC. 101. Section 208 of the Penal Code is amended to read:

208. (a) Kidnapping is punishable by imprisonment in the state prison for three, five, or eight years.

(b) If the person kidnapped is under 14 years of age at the time of the commission of the crime, the kidnapping is punishable by imprisonment in the state prison for 5, 8, or 11 years. This subdivision is not applicable to the taking, detaining, or concealing, of a minor child by a biological parent, a natural father, as specified in Section 7611 of the Family Code, an adoptive parent, or a person who has been granted access to the minor child by a court order.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) If the person is kidnapped with the intent to commit rape, oral copulation, sodomy, or rape by instrument, the kidnapping is punishable by imprisonment in the state prison for 5, 8, or 11 years.

SEC. 102. Section 270c of the Penal Code is amended to read:

270c. Except as provided in Chapter 2 (commencing with Section 4410) of Part 4 of Division 9 of the Family Code, every adult child who, having the ability so to do, fails to provide necessary food, clothing, shelter, or medical attendance for an indigent parent, is guilty of a misdemeanor.

SEC. 103. Section 270h of the Penal Code is amended to read:

270h. In any case where there is a conviction under either Section 270 or 270a and there is an order granting probation which includes an order for support, the court may:

(a) Issue an execution on the order for the support payments that accrue during the time the probation order is in effect, in the same manner as on a judgment in a civil action for support payments. This remedy shall apply only when there is no existing civil order of this state or a foreign court order that has been reduced to a judgment.
of this state for support of the same person or persons included in the probation support order.

(b) Issue an earnings assignment order for support pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code as a condition of probation. This remedy shall apply only when there is no existing civil order for support of the same person or persons included in the probation support order upon which an assignment order has been entered pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code or pursuant to former Chapter 5 (commencing with Section 4390) of Title 1.5 of Part 5 of Division 4 of the Civil Code.

These remedies are in addition to any other remedies available to the court.

SEC. 104. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000) or by both.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, “traumatic condition” means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person’s child if the alleged male parent is presumed the natural father as set forth in Sections 7611 and 7612 of the Family Code.

(e) In any case in which a person is convicted of violating this section and probation is granted, the court shall require participation in a batterer’s treatment program as a condition of probation unless, considering all of the facts and the circumstances, the court finds participation in a batterer’s treatment program inappropriate for the defendant.

(f) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted under subdivision (a) for an offense that occurred within seven years of the offense of the second conviction, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than 96 hours and that he or she participate in for no less than one year, and successfully complete, a batterer’s treatment program, as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in
a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted of two or more violations of subdivision (a) for offenses that occurred within seven years of the most recent conviction, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than 30 days and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

SEC. 105. Section 273.6 of the Penal Code is amended to read:

273.6. (a) A willful and knowing violation of any of the court orders described in subdivision (c), when obtained pursuant to the Family Code or Section 527.6 of the Code of Civil Procedure is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in a physical injury, the person shall be imprisoned in the county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders under subdivision (a) or (d).

(d) A second or subsequent conviction for a violation of an order issued pursuant to subdivision (a) occurring within seven years of a prior conviction for a violation of such an order and involving an act of violence or "a credible threat" of violence as defined in subdivision (b) of Section 139 is punishable by imprisonment in the county jail not to exceed one year, or in the state prison for 16 months or two or three years.
(e) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to the provisions listed in subdivisions (a), (b), and (d).

SEC. 106. 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 3 (commencing with Section 7600) of Division 12 of the Family Code).

(b) "Emotional harm" includes having a parent who has committed domestic violence against the parent who is taking and concealing the child.

SEC. 107. Section 279 of the Penal Code is amended to read:

279. (a) A peace officer investigating a report of a violation of
Section 277, 278, or 278.5 may take a minor child into protective custody if it reasonably appears to the officer that any person unlawfully will flee the jurisdictional territory with the minor child.

(b) A child who has been detained or concealed shall be returned to the person, guardian, or public agency having lawful charge of the child, or to the court in which a custody proceeding is pending, or to the probation department of the juvenile court in the county in which the victim resides. Notwithstanding any other provision of law, when a person is arrested for an alleged violation of Section 277, 278, or 278.5 the court shall, at the time of the arraignment, impose the condition that the child shall be returned to the person or public agency having lawful charge of the child, and the court shall specify the date by which the child shall be returned. If conflicting custodial orders exist within this state, or between this state and a foreign state, the court shall set a hearing within five court days to determine which court has jurisdiction under the laws of this state, if the conflicting custodial orders are within this state, or if the conflict exists between this state and a foreign state, the court shall determine which state has subject matter jurisdiction to issue a custodial order under the laws of this state, the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code), or federal law, if applicable. At the conclusion of the hearing, the court shall enter an order as to which custody order is valid and is to be enforced. If the child has not been returned at the conclusion of the hearing, the court shall set a date within a reasonable time by which the child shall be returned to the person or agency having lawful charge of the child, and order the defendant to comply by this date, or to show cause on that date why he or she has not returned the child as directed. The court shall only enforce its order, or any subsequent orders for the return of the child, under subdivision (a) of Section 1219 of the Code of Civil Procedure, to ensure that the child is promptly placed with the person or agency having lawful charge of the child. An order adverse to either the prosecution or defense is reviewable by a writ of mandate or prohibition addressed to the appropriate court.

(c) The offenses enumerated in Sections 277, 278, and 278.5 are continuous in nature, and continue for so long as the minor child is concealed or detained.

(d) Any expenses incurred in returning the child shall be reimbursed as provided in Section 3134 of the Family Code. Those expenses, and costs reasonably incurred by the victim, shall be assessed against any defendant convicted of a violation of Section 277, 278, or 278.5.

(e) Pursuant to Sections 27 and 778, violation of Section 277, 278, or 278.5 is punishable in California, whether the intent to commit the offense is formed within or without the state, if the child was a resident of California or present in California at the time of the taking, if the child thereafter is found in California, or if one of the parents, or a person granted access to the minor child by a court
order, is a resident of California at the time of the alleged violation of Section 277, 278, or 278.5 by a person who was not a resident of or present in California at the time of the alleged offense.

(f) For purposes of Sections 277, 278, and 278.5:

(1) "A person having a right of custody" means the legal guardian of the child, a person who has a parent and child relationship with the child pursuant to Section 3010 of the Family Code, or a person or an agency that has been granted custody of the child pursuant to a court order.

(2) A "right of custody" means the right to physical custody of the child. In the absence of a court order to the contrary, a parent loses his or her right of custody of the child to the other parent if the parent having the right of custody is dead, is unable or refuses to take the custody, or has abandoned his or her family.

SEC. 108. Section 280 of the Penal Code is amended to read:

280. Every person who willfully causes or permits the removal or concealment of any child in violation of Section 8713, 8803, or 8910 of the Family Code is punishable as follows:

(a) By imprisonment in the county jail for not more than one year if the child is concealed within the county in which the adoption proceeding is pending or in which the child has been placed for adoption, or is removed from that county to a place within this state; or

(b) By imprisonment in the state prison, or by imprisonment in the county jail for not more than one year if the child is removed from that county to a place outside of this state.

SEC. 109. Section 360 of the Penal Code is amended to read:

360. Every person authorized to solemnize any marriage, who solemnizes a marriage without first being presented with the marriage license, as required by Section 421 of the Family Code; or who solemnizes a marriage pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code without the authorization required by that part; or who willfully makes a false return of any marriage or pretended marriage to the recorder or clerk; or who, having solemnized a marriage, fails for more than 30 days, to file with the recorder or clerk the marriage license with the certificate indorsed thereon, as required by Section 423 of the Family Code; or who having solemnized a marriage pursuant to Section Part 4 (commencing with Section 500) of Division 3 of the Family Code, fails for more than 30 days to file the certificate required to be filed by Section 506 of the Family Code, and every person who willfully makes a false record of any marriage return, is guilty of a misdemeanor.

SEC. 110. Section 2625 of the Penal Code is amended to read:

2625. In any proceeding brought under Part 4 (commencing with Section 7800) of Division 12 of the Family Code, and Section 366.26 of the Welfare and Institutions Code, where the proceeding seeks to terminate the parental rights of any prisoner or any proceeding brought under Section 300 of the Welfare and Institutions Code,
where the proceeding seeks to adjudicate the child of a prisoner a dependent child of the court, the superior court of the county in which the proceeding is pending, or a judge thereof, shall order notice of any court proceeding regarding the proceeding 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 7881 or 7882 of the Family 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 Part 4 (commencing with Section 7800) of Division 12 of the Family 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 or proceeding 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 or proceeding 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. 111. Section 11105.3 of the Penal Code is amended to read: 11105.3. (a) Notwithstanding any other provision of law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest for which the person is released on bail or on his or her own recognizance pending trial, involving any sex crimes, drug crimes, or crimes of violence of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under their care. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the requester, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the requester for the actual cost of processing the request. However, no fee shall be charged a nonprofit organization or any agency responsible for the licensing of facilities pursuant to Article 1 (commencing with Section 1500) of Chapter 3, Chapter 3.2 (commencing with Section 1569), and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code for processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) A human resource agency may request from the Department of Justice full criminal history records, to the extent those records are otherwise available under Sections 8712, 8811, and 8908 of the Family Code, or Section 1522 of the Health and Safety Code, for persons who apply to the agency to adopt a child or to be a foster parent. Requests for criminal history information obtained pursuant to this subdivision shall be used only for the purposes stated and in compliance with any requirements or conditions provided in those sections.

(d) The department shall adopt regulations to implement the provisions of this section.

(e) As used in this section, "employer" means any nonprofit corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power.
over a child or children.

(f) As used in this section, “human resource agency” means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing with Section 1568.01), and the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)) of Division 2 of the Health and Safety Code, responsible for determining the character and fitness of a person who is (1) applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired, or (2) applying to adopt a child or to be a foster parent.

(g) As used in this section, “sex crime” means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647.6, or former Section 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(h) As used in this section, “drug crime” means any crime described in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), provided that, except as otherwise provided in subdivision (c), no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this subdivision or subdivision (g) within the immediately preceding 10-year period.

(i) As used in this section, “crime of violence” means any felony or misdemeanor conviction within 10 years of the date of the employer’s request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that, except as otherwise provided in subdivision (c), no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this subdivision or subdivision (g) within the immediately preceding 10-year period.

(j) Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime, drug crime, or crime of violence if the offense would have been a crime as defined in this section if committed in California.

(k) Any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents
other than for the purpose for which it was acquired.

SEC. 112. Section 11167 of the Penal Code is amended to read:

11167. (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) Information relevant to the incident of child abuse may be given to the licensing agency when it is investigating a known or suspected case of child abuse, including the investigation report, and other pertinent materials.

(d) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person’s employer, except with the employee’s consent or by court order.

(e) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names.

SEC. 113. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating
a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency which has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services or the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

SEC. 114. Section 12021 of the Penal Code is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 136.5, 140, 171b, 171c, 171d, 241,
243, 244.5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, subdivision (b) or (d) of Section 12034, subdivision (a) of Section 12100, 12320, or 12590 and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2).

(2) Any person, whose continued employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction prior to the effective date of the amendments which added this paragraph to this section, at any time until January 1, 1993, may petition the court for relief from this prohibition. The court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate. In making its decision, the court may consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature in enacting this paragraph to permit persons who were convicted of an offense specified in this subdivision prior to the effective date of the amendments which added this paragraph to this section to seek relief from the prohibition imposed by this subdivision.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the
Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a restraining order issued pursuant to Division 10 (commencing with Section 5500) of the Family Code and predicated on subdivision (b), (c), or (d) of Section 2035 of the Family Code, is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 5516 of the Family Code. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Division 7 (commencing with Section 2500) of the Family Code.

SEC. 115. Section 12025.5 of the Penal Code is amended to read:

12025.5. A violation of Section 12025 is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This section may not apply when the circumstances involve a mutual restraining order issued pursuant to Sections 2035 and 2036 of the Family Code, or Sections 5514 and 5550 of the Family Code, or
Sections 7710 and 7711 of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating Section 12025, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

SEC. 116. 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 3 (commencing with Section 7600) of Division 12 of the Family 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 (c), 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. 117. Section 12031 of the Penal Code is amended to read:

12031. (a) (1) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(2) Notwithstanding subdivisions 2 and 3 of Section 836, a peace officer may make an arrest without a warrant:

(A) When the person arrested has violated this section, although not in the officer's presence.

(B) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(3) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.
(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer’s carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer’s privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision
shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who
have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age nor more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and
compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law
enforcement agency, when reasonably possible, has been notified of
the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who
possesses a firearm reasonably believes that he or she is in grave
danger because of circumstances forming the basis of a current
restraining order issued by a court against another person or persons
who has or have been found to pose a threat to his or her life or safety.
This paragraph may not apply when the circumstances involve a
mutual restraining order issued pursuant to Sections 2035 and 2036
of the Family Code, or Sections 5514 and 5550 of the Family Code,
or Sections 7710 and 7711 of the Family Code absent a factual finding
of a specific threat to the person’s life or safety. It is not the intent
of the Legislature to limit, restrict, or narrow the application of
current statutory or judicial authority to apply this or other
justifications to defendants charged with violating Section 12025 or
of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine
whether the defendant was acting out of a reasonable belief that he
or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of
a loaded firearm by any person while engaged in the act of making
or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having
a loaded weapon, if it is otherwise lawful, at his or her place of
residence, including any temporary residence or campsite.

SEC. 118. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be
required to present clear evidence of his or her identity and age, as
defined in Section 12071, to the dealer, and the dealer shall require
him or her to sign his or her current legal name and affix his or her
residence address and date of birth to the register in quadruplicate.
The salesperson shall affix his or her signature to the register in
quadruplicate as a witness to the signature and identification of the
purchaser or transferee. Any person furnishing a fictitious name or
address or knowingly furnishing any incorrect information or
knowingly omitting any information required to be provided for the
register and any person violating any provision of this section is guilty
of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of
sale or transfer, shall be placed in the mail, postage prepaid, and
properly addressed to the Department of Justice in Sacramento. The
third copy of the original shall be mailed, postage prepaid, to the
chief of police, or other head of the police department, of the city or
county wherein the sale or transfer is made. Where the sale or
transfer is made in a district where there is no municipal police
department, the third copy of the original sheet shall be mailed to
the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other
firearms capable of being concealed upon the person shall be
destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

1. (A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section and Section 12289.

2. (B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

3. (2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

4. (3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104
of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 5804 of the Family Code created by the act which also added this paragraph.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 5804 of the Family Code created by the act which added paragraph (5) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 119. Section 104 of the Probate Code is amended to read:

104. Notwithstanding Section 100, community property held in a revocable trust described in Section 761 of the Family Code is governed by the provisions, if any, in the trust for disposition in the event of death.

SEC. 120. Section 143 of the Probate Code is amended to read:

143. (a) Subject to Section 142, a waiver is enforceable under this section unless the surviving spouse proves either of the following:

(1) A fair and reasonable disclosure of the property or financial obligations of the decedent was not provided to the surviving spouse prior to the signing of the waiver unless the surviving spouse waived such a fair and reasonable disclosure after advice by independent
legal counsel.

(2) The surviving spouse was not represented by independent legal counsel at the time of signing of the waiver.

(b) Subdivision (b) of Section 721 of the Family Code does not apply if the waiver is enforceable under this section.

SEC. 121. Section 144 of the Probate Code is amended to read:

144. (a) Except as provided in subdivision (b), subject to Section 142, a waiver is enforceable under this section if the court determines either of the following:

(1) The waiver at the time of signing made a fair and reasonable disposition of the rights of the surviving spouse.

(2) The surviving spouse had, or reasonably should have had, an adequate knowledge of the property and financial obligations of the decedent and the decedent did not violate the duty imposed by subdivision (b) of Section 721 of the Family Code.

(b) If, after considering all relevant facts and circumstances, the court finds that enforcement of the waiver pursuant to subdivision (a) would be unconscionable under the circumstances existing at the time enforcement is sought, the court may refuse to enforce the waiver, enforce the remainder of the waiver without the unconscionable provisions, or limit the application of the unconscionable provisions to avoid an unconscionable result.

(c) Except as provided in paragraph (2) of subdivision (a), subdivision (b) of Section 721 of the Family Code does not apply if the waiver is enforceable under this section.

SEC. 122. Section 146 of the Probate Code is amended to read:

146. (a) As used in this section, "agreement" means a written agreement signed by each spouse or prospective spouse altering, amending, or revoking a waiver under this chapter.

(b) Except as provided in subdivisions (c) and (d) of Section 147, unless the waiver specifically otherwise provides, a waiver under this chapter may not be altered, amended, or revoked except by a subsequent written agreement signed by each spouse or prospective spouse.

(c) Subject to subdivision (d), the agreement is enforceable only if it satisfies the requirements of subdivision (b) and is enforceable under either subdivision (e) or subdivision (f).

(d) Enforcement of the agreement against a party to the agreement is subject to the same defenses as enforcement of any other contract, except that:

(1) Lack of consideration is not a defense to enforcement of the agreement.

(2) A minor intending to marry may enter into the agreement as if married, but the agreement becomes effective only upon the marriage.

(e) Subject to subdivision (d), an agreement is enforceable under this subdivision unless the party to the agreement against whom enforcement is sought proves either of the following:

(1) A fair and reasonable disclosure of the property or financial
obligations of the other spouse was not provided to the spouse against whom enforcement is sought prior to the signing of the agreement unless the spouse against whom enforcement is sought waived such a fair and reasonable disclosure after advice by independent legal counsel.

(2) The spouse against whom enforcement is sought was not represented by independent legal counsel at the time of signing of the agreement.

(f) Subject to subdivisions (d) and (g), an agreement is enforceable under this subdivision if the court determines that the agreement at the time of signing made a fair and reasonable disposition of the rights of the spouses.

(g) If, after considering all relevant facts and circumstances, the court finds that enforcement of the agreement pursuant to subdivision (f) would be unconscionable under the circumstances existing at the time enforcement is sought, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provisions, or limit the application of the unconscionable provisions to avoid an unconscionable result.

(h) Subdivision (b) of Section 721 of the Family Code does not apply if the agreement is enforceable under this section.

SEC. 123. Section 1514 of the Probate Code is amended to read:

1514. (a) Upon hearing of the petition, if it appears necessary or convenient, the court may appoint a guardian of the person or estate of the proposed ward or both.

(b) In appointing a guardian of the person, the court is governed by Chapter 1 (commencing with Section 3020) and Chapter 2 (commencing with Section 3040) of Part 2 of Division 8 of the Family Code, relating to custody of a minor.

(c) The court shall appoint a guardian nominated under Section 1500 insofar as the nomination relates to the guardianship of the estate unless the court determines that the nominee is unsuitable.

(d) The court shall appoint the person nominated under Section 1501 as guardian of the property covered by the nomination unless the court determines that the nominee is unsuitable. If the person so appointed is appointed only as guardian of the property covered by the nomination, the letters of guardianship shall so indicate.

(e) Subject to subdivisions (c) and (d), in appointing a guardian of the estate:

(1) The court is to be guided by what appears to be in the best interest of the proposed ward, taking into account the proposed guardian’s ability to manage and to preserve the estate as well as the proposed guardian’s concern for and interest in the welfare of the proposed ward.

(2) If the proposed ward is of sufficient age to form an intelligent preference as to the person to be appointed as guardian, the court shall give consideration to that preference in determining the person to be so appointed.

SEC. 124. Section 1901 of the Probate Code is amended to read:
1901. (a) The court may by order determine whether the conservatee has the capacity to enter into a valid marriage, as provided in Part 1 (commencing with Section 300) of Division 3 of the Family Code, at the time the order is made.

(b) A petition for an order under this section may be filed by the conservator of the person or estate or both, the conservatee, any relative or friend of the conservatee, or any interested person.

(c) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

SEC. 125. Section 3002 of the Probate Code is amended to read:

3002. "Community property" means community real property and community personal property, including, but not limited to, a community property business that is or was under the primary management and control of one of the spouses, but does not include community property in a revocable trust described in Section 761 of the Family Code.

SEC. 126. Section 3057 of the Probate Code is amended to read:

3057. (a) Where a spouse lacks legal capacity and does not have a conservator, any interested person who has knowledge or reason to believe that the rights of such spouse in the community property are being prejudiced may bring an action on behalf of such spouse to enforce the duty imposed by Sections 721 and 1100 of the Family Code with respect to the management and control of the community property and to obtain such relief as may be appropriate.

(b) If one spouse has a conservator and the other spouse is managing or controlling community property, the conservator has the duty to keep reasonably informed concerning the management and control, including the disposition, of the community property. If the conservator has knowledge or reason to believe that the rights of the conservatee in the community property are being prejudiced, the conservator may bring an action on behalf of the conservatee to enforce the duty imposed by Sections 721 and 1100 of the Family Code with respect to the management and control of the community property and to obtain such relief as may be appropriate.

SEC. 127. Section 3071 of the Probate Code is amended to read:

3071. (a) In case of a transaction for which the joinder or consent of both spouses is required by Section 1100 or 1102 of the Family Code or by any other statute, if one or both spouses lacks legal capacity for the transaction, the requirement of joinder or consent shall be satisfied as provided in this section.

(b) Where one spouse has legal capacity for the transaction and the other spouse has a conservator, the requirement of joinder or consent is satisfied if both of the following are obtained:

(1) The joinder or consent of the spouse having legal capacity.

(2) The joinder or consent of the conservator of the other spouse given in compliance with Section 3072.

(c) Where both spouses have conservators, the joinder or consent requirement is satisfied by the joinder or consent of each such
conservator given in compliance with Section 3072.

(d) In any case, the requirement of joinder or consent is satisfied if the transaction is authorized by an order of court obtained in a proceeding pursuant to Chapter 3 (commencing with Section 3100).

SEC. 128. Section 3072 of the Probate Code is amended to read:

3072. (a) Except as provided in subdivision (b), a conservator may join in or consent to a transaction under Section 3071 only after authorization by either of the following:

(1) An order of the court obtained in the conservatorship proceeding upon a petition filed pursuant to Section 2403 or under Article 7 (commencing with Section 2540) or 10 (commencing with Section 2580) of Chapter 6 of Part 4.

(2) An order of the court made in a proceeding pursuant to Chapter 3 (commencing with Section 3100).

(b) A conservator may consent without court authorization to a sale, conveyance, or encumbrance of community personal property requiring consent under Section 1152 of the Family Code if the conservator could sell or transfer such property under Section 2545 without court authorization if the property were a part of the conservatorship estate.

SEC. 129. Section 3073 of the Probate Code is amended to read:

3073. (a) The joinder or consent under Section 3071 of a spouse having legal capacity shall be in a manner that complies with Chapter 2 (commencing with Section 1150) or Chapter 3 (commencing with Section 1200) of Part 4 of Division 4 of the Family Code or other statute that applies to the transaction.

(b) The joinder or consent under Section 3071 of a conservator shall be in the same manner as a spouse would join in or consent to the transaction under the statute that applies to the transaction except that the joinder or consent shall be executed by the conservator and shall refer to the court order, if one is required, authorizing the conservator to join in or consent to the transaction.

SEC. 130. Section 3088 of the Probate Code is amended to read:

3088. (a) The court may order the spouse who has the management or control of community property to apply the income or principal, or both, of the community property to the support and maintenance of the conservatee (including care, treatment, and support of a conservatee who is a patient in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services) as ordered by the court.

(b) In determining the amount ordered for support and maintenance, the court shall consider the following circumstances of the spouses:

(1) The earning capacity and needs of each spouse.
(2) The obligations and assets, including the separate property, of each spouse.
(3) The duration of the marriage.
(4) The age and health of the spouses.
(5) The standard of living of the spouses.
(6) Any other relevant factors which it considers just and equitable.

(c) At the request of any interested person, the court shall make appropriate findings with respect to the circumstances.

(d) The court may order the spouse who has the management or control of community property to make a specified monthly or other periodic payment to the conservator of the person of the conservatee or to such other person as is designated in the order. The court may order the spouse required to make the periodic payments to give reasonable security therefor.

(e) The court may order the spouse required to make the periodic payments to assign, to the person designated in the order to receive the payments, that portion of the earnings of the spouse due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support and maintenance of the conservatee. Such order operates as an assignment and is binding upon any existing or future employer upon whom a copy of the order is served. The order shall be in the form for an earnings assignment order for support prescribed by the Judicial Council for use in family law proceedings. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any execution or other assignment unless otherwise ordered by the court or unless the other assignment is made pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code. No employer shall use any assignment authorized by this subdivision as grounds for the dismissal of such employee. As used in this subdivision, "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code. This subdivision applies to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(f) The court retains jurisdiction to modify or to vacate an order made under this section where justice requires, except as to any amount that may have accrued prior to the date of the filing of the petition to modify or revoke the order. At the request of any interested person, the order of modification or revocation shall include findings of fact and may be made retroactive to the date of the filing of the petition to revoke or modify, or to any date subsequent thereto. At least 15 days before the hearing on the petition to modify or vacate the order, the petitioner shall mail a notice of the time and place of the hearing on the petition, accompanied by a copy of the petition, to the spouse who has the management or control of the community property. Notice shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1 to any other persons
entitled to notice of the hearing under that chapter.

(g) In a proceeding for dissolution of the marriage or for legal separation, the court has jurisdiction to modify or vacate an order made under this section to the same extent as it may modify or vacate an order made in the proceeding for dissolution of the marriage or for legal separation.

SEC. 131. Section 5305 of the Probate Code is amended to read:
5305. (a) Notwithstanding Sections 5301 to 5303, inclusive, if parties to an account are married to each other, whether or not they are so described in the deposit agreement, their net contribution to the account is presumed to be and remain their community property.

(b) Notwithstanding Sections 2580 and 2640 of the Family Code, the presumption established by this section is a presumption affecting the burden of proof and may be rebutted by proof of either of the following:

(1) The sums on deposit that are claimed to be separate property can be traced from separate property unless it is proved that the married persons made a written agreement that expressed their clear intent that such sums be their community property.

(2) The married persons made a written agreement, separate from the deposit agreement, that expressly provided that the sums on deposit, claimed not to be community property, were not to be community property.

(c) Except as provided in Section 5307, a right of survivorship arising from the express terms of the account or under Section 5302, a beneficiary designation in a Totten trust account, or a P.O.D. payee designation, may not be changed by will.

(d) Except as provided in subdivisions (b) and (c), a multiple-party account created with community property funds does not in any way alter community property rights.

SEC. 132. Section 6408 of the Probate Code is amended to read:
6408. (a) A relationship of parent and child is established for the purpose of determining intestate succession by, through, or from a person in the following circumstances:

(1) Except as provided in subdivisions (b), (c), and (d), the relationship of parent and child exists between a person and his or her natural parents, regardless of the marital status of the natural parents.

(2) The relationship of parent and child exists between an adopted person and his or her adopting parent or parents.

(b) The relationship of parent and child does not exist between an adopted person and the person's natural parent unless both of the following requirements are satisfied:

(1) The natural parent and the adopted person lived together at any time as parent and child, or the natural parent was married to, or was cohabiting with, the other natural parent at the time the child was conceived and died before the birth of the child.

(2) The adoption was by the spouse of either of the natural
parents or after the death of either of the natural parents.

(c) Neither a parent nor a relative of a parent (except for the issue of the child or a wholeblood brother or sister of the child or the issue of that brother or sister) inherits from or through a child on the basis of the relationship of parent and child if the child has been adopted by someone other than the spouse or surviving spouse of that parent.

(d) If a child is born out of wedlock, neither a parent nor a relative of a parent (except for the issue of the child or a natural brother or sister of the child or the issue of that brother or sister) inherits from or through the child on the basis of the relationship of parent and child between that parent and child unless both of the following requirements are satisfied:

1. The parent or a relative of the parent acknowledged the child.
2. The parent or a relative of the parent contributed to the support or the care of the child.

(e) For the purpose of determining intestate succession by a person or his or her descendants from or through a foster parent or stepparent, the relationship of parent and child exists between that person and his or her foster parent or stepparent if (1) the relationship began during the person's minority and continued throughout the parties' joint lifetimes and (2) it is established by clear and convincing evidence that the foster parent or stepparent would have adopted the person but for a legal barrier.

(f) For the purpose of determining whether a person is a "natural parent" as that term is used in this section:

1. A natural parent and child relationship is established where that relationship is presumed and not rebutted pursuant to the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code.

2. A natural parent and child relationship may be established pursuant to any other provisions of the Uniform Parentage Act, except that the relationship may not be established by an action under subdivision (c) of Section 7630 of the Family Code unless either (A) a court order was entered during the father's lifetime declaring paternity or (B) paternity is established by clear and convincing evidence that the father has openly and notoriously held out the child as his own.

(g) Nothing in this section affects or limits application of the judicial doctrine of equitable adoption for the benefit of the child or his or her descendants.

SEC. 133. Section 11927 of the Revenue and Taxation Code is amended to read:

11927. (a) Any tax imposed pursuant to this part shall not apply with respect to any deed, instrument, or other writing which purports to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation,
by a judgment of nullity, or by any other judgment or order rendered
pursuant to the Family Code, or by a written agreement between the
spouses, executed in contemplation of any such judgment or order,
whether or not the written agreement is incorporated as part of any
of those judgments or orders.

(b) In order to qualify for the exemption provided in subdivision
(a), the deed, instrument, or other writing shall include a written
recital, signed by either spouse, stating that the deed, instrument, or
other writing is entitled to the exemption.

SEC. 134. Section 17150.5 of the Vehicle Code is amended to read:

17150.5. The presumptions created by Section 803 of the Family
Code as to the acquisition of property by a married woman by an
instrument in writing shall not apply in an action based on Section
17150 with respect to the acquisition of a motor vehicle by a married
woman and her husband.

SEC. 135. Section 304 of the Welfare and Institutions Code is
amended to read:

304. When a minor has been adjudged a dependent child of the
juvenile court pursuant to subdivision (c) of Section 360, no other
division of any superior court may hear proceedings pursuant to Part
2 (commencing with Section 3020) of Division 8 of the Family Code
regarding the custody of the minor. While the minor is a dependent
child of the court all issues regarding his or her custody shall be heard
by the juvenile court. In deciding issues between the parents or
between a parent and a guardian regarding custody of a minor who
has been adjudicated a dependent of the juvenile court, the juvenile
court may review any records that would be available to the
domestic relations division of a superior court hearing such a matter.
The juvenile court, on its own motion, may issue an order directed
to either of the parents enjoining any action specified in subdivision
(b), (c), or (d) of Section 2035 of the Family Code. The Judicial
Council shall adopt forms for these restraining orders. These form
orders shall not be confidential and shall be enforceable in the same
manner as any other order issued pursuant to Section 2035 of the
Family Code.

This section shall not be construed to divest the domestic relations
division of a superior court from hearing any issues regarding the
custody of a minor when that minor is no longer a dependent of the
juvenile court.

SEC. 136. 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 Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family 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 2825 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. 137. Section 362.4 of the Welfare and Institutions Code is
amended to read:

362.4. When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the minor's attainment of the age of 18 years, and proceedings for the declaration of the nullity or dissolution of the marriage, or for legal separation, of the minor's parents, or proceedings to establish the paternity of the minor child brought under the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code, are pending in the superior court of any county, or an order has been entered with regard to the custody of that minor, the juvenile court on its own motion, may issue an order directed to either of the parents enjoining any action specified in subdivision (b), (c), or (d) of Section 2035 of the Family Code or determining the custody of, or visitation with, the child.

Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceeding to establish paternity, at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.

If no action is filed or pending relating to the custody of the minor in the superior court of any county, the juvenile court order may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides. The court may direct the parent or the clerk of the juvenile court to transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, immediately upon receipt, open a file, without a filing fee, and assign a case number.

The clerk of the superior court shall, upon the filing of any juvenile court custody order, send by first-class mail a copy of the order with the case number to the juvenile court and to the parents at the address listed on the order.

The Judicial Council shall adopt forms for any custody or restraining order issued under this section. These form orders shall not be confidential.

SEC. 138. Section 366.2 of the Welfare and Institutions Code is amended to read:

366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the
counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Part 4 (commencing with Section 7800) of Division 12 of the Family Code may be instituted. This section does not apply in a case
where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

    (f) This section shall apply only to minors made dependents of the court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

SEC. 139. Section 366.25 of the Welfare and Institutions Code is amended to read:

    366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who comes within subdivision (b) of Section 361.5 and for whom the court has found that reunification services should not be provided, a hearing shall be held pursuant to Section 361.5.

    (b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

    (c) Except in cases where permanency planning is conducted pursuant to Section 361.5, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a hearing pursuant to this section.

    (d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

    (1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Part 4 (commencing with
Section 7800 of Division 12 of the Family Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The minor’s foster parents, including relative caretakers, are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents, including relative caretakers, are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents. The court shall also make orders for visitation with the parents or guardians unless the court finds by a preponderance of evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except certified homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed foster family agency shall only use a suitable licensed or other family home which has been certified by the agency as meeting licensing standards. When the care, custody, and control has been transferred to a foster family agency, it shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court.
Responsibility for support of the minor shall not in and of itself create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Subsequent reviews for these minors shall be conducted every six months by the court. The licensed foster family agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) The proceeding for the appointment of a guardian for a minor who is a dependent child of the juvenile court shall be in the juvenile court. The court shall receive into evidence a report and recommendation concerning the proposed guardianship. The report shall include, but not be limited to, a discussion of all of the following:

1. A social history of the proposed guardian, including screening for criminal records and prior referrals for child abuse or neglect.
2. A social history of the minor, including an assessment of any identified developmental, emotional, psychological, or educational needs, and the capability of the proposed guardian to meet those needs.
3. The relationship of the minor to the proposed guardian, the duration and character of the relationship, the motivation for seeking guardianship rather than adoption, the proposed guardian's long-term commitment to provide a stable and permanent home for the minor, and a statement from the minor concerning the proposed guardianship.
4. The plan, if any, for the natural parents for continued involvement with the minor.
5. The proposed guardian's understanding of the legal and financial rights and responsibilities of guardianship.

The report shall be read and considered by the court prior to ruling on the petition for guardianship, and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(f) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of those periods.

(g) Notwithstanding any other provision of law, the application of any person who, as a foster parent, including relative caretakers, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to
the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(h) Subsequent hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous hearing and is awaiting finalization of the adoption or (2) the child is the ward of a guardian.

(i) This section applies to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

(j) An order by the court that authorizes the filing of a petition to terminate parental rights pursuant to Part 4 (commencing with Section 7800) of Division 12 of the Family Code or that authorizes the initiation of guardianship proceedings is not an appealable order but may be the subject of review by extraordinary writ.

SEC. 140. Section 366.26 of the Welfare and Institutions Code 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; Part 2 (commencing with Section 3020) of Division 8 of the Family 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 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family 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 rights of the parent or parents 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. 141. Section 11155.5 of the Welfare and Institutions Code is amended to read:

11155.5. (a) In addition to the personal property permitted by other provisions of this part, a child declared a ward or dependent child of the juvenile court, who is age 16 years or older, and who is a participant in the Independent Living Program pursuant to the

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Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) may retain any cash savings, including interest, accumulated pursuant to the child's Independent Living Program case plan. The cash savings shall be the child's own money and shall be deposited by the child or on behalf of the child in any bank or savings and loan institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The cash savings shall be for the child's use for purposes directly related to emancipation pursuant to Part 6 (commencing with Section 7000) of Division 11 of the Family Code.

(b) The cash savings accumulated and deposited pursuant to this section shall be kept separate from other types and sources of cash savings. The withdrawal of the savings shall require the written approval of the child's probation officer or social worker and shall be directly related to the goal of emancipation.

SEC. 142. 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 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. 143. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to establish, modify, and enforce child support and when appropriate enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when appropriate, to take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) To the extent required by federal law, actions brought by the district attorney to establish or enforce support obligations in all cases, other than paternity cases or those cases involving complex issues, shall be completed within the following time limits: (1) 90 percent of the actions shall be completed within three months from the date of service; (2) 98 percent of the actions shall be completed within six months from the date of service; and (3) 100 percent of the actions shall be completed within 12 months from the date of service. As used in this section, “service” means the service of process required by law for the particular proceeding. The district attorney’s responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a) (9)), or any subsequent date.

(c) In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a
support judgment, notwithstanding the fact that the child has attained the age of majority.

(d) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals whether or not they are recipients of public social services.

(e) In any action to establish a child support order brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Code.

The district attorney shall file a motion for an order for temporary support within the following time limits:

(1) If the defendant is the mother, a presumed father under Section 7611 of the Family Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section prohibits the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

As used in subdivision (b), "complex issues" means issues arising
in the following types of cases: (1) any case which could directly result in a person’s incarceration; (2) any case involving the right to jury trial; and (3) any case so deemed by a commissioner, a referee, or a superior court judge.

In counties which operate an expedited process in accordance with Section 640.1 of the Code of Civil Procedure, commissioners and referees shall order a temporary support obligation under the expedited process in complex cases, as defined in this section, prior to referring those cases to the full judicial system.

(f) As used in this article, “enforcing obligations” includes, but is not limited to, (1) the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations, (2) the obtaining by the district attorney of an initial order for child support, which may include medical support or which is for medical support only, by civil or criminal process, (3) the initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance, and (4) the response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the district attorney is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(g) As used in this section, “out of wedlock” means that the biological parents of the child were not married to each other at the time of the child’s conception.

(h) The district attorney is the public agency responsible for administering wage withholding for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). The district attorney shall seek an earnings assignment order for support in any case as soon as the obligor is in arrears in payment of support pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code.

Nothing in this section shall limit the authority of the district attorney granted by other sections of this code or otherwise granted by law.

(i) In the exercise of the authority granted under this article, the district attorney may intervene, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under the Family Code, or other proceeding wherein child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the district attorney may
request such relief as appropriate which the district attorney is authorized to seek.

(j) The district attorney shall comply with any guidelines established by the State Department of Social Services which set time standards for responding to requests for assistance in locating absent parents, establishing paternity, establishing child support awards, and collecting child support payments.

(k) As used in this article, medical support activities which the district attorney is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

SEC. 144. Section 11475.3 of the Welfare and Institutions Code is repealed.

SEC. 145. Section 11476.1 of the Welfare and Institutions Code is amended to read:

11476.1. (a) In any case where the district attorney has undertaken enforcement of support, the district attorney may enter into an agreement with the noncustodial parent, on behalf of a minor child or children, a spouse, or former spouse for the entry of a judgment without action determining paternity, if applicable, and for periodic child and spousal support payments based on the noncustodial parent's reasonable ability to pay or, if for spousal support, an amount previously ordered by a court of competent jurisdiction. An agreement for entry of a judgment under this section may be executed prior to the birth of the child and may include a provision that the judgment is not to be entered until after the birth of the child.

(b) A judgment based on the agreement shall be entered only if one of the following requirements is satisfied:

(1) The noncustodial parent is represented by legal counsel and the attorney signs a certificate stating: "I have examined the proposed judgment and have advised my client concerning his or her rights in connection with this matter and the consequences of signing or not signing the agreement for the entry of the judgment and my client, after being so advised, has agreed to the entry of the judgment."

(2) A judge of the court in which the judgment is to be entered, after advising the noncustodial parent concerning his or her rights in connection with the matter and the consequences of agreeing or not agreeing to the entry of the judgment, makes a finding that the noncustodial parent has appeared before the judge and the judge has determined that under the circumstances of the particular case the noncustodial parent has willingly, knowingly, and intelligently waived his or her due process rights in agreeing to the entry of the judgment.

(c) The clerk shall file the agreement, together with any
certificate of the attorney or finding of the court, without the payment of any fees or charges. If the requirements of this section are satisfied, the court shall enter judgment thereon without action. The provisions of Article 4 (commencing with Section 4200) of Chapter 2 of Part 2 of Division 9 of the Family Code or Chapter 4 (commencing with Section 4350) of Part 3 of Division 9 of the Family Code shall apply to such judgment. A judgment for support so entered may be enforced by any means by which any other judgment for support may be enforced.

(d) Upon request of the district attorney in any case under this section, the clerk shall set the matter for hearing by the court. The hearing shall be held within 10 days after the clerk receives the request. The district attorney may require the person who signed the agreement for the entry of judgment to attend the hearing by process of subpoena in the same manner as the attendance of a witness in a civil action may be required. The presence of the person who signed the agreement for entry of judgment at the hearing shall constitute the presence of the person in court at the time the order is pronounced for the purposes of Section 1209.5 of the Code of Civil Procedure if the court makes the findings required by paragraph (2) of subdivision (b).

(e) The district attorney shall cause the following to be served, in the manner specified in Section 415.10, 415.20, 415.30, or 415.40 of the Code of Civil Procedure, upon the person who signed the agreement for entry of the judgment and shall file proof of service thereof with the court:

(1) A copy of the judgment as entered.

(2) If the judgment includes an order for child or spousal support payments, a notice stating the substance of the following: "The court has continuing authority to make an order increasing or decreasing the amount of the child or spousal support payments. You have the right to request that the court order the child and spousal support payments be decreased or eliminated entirely."

(f) An order for child and spousal support included in a judgment entered under this section may be modified or revoked as provided in Article 1 (commencing with Section 3650) of Chapter 6 of Part 1 of Division 9 of the Family Code and in (1) Article 1 (commencing with Section 4000) and Article 3 (commencing with Section 4100) of Chapter 2 of Part 2 of Division 9 of the Family Code or (2) Chapter 2 (commencing with Section 4320) and Chapter 3 (commencing with Section 4330) of Part 3 of Division 9 of the Family Code. The court may modify the order to make the support payments payable to a different person.

(g) For the purposes of this section, in making a determination of the noncustodial parent's reasonable ability to pay, any relevant circumstances set out in Section 4005 of the Family Code shall be considered.

(h) After arrest and before plea or trial, or after conviction or plea of guilty, under Section 270 of the Penal Code, if the defendant
appears before the court in which the criminal action is pending and the requirements of paragraph (1) or (2) of subdivision (b) have been satisfied, the court may suspend proceedings or sentence in the criminal action, but this does not limit the later institution of a civil or criminal action or limit the use of any other procedures available to enforce the judgment entered pursuant to this section.

(i) Nothing in this section applies to a case where a civil action has been commenced.

SEC. 146. Section 11478 of the Welfare and Institutions Code is amended to read:

11478. All state, county, and local agencies shall cooperate in the enforcement of any child support obligation or to the extent required under the state plan under Section 11475.2 of this code and Chapter 6 (commencing with Section 4800) of Part 5 of Division 9 of the Family Code, spousal support orders and in the location of parents who have abandoned or deserted children, irrespective of whether the children are or are not receiving aid to families with dependent children, and shall, on request, supply the county department, the Department of Justice, any county probation officer, the district attorney of any county in this state, or the California Parent Locator Service with all information on hand relative to the location, income, or property of any absent parents, spouses, or former spouses, notwithstanding any other provision of law making the information confidential, and with all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child under this chapter.

SEC. 147. Section 11478.1 of the Welfare and Institutions Code is amended to read:

11478.1. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 11475.2 of this code and Chapter 6 (commencing with Section 4800) of Part 5 of Division 9 of the Family Code.

(4) The location of absent parents.

(b) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV
of Chapter 7 of Title 42 of the United States Code and this article, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

1. All files, applications, papers, documents and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and any other plan or program described in Section 303.21 of Title 45 of the Code of Federal Regulations.

2. A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

3. The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person’s designee.

4. Public records subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code) may be released.

5. After a noticed motion and a finding by the court, in a case in which enforcement actions are being taken, that release or disclosure to the obligor is required by due process of law, the court may order a public entity, which possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor for examination or copying, or to disclose to the obligor the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 3 of the Evidence Code shall not be applicable to proceedings under this part.

6. To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a minor child, or location of a concealed or abducted child or the location of the concealing or abducting person, may be disclosed to any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

7. The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided
to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this section, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this section, "obligor" means any person owing a duty of support.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

SEC. 148. Section 11478.2 of the Welfare and Institutions Code is amended to read:

11478.2. (a) In all actions involving paternity or support, including, but not limited to, proceedings under the Family Code, 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 Chapter 6 (commencing
with Section 4800) of Part 5 of Division 9 of the Family Code, the
notice shall be made in compliance with the requirements of that
chapter. 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 Chapter 6 (commencing with
Section 4800) of Part 5 of Division 9 of the Family Code, unless
otherwise specified, notice shall be provided by mailing the item by
first-class mail to the initiating court.

SEC. 149. Section 11478.8 of the Welfare and Institutions Code 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 11475.4, 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.

(b) 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.

(c) 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: (1) first and last name and middle initial, if known; (2) social security number; (3) driver's license number; (4) birth date; (5) last known address; or (6) spouse's name.

(d) 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.

(e) An employer or labor organization 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.

(f) "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).

(g) 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. 150. Section 11489 of the Welfare and Institutions Code is amended to read:

11489. After judgment in any court action brought to enforce the support obligation of an absent parent pursuant to the provisions of this chapter, the court may issue an earnings assignment order for support pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code.

SEC. 151. Section 11490 of the Welfare and Institutions Code is amended to read:

11490. (a) The state medical insurance form required in Article 1 (commencing with Section 3750) of Chapter 7 of Part 1 of Division 9 of the Family Code shall include, but shall not be limited to, all of the following:

(1) The parent or parents' names, addresses, and social security numbers.

(2) The name and address of each parent's place of employment.

(3) The name or names, addresses, policy number or numbers, and coverage type of the medical insurance policy or policies of the parents, if any.

(4) The name, AFDC case number, social security number, and Title IV-E foster care case number or Medi-Cal case numbers of the parents and children covered by the medical insurance policy or policies.

(b) In any action brought or enforcement proceeding instituted by the district attorney under this article for payment of child or spousal support, a completed state medical insurance form shall be obtained and sent by the district attorney to the State Department of Health Services in the manner prescribed by the State Department of Health Services.

Where it has been determined under Section 3751 of the Family Code that health insurance coverage is not available at no or reasonable cost, the district attorney shall seek a provision in the support order which provides for health insurance coverage should it become available at no or reasonable cost.

Health insurance coverage shall be considered reasonable in cost if it is employment-related group health insurance or other group health insurance, regardless of the service delivery mechanism. As used in this section, "health insurance coverage" also includes provision for the delivery of health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to the dependent child or children of an absent parent.

(c) (1) The district attorney shall request employers and other
groups offering health insurance coverage that is being enforced under this article to notify the district attorney if there has been a lapse in insurance coverage. The district attorney shall be responsible for forwarding information pertaining to the health insurance policy secured for the dependent children for whom the district attorney is enforcing the court ordered medical support to the custodial parent.

(2) The district attorney shall periodically communicate with the State Department of Health Services to determine if there have been lapses in health insurance coverage for public assistance applicants and recipients. The State Department of Health Services shall notify the district attorney when there has been a lapse in court-ordered insurance coverage.

(3) The district attorney shall take appropriate action, civil or criminal, to enforce the obligation to obtain health insurance when there has been a lapse in insurance coverage or failure by the responsible parent to obtain insurance as ordered by the court.

(4) The district attorney shall inform all individuals upon their application for child support enforcement services that medical support enforcement services are available.

If the spouse or child does not receive public assistance or aid and is not a Medi-Cal applicant or recipient, the district attorney shall obtain the applicant's consent prior to providing medical support enforcement services.

SEC. 152. Section 12300 of the Welfare and Institutions Code is amended to read:

12300. The purpose of this article is to provide in every county in a manner consistent with this chapter and the annual Budget Act those supportive services identified in this section to aged, blind, or disabled persons, as defined under this chapter, who are unable to perform the services themselves and who cannot safely remain in their homes or abodes of their own choosing unless these services are provided.

Supportive services shall include domestic services and services related to domestic services, heavy cleaning, nonmedical personal services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites and other essential transportation as determined by the director, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other supportive services, and paramedical services which make it possible for the recipient to establish and maintain an independent living arrangement.

Where these supportive services are provided by a person having the legal duty pursuant to the Family Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider
is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care.

These providers shall be paid only for the following supportive services: services related to domestic services, nonmedical personal services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites, other essential transportation as determined by the director, and protective supervision only as needed because of the functional limitations of the child and paramedical services.

To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided. Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation.

SEC. 153. Section 12350 of the Welfare and Institutions Code is amended to read:

12350. No relative shall be held legally liable to support or to contribute to the support of any applicant for, or recipient of aid under this chapter. No relative shall be held liable to defray in whole or in part the cost of any medical care or hospital care or other service rendered to the recipient pursuant to any provision of this code if he is an applicant for or a recipient of aid under this chapter at the time such medical care or hospital care or other service is rendered.

Notwithstanding Sections 3910, 4400, and 4401 of the Family Code, or Section 270c of the Penal Code, or any other provision of this code, no demand shall be made upon any relative to support or contribute toward the support of any applicant for or recipient of aid under this chapter. No county or city and county or officer or employee thereof shall threaten any such relative with any legal action against him by or in behalf of the county or city and county or with any penalty whatsoever.

SEC. 154. Section 14010 of the Welfare and Institutions Code is amended to read:

14010. (a) Notwithstanding any other provision of law, the parent or parents of a person under 21 years of age shall not be held financially responsible, nor shall financial contribution be requested or required of such parent or parents for health care or related services to which the person may consent under any express provision of law, including, but not limited to, Sections 6924, 6925, 6926, 6927, 6928, and 6929 of the Family Code, and including, but not limited to, maternity home care, social service counseling, and other services related to pregnancy of the person which are provided by a licensed maternity home.

Federal financial participation in providing such services shall not be claimed to the extent that the exemption from financial responsibility provided by this section is inconsistent with federal law.

(b) Notwithstanding the provisions of subdivision (a), the parent
or parents of a person under 21 years of age, who is living in the home of the parent or parents, shall be held financially responsible for health care or related services to which the person under 21 years of age may consent pursuant to paragraph (1) of subdivision (e) of Section 7050 of the Family Code, but excluding health care and or related services to which a person may consent under Sections 6924, 6925, 6926, 6927, 6928, and 6929 of the Family Code.

SEC. 155. Section 16100 of the Welfare and Institutions Code is amended to read:

16100. Any county may apply for, and the department may issue pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code to any county agency designated by the county making the application, a license to perform the home-finding and placement functions, to investigate, examine, and make reports upon petitions for adoption filed in the superior court, to act as a placement agency in the placement of children for adoption, to accept relinquishments for adoption, and to perform such other functions in connection with adoption as the department deems necessary, or to do any of them. Nothing in this section shall be construed to authorize licensed county adoption agencies to provide intercountry adoption services.

In order to extend the services of county adoption agencies to the maximum number of counties practicable within the limits of funds appropriated therefor, the department may license a county adoption agency to operate in such other counties in the general area of the agency as it deems conducive to the effective and efficient administration of the adoption program.

A license issued to a county agency pursuant to this section constitutes the holder thereof a "county adoption agency" and the holder shall be deemed to be an "organization" within the meaning of this code and of Division 13 (commencing with Section 8500) of the Family Code.

SEC. 156. Section 16101 of the Welfare and Institutions Code is amended to read:

16101. The cost of administering the adoption programs undertaken by a county under license issued pursuant to Section 16100 of this code shall be borne by the state in the amount found necessary by the department for proper and efficient administration. The state shall reimburse the county for all such necessary administrative costs, after deducting therefrom the amount of fees collected by the county agency pursuant to Section 8716 of the Family Code.

SEC. 157. Section 16106 of the Welfare and Institutions Code is amended to read:

16106. The state shall reimburse each county for the cost of care of any child placed under the custody of a county department pursuant to Section 8805 or 8918 of the Family Code. County claims for reimbursement of expenses incurred pursuant to Section 8805 or 8918 of the Family Code shall be filed with the department at the
time and in the manner specified by the department, and the claims shall be subject to audit by the department. Whenever a claim covering a prior fiscal year is found to have been in error, adjustment may be made on a current claim without the necessity of applying adjustment to the appropriation for the prior fiscal year.

SEC. 158. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. Adoption Assistance Program benefits shall be provided only on behalf of special needs children for whom all of the following conditions are met:

(a) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.

(b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.

(c) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and have signed an adoption assistance agreement.

(d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to Section 8805 or 8918 of the Family Code.

SEC. 159. Section 16507.6 of the Welfare and Institutions Code is amended to read:

16507.6. (a) If a minor has been voluntarily placed with the county welfare department subsequent to January 1, 1982, for out-of-home placement by his or her parents or guardians pursuant to this chapter and the minor has remained out of their physical custody for six consecutive months, the department shall do one of the following:

(1) Return the minor to the physical custody of his or her parents or guardians.

(2) Refer the minor to a licensed adoption agency for consideration of adoptive planning and receipt of a permanent relinquishment of care and custody rights from the parents pursuant to Section 8700 of the Family Code.

(3) Apply for a petition pursuant to Section 332 and file the petition with the juvenile court to have the minor declared a dependent child of the court under Section 300.

(4) Refer the minor placed pursuant to paragraph (2) of subdivision (a) of Section 16507.3 to an interagency administrative
review board as may be required in federal regulations. One member of the board shall be a licensed mental health practitioner. The review board shall review the appropriateness and continued necessity of six additional months of voluntary placement, the extent of the compliance with the voluntary placement plan, and the adequacy of services to the family and child. If the minor cannot be returned home by the 12th month of voluntary placement services, the department shall proceed pursuant to paragraph (2) or (3).

(5) Refer the minor placed pursuant to paragraph (1) of subdivision (a) of Section 16507.3 to an administrative review board as may be required in federal regulations and as described in subdivision (b) of Section 16503. If the minor cannot be returned home by the 12th month of voluntary placement services, the department shall proceed as described in paragraph (1) or (2).

(b) For those children placed voluntarily prior to January 1, 1981, the six-month consecutive time period for provision of child welfare services shall commence October 1, 1982.

SEC. 160. Any section of any act enacted by the Legislature during the 1992 calendar year, which takes effect on or before January 1, 1993, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted before or after this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

SEC. 161. This act shall become operative only if Assembly Bill 2650 of the 1991–92 Regular Session enacts the Family Code, is chaptered, and takes effect on or before January 1, 1994, in which case this act shall become operative on January 1, 1994.

CHAPTER 164

An act to amend Sections 14261, 14363, 14364, and 14365 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 14261 of the Food and Agricultural Code is amended to read:

14261. This chapter, except Section 14363, does not apply to any of the following:

(a) Any livestock drug which is sold exclusively to, and used...
exclusively by, or under the direction of, a licensed veterinarian, nor
to any livestock drug which is compounded by a registered
pharmacist upon the prescription of a licensed veterinarian.

(b) Any drug or other preparation which is dispensed or
compounded by a registered pharmacist at the request of the
purchaser if such drug or preparation is sold at retail.

(c) Any commercial feed which is subject to Chapter 6
(commencing with Section 14901) of this division, irrespective of the
presence in such commercial feed of any ingredients which
otherwise would constitute a livestock drug.

SEC. 2. Section 14363 of the Food and Agricultural Code is
amended to read:

14363. (a) It is unlawful for any livestock owner or agent to sell
or dispose of any livestock or livestock carcasses which within 48
hours after the buyer takes possession have drug residues in excess
of allowable federal or state tolerances. In addition to any other
penalties imposed by this chapter, any livestock owner or agent
violating this section shall be liable to the buyer for an amount equal
to three times the purchase price of any livestock or livestock
carcasses with drug residues in excess of allowable federal or state
tolerances so long as the liability does not conflict with the federal
Packers and Stockyards Act, and shall be liable for a civil penalty of
not more than one hundred dollars ($100) for each head of livestock
or livestock carcass disposed of or sold. In addition, the livestock
owner or agent shall be liable for any attorney’s fees.

(b) In addition to the penalties imposed by this chapter, the sale
or disposition of any livestock or livestock carcass which, within 48
hours after the buyer takes possession, has drug residue in excess of
allowable federal or state tolerances, is punishable by an
administrative fine, levied by the director, in the amount of two
hundred fifty dollars ($250) per head for a second or subsequent
violation within a 12-month period.

(c) In lieu of assessing the administrative fine, the director may
authorize a violator to attend an educational program on livestock
drug residue avoidance which has been approved by the director.
The violator shall successfully complete the program and provide
proof to the director within 90 days from the occurrence of the
violation.

(d) This section does not affect any rights or obligations under any
contract between a livestock owner or agent, buyer, or any other
party.

(e) Any additional funds collected as administrative fines
pursuant to this section shall be deposited in the General Fund.

SEC. 3. Section 14364 of the Food and Agricultural Code is
amended to read:

14364. (a) It is unlawful to sell or dispose of a bob veal calf for the
purposes of slaughter without first affixing to the animal a producer
identification number approved by the director.

(b) For purposes of this chapter, “bob veal calf” means a bovine
animal 21 days of age or less or weighing 150 pounds or less, or as
specified in Food Safety Inspection Service regulations of the United
States Department of Agriculture.
(c) Bob veal calves that are identified as provided in Division 10
(commencing with Section 20001) are exempt from this section.

SEC. 4. Section 14365 of the Food and Agricultural Code is
amended to read:
14365. (a) It is unlawful to sell or dispose of a dairy cull cow
without first affixing to the animal a producer identification number
issued by the director.
(b) For purposes of this chapter, "cull cow" means a female
bovine animal 21 days of age or more, which is sold or disposed of for
the purpose of slaughter.
(c) Cull cows that are identified as provided in Division 10
(commencing with Section 20001) are exempt from this section.

CHAPTER 165

An act to add Section 3426.11 to the Civil Code, relating to
privileged communications.

[Approved by Governor July 11, 1999. Filed with
Secretary of State July 13, 1992.]

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

SECTION 1. Section 3426.11 is added to the Civil Code, to read:
3426.11. Notwithstanding subdivision (b) of Section 47, in any
legislative or judicial proceeding, or in any other official proceeding
authorized by law, or 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, the voluntary, intentional disclosure of trade
secret information, unauthorized by its owner, to a competitor or
potential competitor of the owner of the trade secret information or
the agent or representative of such a competitor or potential
competitor is not privileged and is not a privileged communication
for purposes of Part 2 (commencing with Section 43) of Division 1.

This section does not in any manner limit, restrict, impair, or
otherwise modify either the application of the other subdivisions of
Section 47 to the conduct to which this section applies or the court's
authority to control, order, or permit access to evidence in any case
before it.

Nothing in this section shall be construed to limit, restrict, or
otherwise impair, the capacity of persons employed by public
entities to report improper government activity, as defined in
Section 10542 of the Government Code, or the capacity of private
persons to report improper activities of a private business.
CHAPTER 166

An act to amend Section 27556 of the Streets and Highways Code, relating to bridges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 27556 of the Streets and Highways Code is amended to read:

27556. Except for the necessity to finance its interim system of buses and ferries, as described in Section 27551, or the necessity to finance capital improvements or modifications relating to seismic safety of the bridge, the district shall not issue general obligation bonds, revenue bonds, or any other form of long-term indebtedness.

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

In order to enable the Golden Gate Bridge, Highway and Transportation District to raise the revenue needed to complete seismic safety improvements on the Golden Gate Bridge necessitated by the 1989 Loma Prieta earthquake, it is necessary for this act to take effect immediately.

CHAPTER 167

An act to amend Section 2929.5 of the Civil Code, and to amend Sections 564, 726.5, and 736 of the Code of Civil Procedure, relating to real property.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 2929.5 of the Civil Code is amended to read:

2929.5. (a) A secured lender may enter and inspect the real property security for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security on either of the following:

(1) Upon reasonable belief of the existence of a past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security not previously disclosed
in writing to the secured lender in conjunction with the making, renewal, or modification of a loan, extension of credit, guaranty, or other obligation involving the borrower.

(2) After the commencement of nonjudicial or judicial foreclosure proceedings against the real property security.

(b) The secured lender shall not abuse the right of entry and inspection or use it to harass the borrower or tenant of the property. Except in case of an emergency, when the borrower or tenant of the property has abandoned the premises, or if it is impracticable to do so, the secured lender shall give the borrower or tenant of the property reasonable notice of the secured lender's intent to enter, and enter only during the borrower’s or tenant’s normal business hours. Twenty-four hours' notice shall be presumed to be reasonable notice in the absence of evidence to the contrary.

(c) The secured lender shall reimburse the borrower for the cost of repair of any physical injury to the real property security caused by the entry and inspection.

(d) If a secured lender is refused the right of entry and inspection by the borrower or tenant of the property, or is otherwise unable to enter and inspect the property without a breach of the peace, the secured lender may, upon petition, obtain an order from a court of competent jurisdiction to exercise the secured lender's rights under subdivision (a), and that action shall not constitute an action within the meaning of subdivision (a) of Section 726 of the Code of Civil Procedure.

(e) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(2) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(3) "Real property security" means any real property and improvements, other than a separate interest and any related interest in the common area of a residential common interest development, as the terms "separate interest," "common area," and "common interest development" are defined in Section 1351, or real property consisting of one acre or less which contains 1 to 15 dwelling units.
(4) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into, onto, or through soil, surface water, or groundwater.

(5) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

SEC. 2. Section 564 of the Code of Civil Procedure is amended to read:

564. (a) A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which the court is empowered by law to appoint a receiver.

(b) In superior court a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases:

(1) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to the creditor’s claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.

(2) In an action by a secured lender for the foreclosure of the deed of trust or mortgage and sale of the property upon which there is a lien under a deed of trust or mortgage, where it appears that the property is in danger of being lost, removed, or materially injured, or that the condition of the deed of trust or mortgage has not been performed, and that the property is probably insufficient to discharge the deed of trust or mortgage debt.

(3) After judgment, to carry the judgment into effect.

(4) After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or pursuant to Title 9 (commencing with Section 680.010) (enforcement of judgments), or after sale of real property pursuant to a decree of foreclosure, during the redemption period, to collect, expend, and disburse rents as directed by the court or otherwise provided by law.

(5) In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.

(6) In an action of unlawful detainer.

(7) At the request of the Public Utilities Commission pursuant to Section 855 of the Public Utilities Code.

(8) In all other cases where receivers have heretofore been
appointed by the usages of courts of equity.

(c) A receiver may be appointed, in the manner provided in this chapter, including, but not limited to, Section 566, by the superior court in an action brought by a secured lender to enforce the rights provided in Section 2929.5 of the Civil Code, to enable the secured lender to enter and inspect the real property security for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security. The secured lender shall not abuse the right of entry and inspection or use it to harass the borrower or tenant of the property. Except in case of an emergency, when the borrower or tenant of the property has abandoned the premises, or if it is impracticable to do so, the secured lender shall give the borrower or tenant of the property reasonable notice of the secured lender's intent to enter and shall enter only during the borrower's or tenant's normal business hours. Twenty-four hours' notice shall be presumed to be reasonable notice in the absence of evidence to the contrary.

(d) Any action by a secured lender to appoint a receiver pursuant to this section shall not constitute an action within the meaning of subdivision (a) of Section 726.

(e) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(2) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(3) "Real property security" means any real property and improvements, other than a separate interest and any related interest in the common area of a residential common interest development, as the terms "separate interest," "common area," and "common interest development" are defined in Section 1351 of the Civil Code, or real property consisting of one acre or less which contains 1 to 15 dwelling units.

(4) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into, onto, or through soil, surface
water, or groundwater.

(5) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

SEC. 3. Section 726.5 of the Code of Civil Procedure is amended to read:

726.5. (a) Notwithstanding subdivision (a) of Section 726 or any other provision of law except subdivision (d) of this section, a secured lender may elect between the following where the real property security is environmentally impaired and the borrower's obligations to the secured lender are in default:

(1) (A) Waiver of its lien against (i) any parcel of real property security that is environmentally impaired or is an affected parcel, and (ii) all or any portion of the fixtures and personal property attached to the parcels; and
(B) Exercise of (i) the rights and remedies of an unsecured creditor, including reduction of its claim against the borrower to judgment, and (ii) any other rights and remedies permitted by law.

(2) Exercise of (i) the rights and remedies of a creditor secured by a deed of trust or mortgage and, if applicable, a lien against fixtures or personal property attached to the real property security, and (ii) any other rights and remedies permitted by law.

(b) Before the secured lender may waive its lien against any parcel of real property security pursuant to paragraph (1) of subdivision (a) on the basis of the environmental impairment contemplated by paragraph (3) of subdivision (e), (i) the secured lender shall provide written notice of the default to the borrower, and (ii) the value of the subject real property security shall be established and its environmentally impaired status shall be confirmed by an order of a court of competent jurisdiction in an action brought by the secured lender against the borrower. The complaint for a valuation and confirmation action may include causes of action for a money judgment for all or part of the secured obligation in which case the waiver of the secured lender's liens under paragraph (1) of subdivision (a) shall result only if and when a final money judgment is obtained against the borrower.

(c) If a secured lender elects the rights and remedies permitted by paragraph (1) of subdivision (a) and the borrower's obligations are also secured by other real property security, fixtures, or personal property, the secured lender shall first foreclose against the additional collateral to the extent required by applicable law in which case the amount of the judgment of the secured lender pursuant to paragraph (1) of subdivision (a) shall be limited to the extent Section 580a or 580d, or subdivision (b) of Section 726 apply to the foreclosures of additional real property security. The borrower may waive or modify the foreclosure requirements of this subdivision provided that the waiver or modification is in writing and signed by
the borrower after default.

(d) Subdivision (a) shall be inapplicable if all of the following are true:

(1) The release or threatened release was not knowingly or negligently caused or contributed to, or knowingly or willfully permitted or acquiesced to, by any of the following:

(A) The borrower or any related party.
(B) Any affiliate or agent of the borrower or any related party.
(2) In conjunction with the making, renewal, or modification of the loan, extension of credit, guaranty, or other obligation secured by the real property security, neither the borrower, any related party, nor any affiliate or agent of either the borrower or any related party had actual knowledge or notice of the release or threatened release, or if such a person had knowledge or notice of the release or threatened release, the borrower made written disclosure thereof to the secured lender after the secured lender's written request for information concerning the environmental condition of the real property security, or the secured lender otherwise obtained actual knowledge thereof, prior to the making, renewal, or modification of the obligation.

(e) For purposes of this section:

(1) "Affected parcel" means any portion of a parcel of real property security that is (A) contiguous to the environmentally impaired parcel, even if separated by roads, streets, utility easements, or railroad rights-of-way, (B) part of an approved or proposed subdivision within the meaning of Section 66424 of the Government Code, of which the environmentally impaired parcel is also a part, or (C) within 2,000 feet of the environmentally impaired parcel.
(2) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.
(3) "Environmentally impaired" means that the estimated costs to clean up and remediate a past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security, not disclosed in writing to, or otherwise actually known by, the secured lender prior to the making of the loan or extension of credit secured by the real property security, exceeds 25 percent of the higher of the aggregate fair market value of all security for the loan or extension of credit (A) at the time of the making of the loan or extension of credit, or (B) at the time of the discovery of the release or threatened release by the secured lender. For the purposes of this definition, the estimated cost to clean up and remediate the contamination caused by the release or threatened
release shall include only those costs that would be incurred reasonably and in good faith, and fair market value shall be determined without giving consideration to the release or threatened release, and shall be exclusive of the amount of all liens and encumbrances against the security that are senior in priority to the lien of the secured lender. Notwithstanding the foregoing, the real property security for any loan or extension of credit secured by a single parcel of real property which is included in the National Priorities List pursuant to Section 9605 of Title 42 of the United States Code, or in any list published by the State Department of Health Services pursuant to subdivision (b) of Section 25356 of the Health and Safety Code, shall be deemed to be environmentally impaired.

(4) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(5) "Real property security" means any real property and improvements, other than a separate interest and any related interest in the common area of a residential common interest development, as the terms "separate interest," "common area," and "common interest development" are defined in Section 1351 of the Civil Code, or real property which contains only 1 to 15 dwelling units, which in either case (A) is solely used (i) for residential purposes, or (ii) if reasonably contemplated by the parties to the deed of trust or mortgage, for residential purposes as well as limited agricultural or commercial purposes incidental thereto, and (B) is the subject of an issued certificate of occupancy unless the dwelling is to be owned and occupied by the borrower.

(6) "Related party" means any person who shares an ownership interest with the borrower in the real property security, or is a partner or joint venturer with the borrower in a partnership or joint venture, the business of which includes the acquisition, development, use, lease, or sale of the real property security.

(7) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into, onto, or through soil, surface water, or groundwater. The term does not include actions directly relating to the incorporation in a lawful manner of building materials into a permanent improvement to the real property security.

(8) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.
(f) This section shall not be construed to invalidate or otherwise affect in any manner any rights or obligations arising under contract in connection with a loan or extension of credit, including, without limitation, provisions limiting recourse.

(g) This section shall only apply to loans, extensions of credit, guaranties, or other obligations secured by real property security made, renewed, or modified on or after January 1, 1992, and before January 1, 2000.

SEC. 4. Section 736 of the Code of Civil Procedure is amended to read:

736. (a) Notwithstanding any other provision of law, a secured lender may bring an action for breach of contract against a borrower for breach of any environmental provision made by the borrower relating to the real property security, for the recovery of damages, and for the enforcement of the environmental provision, and that action or failure to foreclose first against collateral shall not constitute an action within the meaning of subdivision (a) of Section 726, or constitute a money judgment for a deficiency or a deficiency judgment within the meaning of Section 580a, 580b, or 580d, or subdivision (b) of Section 726. No injunction for the enforcement of an environmental provision may be issued after (1) the obligation secured by the real property security has been fully satisfied, or (2) all of the borrower's rights, title, and interest in and to the real property security has been transferred in a bona fide transaction to an unaffiliated third party for fair value.

(b) The damages a secured lender may recover pursuant to subdivision (a) shall be limited to reimbursement or indemnification of the following:

(1) If not pursuant to an order of any federal, state, or local governmental agency relating to the cleanup, remediation, or other response action required by applicable law, those costs relating to a reasonable and good faith cleanup, remediation, or other response action concerning a release or threatened release of hazardous substances which is anticipated by the environmental provision.

(2) If pursuant to an order of any federal, state, or local governmental agency relating to the cleanup, remediation, or other response action required by applicable law which is anticipated by the environmental provision, all amounts reasonably advanced in good faith by the secured lender in connection therewith, provided that the secured lender negotiated, or attempted to negotiate, in good faith to minimize the amounts it was required to advance under the order.

(3) Indemnification against all liabilities of the secured lender to any third party relating to the breach and not arising from acts, omissions, or other conduct which occur after the borrower is no longer an owner or operator of the real property security, and provided the secured lender is not responsible for the environmentally impaired condition of the real property security in accordance with the standards set forth in subdivision (d) of Section 726.
726.5. For purposes of this paragraph, the term "owner or operator" means those persons described in Section 101(20)(A) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

(4) Attorneys' fees and costs incurred by the secured lender relating to the breach.

The damages a secured lender may recover pursuant to subdivision (a) shall not include (i) any part of the principal amount or accrued interest of the secured obligation, except for any amounts advanced by the secured lender to cure or mitigate the breach of the environmental provision that are added to the principal amount, and contractual interest thereon, or (ii) amounts which relate to a release which was knowingly permitted, caused, or contributed to by the secured lender or any affiliate or agent of the secured lender.

(c) A secured lender may not recover damages against a borrower pursuant to subdivision (a) for amounts advanced or obligations incurred for the cleanup or other remediation of real property security, and related attorneys' fees and costs, if all of the following are true:

(1) The original principal amount of, or commitment for, the loan or other obligation secured by the real property security did not exceed two hundred thousand dollars ($200,000).

(2) In conjunction with the secured lender's acceptance of the environmental provision, the secured lender agreed in writing to accept the real property security on the basis of a completed environmental site assessment and other relevant information from the borrower.

(3) The borrower did not permit, cause, or contribute to the release or threatened release.

(4) The deed of trust or mortgage covering the real property security has not been discharged, reconveyed, or foreclosed upon.

(d) This section is not intended to establish, abrogate, modify, limit, or otherwise affect any cause of action other than that provided by subdivision (a) that a secured lender may have against a borrower under an environmental provision.

(e) This section shall apply only to environmental provisions contracted in conjunction with loans, extensions of credit, guaranties, or other obligations made, renewed, or modified on or after January 1, 1992, and before January 1, 2000. Notwithstanding the foregoing, this section shall not be construed to validate, invalidate, or otherwise affect in any manner the rights and obligations of the parties to, or the enforcement of, environmental provisions contracted before January 1, 1992.

(f) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of
the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(2) "Environmental provision" means any written representation, warranty, indemnity, promise, or covenant relating to the existence, location, nature, use, generation, manufacture, storage, disposal, handling, or past, present, or future release or threatened release, of any hazardous substance into, onto, beneath, or from the real property security, or to past, present, or future compliance with any law relating thereto, made by a borrower in conjunction with the making, renewal, or modification of a loan, extension of credit, guaranty, or other obligation involving the borrower, whether or not the representation, warranty, indemnity, promise, or covenant is or was contained in or secured by the deed of trust or mortgage, and whether or not the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(3) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(4) "Real property security" means any real property and improvements, other than a separate interest and any related interest in the common area of a residential common interest development, as the terms "separate interest," "common area," and "common interest development" are defined in Section 1351 of the Civil Code, or real property which contains only 1 to 15 dwelling units, which in either case (A) is solely used (i) for residential purposes, or (ii) if reasonably contemplated by the parties to the deed of trust or mortgage, for residential purposes as well as limited agricultural or commercial purposes incidental thereto, and (B) is the subject of an issued certificate of occupancy unless the dwelling is to be owned and occupied by the borrower.

(5) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into, onto, or through soil, surface water, or groundwater. The term does not include actions directly relating to the incorporation in a lawful manner of building materials into a permanent improvement to the real property security.

(6) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.
An act to amend Section 522 of the Harbors and Navigation Code, relating to abandoned property.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 522 of the Harbors and Navigation Code is amended to read:

522. (a) Any hulk, derelict, wreck, or parts of any ship, vessel, or other watercraft sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon publicly owned submerged lands, salt marsh, or tidelands within the corporate limits of any municipal corporation or other public corporation or entity having jurisdiction or control over those lands, without its consent expressed by resolution of its legislative body, for a period longer than 30 days without a watchman or other person being maintained upon or near and in charge of the property, is abandoned property. Thereafter, that municipal corporation or other public corporation or entity may cause the property to be sold, destroyed, or otherwise disposed of in such manner as it may determine is expedient or convenient. Any such sale shall vest complete title in the purchaser who shall forthwith take steps to remove the property. Any proceeds derived from the sale shall be the property of the municipal corporation or other public corporation or entity.

(b) However, if the owner of the property securely affixes to the property a notice in plain view setting forth the owner’s name and address and claim of ownership, together with the name and address of an agent or representative whom the owner may designate to act within the State of California if the owner does not reside in the state, and files a copy of the notice with the secretary of the municipal corporation or other public corporation or entity having jurisdiction or control over the lands at least five days prior to the removal, the municipal corporation or other public corporation or entity may not sell, destroy, or otherwise dispose of the property until the corporation or entity has first given the owner or the owner’s agent, at the address specified in the claim of ownership, 30 days’ notice to remove or cause the property to be removed, and then only if the property is not removed by the owner or the owner’s agent within that time or such reasonable extensions of time as the corporation or entity may grant by resolution. If a registration number appears on the watercraft, the municipal corporation or other public corporation or entity shall send the notice to the last registered owner and the disposition shall be handled as a lien sale under Section 504.
An act to amend Section 66006 of the Government Code, relating to development.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 66006 of the Government Code is amended to read:

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

(b) (1) For each separate account or fund established pursuant to subdivision (a), the local agency shall, within 60 days of the close of each fiscal year, make available to the public the beginning and ending balance for the fiscal year and the fee, interest, and other income and the amount of expenditure by public facility and the amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001 during the fiscal year.

(2) The local agency shall review the information made available to the public pursuant to paragraph (1) at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public, as required by this subdivision. Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the local agency for mailed notice of the meeting. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(c) For purposes of this section, “fee” means any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee within the meaning of subdivision (b) of Section 66000, and that is imposed by the local
agency as a condition of approving the development project.

(d) Any person may request an audit of any local agency fee or charge that is subject to Section 66023, including fees or charges of school districts, in accordance with that section.

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

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 170

An act to amend Section 76140 of, and to add Section 76142 to, the Education Code, relating to community colleges.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 76140 of the Education Code is amended to read:

76140. (a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1) or (2):

(1) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this paragraph shall not be made on an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.

(b) A district may contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student’s tuition fee.

(c) Nonresident students shall not be reported as full-time
equivalent students (FTES) for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year, (2) the expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year, (3) an amount not to exceed the fee established by the governing board of any contiguous district, or (4) an amount not to exceed the amount that was expended by the district for the expense of education but in no case less than the statewide average as set forth in paragraph (2). However, if the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to or greater than 10 percent of the district's total FTES attending in the district, the district in calculating the amount in paragraph (1) may substitute instead the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(f) The governing board of each community college district shall also adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in subdivision (e) by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

(g) In adopting a tuition fee for nonresident students, the
governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

(h) Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

(i) The provisions of this section that require a mandatory fee for nonresidents shall not apply to any district that borders on another state and has fewer than 500 FTES.

SEC. 2. Section 76142 is added to the Education Code, to read:

76142. A community college district may charge nonresident applicants who are both citizens and residents of a foreign country a processing fee not to exceed the lesser of (1) the actual cost of processing an application and other documentation required by the federal government, or (2) one hundred dollars ($100), which may be deducted from the tuition fee at the time of enrollment. No processing fee shall be charged to an applicant who would be eligible for an exemption from nonresident tuition pursuant to Section 76140 or who can demonstrate economic hardship. For purposes of this section, the governing board of each community college district that chooses to impose the fee authorized by this section shall adopt a definition of economic hardship that includes the financial circumstances of a person who is a victim of persecution or discrimination in the foreign country in which the applicant is a citizen and resident, or 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.

CHAPTER 171

An act to repeal Article 5 (commencing with Section 84501) of Chapter 4 of Title 9 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 11, 1992 Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Article 5 (commencing with Section 84501) of Chapter 4 of Title 9 of the Government Code is repealed.

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.
An act to amend Section 52020 of the Health and Safety Code, relating to housing.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992]

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

SECTION 1. Section 52020 of the Health and Safety Code is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing program, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, or a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to the issuance, standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to
make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing this criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(1) One hundred twenty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(2) The median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that
no less than 50 percent of the funds allocated for home mortgages
where the purchaser will not be the first occupant shall be for
households whose income does not exceed 80 percent of that median
household income. However, the legislative body of the city or
county may, by resolution, increase this income limitation to 90
percent of median household income if the legislative body finds that
there are insufficient numbers of creditworthy persons whose
income does not exceed 80 percent of median household income.
The resolution is final and conclusive as to the findings required by
this paragraph.

(3) One hundred fifty percent of the median household income
for mortgages made for improving a home or for homes where the
purchaser will be the first occupant in any city, the entire area of
which, or in any county in which a portion of the county, is
designated by the United States Department of Commerce,
Economic Development Administration as a special impact area
within a Title IV redevelopment area, pursuant to Section 401 of the
federal Public Works and Economic Development Act of 1965, as
amended, and which is eligible for Urban Development Action
Grant funds under the current distress standards established for
cities and counties by the Secretary of the United States Department
of Housing and Urban Development pursuant to Section 119 of the
Housing and Community Development Act of 1974, if the homes
purchased or improved are situated within the boundaries of a
special impact area as defined by the Economic Development
Administration, and that designation is in effect on the date of sale
of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the
highest of (A) statewide median household income, (B) countywide
median household income, or (C) median family income for area as
determined by the United States Department of Housing and Urban
Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) Subdivision (d) shall not apply with respect to home finance
programs funded with amounts made available by the issuance of
revenue bonds that (1) for federal tax law purposes are bonds
refunding qualified mortgage bonds issued before January 1, 1987,
and (2) satisfy the requirements of subdivision (a) of Section 1313 of
the federal Tax Reform Act of 1986. With respect to these programs,
the maximum household income for qualification of persons and
families pursuant to this section shall be the following:

(1) One hundred fifty percent of the median household income
for mortgages made for improving a home or for homes where the
purchaser will be the first occupant. Upon the resale of a home for
which financing was originally provided under this paragraph, the
maximum income of persons and families shall also be 150 percent
of the median household income. For purposes of this paragraph, a
mortgage made for improving a home includes a home
improvement loan as defined in Section 143 of Title 26 of the United States Code.

(2) One hundred twenty percent of the median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 20 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 110 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 120 percent of the median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 110 percent of the median household income. The resolution is final and conclusive as to the findings required by this paragraph. However, the finding shall not be made by the legislative body before six months from the date mortgages were first made under the program and only if participating lenders have entered into an agreement with the city, county, or city and county that lenders will advertise at least monthly the availability of funds and will forfeit one-quarter of their origination fees if they are unable to use 20 percent of the funds to make mortgages to households whose income does not exceed 110 percent of the median income.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (1) statewide median household income, (2) countywide median household income, or (3) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(f) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after
receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) Each city and county may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

CHAPTER 173

An act to amend Sections 53601 and 53635 of the Government Code, relating to local agency finances.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest any portion of the money which it deems wise or expedient in the following; provided, however, that where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement authorized by this section, which at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.
(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within Article 2

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(commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term “repurchase agreement” means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank’s customer book-entry account may be used for book-entry delivery. The term “counterparty” for the purposes of this subdivision, means the other party to the transaction. A counterparty bank’s trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term “securities,” for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

The term “reverse repurchase agreement” means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Medium-term notes of a maximum of five years maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of “A” or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency’s surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (l), inclusive, of this section and which comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years’ experience investing in the securities and
obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(l) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(m) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(n) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings
associations or federal associations, credit unions, or federally insured
industrial loan companies in this state selected by the treasurer or
other official having the legal custody of the money; or, unless
otherwise directed by the legislative body pursuant to Section 53601,
may be invested in the following:

(a) Bonds issued by the local agency, including bonds payable
solely out of the revenues from a revenue-producing property
owned, controlled, or operated by the local agency or by a
department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of
indebtedness, or those for which the faith and credit of the United
States are pledged for the payment of principal and interest.

c) Registered state warrants or treasury notes or bonds of this
state, including bonds payable solely out of the revenues from a
revenue-producing property owned, controlled, or operated by the
state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of
any local agency within this state, including bonds payable solely out
of the revenues from a revenue-producing property owned, controlled,
or operated by the local agency, or by a department, board, agency,
or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land
banks, federal intermediate credit banks, federal home loan banks,
the Federal Home Loan Bank, the Tennessee Valley Authority, or in
obligations, participations, or other instruments of, or issued by, or
fully guaranteed as to principal and interest by, the Federal National
Mortgage Association; or in guaranteed portions of Small Business
Administration notes; or in obligations, participations, or other
instruments of, or issued by, federal agency or a United States
government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a
commercial bank, otherwise known as bankers acceptances, which
are eligible for purchase by the Federal Reserve System. Purchases
of bankers acceptances may not exceed 270 days maturity or 40
percent of the agency's surplus funds which may be invested
pursuant to this section. However, no more than 30 percent of the
agency's surplus funds may be invested in the bankers acceptances
of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from
investing any surplus money in its treasury in any manner authorized
by the Municipal Utility District Act, Division 6 (commencing with
Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking
or of the highest letter and numerical rating as provided for by
Moody's Investors Service, Inc., or Standard and Poor's Corporation.
Eligible paper is further limited to issuing corporations that are
organized and operating within the United States and having total
assets in excess of five hundred million dollars ($500,000,000) and
having an "A" or higher rating for the issuer's debt, other than
commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book
entry account may be used for book entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Medium-term notes of a maximum of five years' maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, of this section and which comply with the investment restrictions of this article and Article 1 (commencing with Section 53600). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(l) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected
in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(m) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an “A” or higher rating for the issuer’s debt as provided by a nationally recognized rating service and rated in a rating category of “AA” or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency’s surplus money that may be invested pursuant to this section.

CHAPTER 174

An act to add Section 76104.5 to the Government Code, relating to counties.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 76104.5 is added to the Government Code, to read:

76104.5. (a) For the purpose of assisting any county in the establishment of automated photographic or DNA (genetic fingerprint) identification systems, or any new technology in the county, the board of supervisors may establish in the county treasury a DNA Identification Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors as authorized in accordance with this title, up to fifty cents ($0.50) for every seven dollars ($7) collected pursuant to Section 76000. The moneys of the fund shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated photographic or DNA (genetic fingerprint) identification systems, or any new technology.

(b) The fund moneys described in subdivision (a), 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. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.
(c) For purposes of this section, "DNA (genetic fingerprint) identification system" means equipment, procedures, and methodologies compatible with and meeting the standards set for DNA testing by the Department of Justice pursuant to Section 290.2 of the Penal Code.

CHAPTER 175

An act to amend Section 1380 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 1380 of the Health and Safety Code is amended to read:

1380. (a) The department shall conduct periodically an onsite medical survey of the health delivery system of each plan. The survey shall include a review of the procedures for obtaining health services, the procedures for regulating utilization, peer review mechanisms, internal procedures for assuring quality of care, and the overall performance of the plan in providing health care benefits and meeting the health needs of the subscribers and enrollees.

(b) The survey shall be conducted by a panel of qualified health professionals experienced in evaluating the delivery of prepaid health care. The department shall be authorized to contract with professional organizations or outside personnel to conduct medical surveys. These organizations or personnel shall have demonstrated the ability to objectively evaluate the delivery of health care by plans or health maintenance organizations.

(c) Surveys performed by this section shall be conducted as often as deemed necessary by the commissioner to assure the protection of subscribers and enrollees, but not less frequently than once every five years. Nothing in this section shall be construed to require the survey team to visit each clinic, hospital office, or facility of the plan. To avoid duplication the commissioner shall employ, but is not bound by, the following:

(1) In hospital-based health care service plans, to the extent necessary to satisfy the requirements of this section, the findings of inspections conducted pursuant to Section 1279.

(2) In health care service plans contracting with the State Department of Health Services pursuant to the Waxman-Duffy Prepaid Health Plan Act, the findings of reviews conducted pursuant to Section 14456 of the Welfare and Institutions Code.

(3) To the extent feasible, reviews of providers conducted by professional standards review organizations.
(d) Nothing in this section shall be construed to require the medical survey team to review peer review proceedings and records conducted and compiled under Section 1370 or medical records. However, the commissioner shall be authorized to require onsite review of these peer review proceedings and records or medical records where necessary to determine that quality health care is being delivered to subscribers and enrollees. Where medical record review is authorized, the survey team shall insure that the confidentiality of physician-patient relationship is safeguarded in accordance with existing law and neither the survey team nor the commissioner or the commissioner's staff may be compelled to disclose such information except in accordance with the physician-patient relationship. The commissioner shall ensure that the confidentiality of the peer review proceedings and records is maintained. The disclosure of the peer review proceedings and records to the commissioner or the medical survey team shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to Sections 1370 and 1370.1.

(e) The procedures and standards utilized by the survey team shall be made available to the plans prior to the conducting of medical surveys.

(f) During the survey the members of the survey team shall offer such advice and assistance to the plan as deemed appropriate.

(g) The commissioner shall notify the plan of deficiencies found by the survey team. The commissioner shall give the plan a reasonable time to correct the deficiencies and failure on the part of the plan to comply to the commissioner's satisfaction shall constitute cause for disciplinary action against the plan.

(h) Reports of all surveys, deficiencies, and correction plans shall be open to public inspection, except that no surveys, deficiencies, or correction plans shall be made public unless the plan has had an opportunity to review the survey 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.

(i) Nothing in this section shall be construed as affecting the commissioner's authority pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing with Section 1390) of this chapter.
CHAPTER 176

An act to amend Section 4800.8 of the Civil Code, to amend Sections 75050, 75055, 75057, 75096, 75096.3, and 75097 of, to add Section 75029.5 to, and to repeal and add Section 75058 of, the Government Code, and to amend Section 7 of Chapter 1379 of the Statutes of 1989, relating to public retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 4800.8 of the Civil Code is amended to read:

4800.8. The court shall make whatever orders are necessary or appropriate to assure that each party receives his or her full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, any of the following:

(a) Order the division of any retirement benefits payable upon or after the death of either party in a manner consistent with Section 4800.

(b) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, in any case in which a retirement plan provides for such an election.

(c) Order the division of accumulated community property contributions and service credit as provided in Article 1.2 (commencing with Section 21215) of Chapter 9 of Part 3 of Division 5 of Title 2 of, or Article 2.5 (commencing with Section 75050) of Chapter 11 of Title 8 of, the Government Code.

(d) Order the division of community property rights in accounts with the State Teachers’ Retirement System pursuant to Chapter 7.5 (commencing with Section 22650) of Part 13 of the Education Code.

SEC. 3. Section 75029.5 is added to the Government Code, to read:

75029.5. Notwithstanding any other provision of law, any justice court judge who was a member of the Public Employees’ Retirement System on December 31, 1989, and became a member of this system on January 1, 1990, pursuant to Chapter 1417 of the Statutes of 1989, may irrevocably elect to be restored to membership in the Public Employees’ Retirement System effective January 1, 1990. The board shall provide the affected members with an election period commencing on July 1, 1992, and ending on September 30, 1992.

Any justice court judge who elects membership in the Public Employees’ Retirement System pursuant to this section shall be refunded his or her accumulated contributions in this system for the
period January 1, 1990, through the date of election and deposit in
the Public Employees' Retirement Fund the amount required by
that system.

SEC. 4. Section 75050 of the Government Code is amended to
read:

75050. (a) Upon the legal separation or dissolution of marriage of
a member, the court shall include in the judgment or a court order
the date on which the parties separated.

(b) If the court orders the division of the community property
interest in the system pursuant to subdivision (c) of Section 4800.8
of the Civil Code, the accumulated contributions and service credit
attributable to periods of service during the marriage shall be
divided into two separate and distinct accounts in the name of the
member and nonmember, respectively. Any service credit or
accumulated contributions which are not explicitly awarded by the
judgment or court order shall be deemed the exclusive property of
the member.

(c) Upon receipt of the court order separating the account of the
member and the nonmember pursuant to this section, the board shall
determine the rights of the nonmember, taking into consideration
the court order and the account of the member. These rights may
include the following:

(1) The right to a retirement allowance.

(2) The right to a refund of accumulated retirement
contributions.

(3) The right to redeposit accumulated contributions which are
eligible for redeposit by the member under Section 75028.5.

(4) The right to purchase service credit which is eligible for
purchase by the member under Sections 75029 to 75030.5.

(5) The right to designate a beneficiary to receive his or her
accumulated contributions payable where death occurs prior to
retirement.

(6) The right to designate a beneficiary for any unpaid allowance
payable at the time of the nonmember's death.

(d) In the capacity of nonmember, the nonmember shall not be
entitled to any disability retirement allowance.

SEC. 5. Section 75055 of the Government Code is amended to
read:

75055. A nonmember shall be retired upon his or her written
application to the board if all of the following conditions are met:

(a) The nonmember has attained the age of 50.

(b) On the date the parties separated, the member had at least
five years' credited service, as defined by Section 75004.

(c) On the date of application of the nonmember, the member is
eligible to retire and receive an allowance as provided in Section
75025, 75032, 75033, or 75033.5.

SEC. 6. Section 75057 of the Government Code is amended to
read:

75057. For a nonmember, the retirement allowance shall be
based on the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which the member judge was last appointed or elected, or from which the member is eligible to retire.

SEC. 7. Section 75058 of the Government Code is repealed.

SEC. 8. Section 75058 is added to the Government Code, to read:

75058. (a) A nonmember shall be entitled to a retirement allowance based on service accrued by the judge during their years of marriage and in accordance with the community property settlement. The retirement allowance percentage to the nonmember shall be calculated based upon the applicable percentages available to the judge at the time he or she becomes eligible to retire and to receive an allowance, multiplied by the number of years and fraction of years of service specified in the court order, not to exceed 20 years.

(b) If the nonmember chooses to retire before attaining age 60, his or her percent of salary shall be reduced by an additional 2 percent for each year by which the nonmember’s age at the time of retirement is below age 60.

SEC. 9. Section 75096 of the Government Code is amended to read:

75096. The monthly allowance payable pursuant to Section 75091 shall be paid to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under the age of 22 who are full-time students, and to the child or guardian of a surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases, of a judge who dies prior to retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death. The amount paid shall be divided equally among the children.

“Children,” for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her death.

“Disabled” or “disability” means, with respect to qualification for an allowance to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within this article shall be made by filing a written notice thereof with the Judges’ Retirement System. Any election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after revocation.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the judge last held prior to discontinuance of service as a
judge.
The amendments to this section made during the 1991-92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993.

SEC. 10. Section 75096.3 of the Government Code is amended to read:

75096.3. A monthly allowance equivalent to the allowance payable pursuant to Section 75077 shall be paid, in lieu of any other surviving children’s benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, and to the guardian of a surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases, of a judge who dies after retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death while receiving an allowance payable pursuant to Section 75077. The amount paid shall be divided equally among the children.

“Children,” for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her retirement.

“Disabled” or “disability” means, with respect to qualification for an allowance to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefits of this section, and contributions shall be made by any retired judge so electing as fixed by Section 75097 to be deducted from the judge’s retirement allowance during his or her lifetime as provided in Section 75106.5.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to discontinuance of service as a judge.

The amendments made to this section during the 1991-92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993. A retired judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097 had he or she been covered by this article at the time of retirement.

SEC. 11. Section 75097 of the Government Code is amended to read:

75097. Any judge electing to come within this article shall
contribute three dollars ($3) a month to the Judges' Retirement Fund. The contribution shall be deducted from the monthly salary of each judge so electing by the Controller and each county auditor in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

SEC. 12. Section 7 of Chapter 1379 of the Statutes of 1989 is amended to read:

Sec. 7. Sections 1, 2, 3, 5, 6, and 8 of this act shall be deemed to be retrospective to June 1, 1988, and shall not be applicable to any action in which the division of retirement benefits was adjudicated prior to June 1, 1988.

SEC. 13. Sections 1, 4, 5, 6, and 12 of this act are retrospective to June 1, 1988.

SEC. 14. The amendments to Section 75050 of the Government Code made by Section 4 of this act are not intended by the Legislature to authorize an unequal division of community property in the event of dissolution of a marriage.

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

In order that the rights of nonmember spouses of legally separated or divorced members of the Judges' Retirement System may be protected at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 177

An act to amend Section 3423 of the Civil Code, and to amend Section 526 of the Code of Civil Procedure, relating to remedies.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 3423 of the Civil Code is amended to read:

3423. An injunction cannot be granted:
(a) To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless this restraint is necessary to prevent a multiplicity of proceedings.
(b) To stay proceedings in a court of the United States.
(c) To stay proceedings in another state upon a judgment of a court of that state.
(d) To prevent the execution of a public statute, by officers of the law, for the public benefit.
(e) To prevent the breach of a contract, other than a contract in writing for the rendition or furnishing of personal services from one to another where the minimum compensation for the service is at the rate of fifty thousand dollars ($50,000) per annum and where the promised service is of a special, unique, unusual, extraordinary, or intellectual character, which gives it peculiar value the loss of which cannot be reasonably or adequately compensated in damages in an action at law, the performance of which would not be specifically enforced. However, an injunction may be granted to prevent the breach of a contract entered into between any nonprofit cooperative corporation or association and a member or stockholder thereof in respect to any provision regarding the sale or delivery to the corporation or association of the products produced or acquired by the member or stockholder.

(f) To prevent the exercise of a public or private office, in a lawful manner, by the person in possession.

(g) To prevent a legislative act by a municipal corporation.

SEC. 2. Section 526 of the Code of Civil Procedure is amended to read:

526. (a) An injunction may be granted in the following cases:

(1) When it appears by the complaint that the plaintiff is entitled to the relief demanded, and the relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.

(2) When it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action.

(3) When it appears, during the litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and tending to render the judgment ineffectual.

(4) When pecuniary compensation would not afford adequate relief.

(5) Where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief.

(6) Where the restraint is necessary to prevent a multiplicity of judicial proceedings.

(7) Where the obligation arises from a trust.

(b) An injunction cannot be granted in the following cases:

(1) To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless the restraint is necessary to prevent a multiplicity of proceedings.

(2) To stay proceedings in a court of the United States.

(3) To stay proceedings in another state upon a judgment of a court of that state.

(4) To prevent the execution of a public statute by officers of the law for the public benefit.

(5) To prevent the breach of a contract, other than a contract in
writing for the rendition or furnishing of personal service from one to another where the minimum compensation for the service is at the rate of fifty thousand dollars ($50,000) per annum, and where the promised service is of a special, unique, unusual, extraordinary, or intellectual character which gives it peculiar value the loss of which cannot be reasonably or adequately compensated in damages in an action at law, the performance of which would not be specifically enforced. However, an injunction may be granted to prevent the breach of a contract entered into between any nonprofit cooperative corporation or association and a member or stockholder thereof, in respect to any provision regarding the sale or delivery to the corporation or association of the products produced or acquired by the member or stockholder.

(6) To prevent the exercise of a public or private office, in a lawful manner, by the person in possession.

(7) To prevent a legislative act by a municipal corporation.

CHAPTER 178

An act to amend Sections 1363, 2225, 2412, 2476, and 3294 of, and to add Section 2480.5 to, the Civil Code, to amend Sections 355, 367, 369, and 376 of, to add Sections 368.5, 369.5, 375, and 388 to, to add Chapter 6 (commencing with Section 366.1) to Title 2 of Part 2 of, to add Chapter 4 (commencing with Section 377.10) to Title 3 of Part 2 of, to add chapter headings preceding Sections 367, 370, 372, 378, 386, 387, and 389 of, to repeal and add Section 388 of, and to repeal Sections 353, 374, 377, 385, 389.6, and 390 of, the Code of Civil Procedure, and to amend Sections 551, 6320, 6321, 6611, 7664, 9103, 9391, 9392, 10501, 13107.5, 13109, 13156, 13204, 13554, 15686, 15804, 16314, 19103, 19104, 19400, 19401, and 19402 of, to amend the heading of Chapter 8 (commencing with Section 6320) of Part 1 of Division 6 of, to add Sections 258, 10520, and 18100.5 to, and to repeal Chapter 2 (commencing with Section 573) of Part 13 of Division 2 of, the Probate Code, relating to civil proceedings.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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. 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) Unless the governing documents provide otherwise, and
regardless of whether the association is incorporated or unincorporated, the association has all of the following powers:

(1) 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.

(2) Standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the individual owners of the common interest development, in matters pertaining to the following:

(A) Enforcement of the governing documents.
(B) Damage to the common areas.
(C) Damage to the separate interests that the association is obligated to maintain or repair.
(D) Damage to the separate interests which arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated to maintain or repair.

(3) The other powers granted to the association in this title.

(d) 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.

(e) 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.

(f) 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.

SEC. 2. Section 2225 of the Civil Code is amended to read:

2225. (a) As used in this section:

(1) "Convicted felon" means any person convicted of a felony, or found not guilty by reason of insanity of a felony committed in California, either by a court or jury trial or by entry of a plea in court.

(2) "Felony" means a felony defined by any California or United States statute.

(3) "Representative of the felon" means any person or entity receiving proceeds by designation of that felon, or on behalf of that felon or in the stead of that felon, whether by the felon's designation or by operation of law.

(4) (A) "Beneficiary" means a person who, under applicable law, other than the provisions of this section, has or had a right to recover damages from the convicted felon for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) If a beneficiary described in subparagraph (A) has died, "beneficiary" also includes a person or estate entitled to recover damages pursuant to Chapter 4 (commencing with Section 377.10) of Title 3 of Part 2 of the Code of Civil Procedure.

(C) If a person has died and the death was proximately caused by the convicted felon as a result of the crime for which the felon was convicted, "beneficiary" also includes a person described in Section 377.60 of the Code of Civil Procedure and any beneficiary of a will of the decedent who had a right under that will to receive more than 25 percent of the value of the estate of the decedent.

(5) "Beneficiary's interest in the proceeds" means that portion of the proceeds necessary to pay the following:

(A) In the case of a beneficiary described in subparagraph (A) or (B) of paragraph (4), those damages which, under applicable law, other than the provisions of this section, the beneficiary has or had a right to recover from the convicted felon for injuries proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) In the case of a beneficiary described in subparagraph (C) of paragraph (4), those damages which under all the circumstances of the case may be just.

(C) A beneficiary's interest in the proceeds shall be reduced by
the following amount:

(i) Money paid to the beneficiary from the Restitution Fund because of the crime for which the felon was convicted.

(ii) Money paid to the beneficiary by the convicted felon because of a requirement of restitution imposed by a court in connection with the crime for which the felon was convicted.

(iii) Money paid to the beneficiary because of a judgment against the convicted felon based upon the crime for which the felon was convicted.

(D) In the case of an unsatisfied existing judgment or order of restitution against the convicted felon and in favor of a beneficiary, any money paid to the beneficiary pursuant to this section shall be applied to reduce the amount of the unsatisfied judgment or order.

(6) “Materials” means books, magazine or newspaper articles, movies, films, videotapes, sound recordings, interviews or appearances on television and radio stations, and live presentations of any kind.

(7) “Story” means a depiction, portrayal, or reenactment of a felony and shall not be taken to mean a passing mention of the felony, as in a footnote or bibliography.

(8) “Sale” includes lease, license, or any other transfer or alienation taking place in California or elsewhere.

(9) “Proceeds” means all fees, royalties, real property, or other consideration of any and every kind or nature received by or owing to a felon or his or her representatives for the preparation for the purpose of sale of materials, for the sale of the rights to materials, or the sale or distribution by the convicted felon of materials whether earned, accrued, or paid before or after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

(b) All proceeds from the preparation for the purpose of sale, the sale of the rights to, or the sale of materials that include or are based on the story of a felony for which a convicted felon was convicted, shall be subject to an involuntary trust for the benefit of the beneficiaries set forth in this section. That trust shall continue until five years after the time of payment of the proceeds to the felon or five years after the date of conviction, whichever is later. If an action is filed by a beneficiary to recover his or her interest in a trust within those time limitations, the trust character of the property shall continue until the conclusion of the action.

(c) (1) Any beneficiary may bring an action against a convicted felon or representative of the felon to recover his or her interest in the trust established by this section.

(2) That action may be brought in the superior court of the county in which the beneficiary resides, or of the county in which the convicted felon resides, or of the county in which proceeds are located.

(3) If the court determines that a beneficiary is entitled to proceeds pursuant to this section, the court shall order the payment
from proceeds which have been received, and, if that is insufficient, from proceeds which may be received in the future.

(d) If there are two or more beneficiaries and if the available proceeds are insufficient to pay all beneficiaries, the proceeds shall be equitably apportioned among the beneficiaries taking into account the impact of the crime upon them.

Prior to any distribution of any proceeds to a beneficiary, the court shall determine whether the convicted felon has failed to pay any portion of a restitution fine or penalty fine imposed by a court, or any restitution imposed as a condition of probation. The court shall also determine whether the felon is obligated to reimburse a governmental entity for the costs of his or her defense and whether a portion of the proceeds is needed to cover his or her reasonable attorney's fees incurred in the criminal proceeding related to the felony, or any appeal or other related proceeding, or in the defense of the action brought under this section. The court shall order payment of these obligations prior to any payment to a beneficiary, except that 10 percent of the proceeds shall be reserved for payment to the beneficiaries.

(e) (1) The Attorney General may bring an action to require proceeds received by a convicted felon to be held in an express trust in a bank authorized to act as a trustee.

(2) An action may be brought under this subdivision within six months after the receipt of proceeds by a convicted felon or six months after the date of conviction, whichever is later.

That action may be brought in the superior court of any county in which the Attorney General has an office.

(3) If the Attorney General proves that the proceeds are proceeds from the sale of a story which are subject to an involuntary trust pursuant to this section, and that it is more probable than not that there are beneficiaries within the meaning of this section, the court shall order that all proceeds be deposited in a bank and held by the bank as trustee of the trust until an order of disposition is made by a court pursuant to subdivision (d), or until the expiration of the period specified in subdivision (b).

(4) If the Attorney General prevails in an action under this subdivision, the court shall order the payment from the proceeds to the Attorney General of reasonable costs and attorney's fees.

(f) In any action brought pursuant to subdivision (d) or (e), upon motion of a party the court shall grant a preliminary injunction to prevent any waste of proceeds if it appears that the proceeds are subject to the provisions of this section, and that they may be subject to waste.

(g) Any violation of an order of a court made pursuant to this section shall be punishable as contempt.

(h) The remedies provided by this section are in addition to other remedies provided by law.

No period of limitations, except those provided by this section, shall limit the right of recovery under this section.
SEC. 3. Section 2412 of the Civil Code is amended to read:

2412. Except as provided in Section 2412.5, a petition may be filed under this article for any one or more of the following purposes:

(a) Determining whether the power of attorney is in effect or has terminated.

(b) Passing on the acts or proposed acts of the attorney in fact.

(c) Compelling the attorney in fact to submit his or her accounts or report his or her acts as attorney in fact to the principal, the spouse of the principal, the conservator of the person or the estate of the principal, or to such other person as the court in its discretion may require, if the attorney in fact has failed to submit an accounting and report within 60 days after written request from the person filing the petition.

(d) Declaring that the power of attorney is terminated upon a determination by the court of all of the following:

(1) The attorney in fact has violated or is unfit to perform the fiduciary duties under the power of attorney.

(2) At the time of the determination by the court, the principal lacks the capacity to give or to revoke a power of attorney.

(3) The termination of the power of attorney is in the best interests of the principal or the principal’s estate.

(e) Compelling a third person to honor the authority of an agent under a statutory form power of attorney pursuant to Section 2480.5.

SEC. 3.5. Section 2476 of the Civil Code is amended to read:

2476. A statutory form power of attorney under this chapter is legally sufficient if all of the following requirements are satisfied:

(a) The wording of the form complies substantially with Section 2475. A form does not fail to comply substantially with Section 2475 merely because the form does not include the provisions of Section 2475 relating to designation of coagents. A form does not fail to comply substantially with Section 2475 merely because the form uses the sentence “Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation” in place of the sentence “Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation,” in which case the form shall be interpreted as if it contained the sentence “Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation.”

(b) The form is properly completed.

(c) The signature of the principal is acknowledged. Notwithstanding Sections 1188 and 1189, the certificate of acknowledgment of a notary public required by Section 2475 is sufficient if it is in substantially the form set out in either Section 2475 or Section 1189.

SEC. 4. Section 2480.5 is added to the Civil Code, to read:

2480.5. (a) If a third person to whom a properly executed statutory form power of attorney under this chapter is presented refuses to honor the agent’s authority under the power of attorney
within a reasonable time, the third person may be compelled to honor the agent's authority under the power of attorney, in an action for this purpose brought against the third person, except that the third person may not be compelled to honor the agent's authority if the principal could not compel the third person to act in the same circumstances.

(b) If an action is brought under this section, the court shall award attorney's fees to the agent if the court finds that the third person acted unreasonably in refusing to accept the agent's authority under the statutory form power of attorney.

(c) For the purpose of subdivision (b) and without limiting other grounds that may constitute a reasonable refusal to accept an agent's authority under a statutory form power of attorney, a third person does not act unreasonably in refusing to accept the agent's authority if the refusal is authorized or required by a provision of a state or federal statute or regulation.

(d) Notwithstanding subdivision (c), a third person's refusal to accept an agent's authority under a statutory form power of attorney under this chapter is unreasonable if the only reason for the refusal is that the power of attorney is not on a form prescribed by the third person to whom the power of attorney is presented.

(e) The remedy provided in this section is cumulative and nonexclusive.

SEC. 5. Section 3294 of the Civil Code is amended to read:

3294. (a) In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

(b) An employer shall not be liable for damages pursuant to subdivision (a), based upon acts of an employee of the employer, unless the employer had advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct for which the damages are awarded or was personally guilty of oppression, fraud, or malice. With respect to a corporate employer, the advance knowledge and conscious disregard, authorization, ratification or act of oppression, fraud, or malice must be on the part of an officer, director, or managing agent of the corporation.

(c) As used in this section, the following definitions shall apply:

1) "Malice" means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others.

2) "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights.

3) "Fraud" means an intentional misrepresentation, deceit, or
concealment of a material fact known to the defendant with the
intention on the part of the defendant of thereby depriving a person
of property or legal rights or otherwise causing injury.
(d) Damages may be recovered pursuant to this section in an
action pursuant to Chapter 4 (commencing with Section 377.10) of
Title 3 of Part 2 of the Code of Civil Procedure based upon a death
which resulted from a homicide for which the defendant has been
convicted of a felony, whether or not the decedent died instantly or
survived the fatal injury for some period of time. The procedures for
joinder and consolidation contained in Section 377.62 of the Code of
Civil Procedure shall apply to prevent multiple recoveries of
punitive or exemplary damages based upon the same wrongful act.
(e) The amendments to this section made by Chapter 1498 of the
Statutes of 1987 apply to all actions in which the initial trial has not
commenced prior to January 1, 1988.
SEC. 6. Section 353 of the Code of Civil Procedure is repealed.
SEC. 7. Section 355 of the Code of Civil Procedure is amended
to read:
355. If an action is commenced within the time prescribed
therefor, and a judgment therein for the plaintiff be reversed on
appeal other than on the merits, a new action may be commenced
within one year after the reversal.
SEC. 8. Chapter 6 (commencing with Section 366.1) is added to
Title 2 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 6. TIME OF COMMENCEMENT OF ACTION AFTER
PERSON'S DEATH

366.1. If a person entitled to bring an action dies before the
expiration of the applicable limitations period, and the cause of
action survives, an action may be commenced before the expiration
of the later of the following times:
(a) Six months after the person's death.
(b) The limitations period that would have been applicable if the
person had not died.
366.2. (a) Subject to Part 4 (commencing with Section 9000) of
Division 7 of the Probate Code governing creditor claims, if a person
against whom an action may be brought on a liability of the person,
whether arising in contract, tort, or otherwise, dies before the
expiration of the applicable limitations period, and the cause of
action survives, an action may be commenced within one year after
the date of death, and the limitations period that would have been
applicable does not apply.
(b) Subject to Chapter 8 (commencing with Section 9350) of Part
4 of Division 7 of the Probate Code, the limitations period provided
in this section for commencement of an action is not tolled or
extended for any reason.
(c) This section applies to actions brought on liabilities of persons
dying on or after January 1, 1993.
SEC. 9. A chapter heading is added immediately preceding Section 367 of the Code of Civil Procedure, to read:

CHAPTER 1. GENERAL PROVISIONS

SEC. 10. Section 367 of the Code of Civil Procedure is amended to read:

367. Every action must be prosecuted in the name of the real party in interest, except as otherwise provided by statute.

SEC. 11. Section 368.5 is added to the Code of Civil Procedure, to read:

368.5. An action or proceeding does not abate by the transfer of an interest in the action or proceeding or by any other transfer of an interest. The action or proceeding may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action or proceeding.

SEC. 12. Section 369 of the Code of Civil Procedure is amended to read:

369. (a) The following persons may sue without joining as parties the persons for whose benefit the action is prosecuted:

(1) A personal representative, as defined in subdivision (a) of Section 58 of the Probate Code.

(2) A trustee of an express trust.

(3) Except for a person upon whom a power of sale has been conferred pursuant to a deed of trust or mortgage, a person with whom, or in whose name, a contract is made for the benefit of another.

(4) Any other person expressly authorized by statute.

(b) Notwithstanding subdivision (a), a trustee upon whom a power of sale has been conferred pursuant to a deed of trust or mortgage may sue to exercise the trustee's powers and duties pursuant to Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code.

SEC. 13. Section 369.5 is added to the Code of Civil Procedure, to read:

369.5. (a) A partnership or other unincorporated association, whether organized for profit or not, may sue and be sued in the name it has assumed or by which it is known.

(b) A member of the partnership or other unincorporated association may be joined as a party in an action against the unincorporated association. If service of process is made on the member as an individual, whether or not the member is also served as a person upon whom service is made on behalf of the unincorporated association, a judgment against the member based on the member's personal liability may be obtained in the action, whether the liability is joint, joint and several, or several.

SEC. 14. A chapter heading is added immediately preceding Section 370 of the Code of Civil Procedure, to read:
CHAPTER 2. MARRIED PERSON

SEC. 15. A chapter heading is added immediately preceding Section 372 of the Code of Civil Procedure, to read:

CHAPTER 3. DISABILITY OF PARTY

SEC. 16. Section 374 of the Code of Civil Procedure is repealed.
SEC. 17. Section 375 is added to the Code of Civil Procedure, to read:

375. An action or proceeding does not abate by the disability of a party. The court, on motion, shall allow the action or proceeding to be continued by or against the party's representative.
SEC. 18. Section 376 of the Code of Civil Procedure is amended to read:

376. (a) The parents of a legitimate unmarried minor child, acting jointly, may maintain an action for injury to the child caused by the wrongful act or neglect of another. If either parent fails on demand to join as plaintiff in the action or is dead or cannot be found, then the other parent may maintain the action. The parent, if living, who does not join as plaintiff shall be joined as a defendant and, before trial or hearing of any question of fact, shall be served with summons either in the manner provided by law for the service of a summons in a civil action or by sending a copy of the summons and complaint by registered mail with proper postage prepaid addressed to that parent's last known address with request for a return receipt. If service is made by registered mail, the production of a return receipt purporting to be signed by the addressee creates a rebuttable presumption that the summons and complaint have been duly served. The presumption established by this section is a presumption affecting the burden of producing evidence. The respective rights of the parents to any award shall be determined by the court.

(b) A parent may maintain an action for such an injury to his or her illegitimate unmarried minor child if a guardian has not been appointed. Where a parent who does not have care, custody, or control of the child brings the action, the parent who has care, custody, or control of the child shall be served with the summons either in the manner provided by law for the serving of a summons in a civil action or by sending a copy of the summons and complaint by registered mail, with proper postage prepaid, addressed to the last known address of that parent, with request for a return receipt. If service is made by registered mail, the production of a return receipt purporting to be signed by the addressee creates a rebuttable presumption that the summons and complaint have been duly served. The presumption established by this section is a presumption affecting the burden of producing evidence. The respective rights of the parents to any award shall be determined by the court.

(c) The father of an illegitimate child who maintains an action under this section shall have acknowledged in writing prior to the
child's injury, in the presence of a competent witness, that he is the 
father of the child, or, prior to the child's injury, have been judicially 
determined to be the father of the child.

(d) A parent of an illegitimate child who does not maintain an 
action under this section may be joined as a party thereto.

(e) A guardian may maintain an action for such an injury to his or 
her ward.

(f) An action under this section may be maintained against the 
person causing the injury. If any other person is responsible for the 
wrongful act or neglect, the action may also be maintained against 
the other person. The death of the child or ward does not abate the 
parents' or guardian's cause of action for the child's injury as to 
damages accruing before the child's death.

(g) In an action under this section, damages may be awarded that, 
under all of the circumstances of the case, may be just, except that:

1. In an action maintained after the death of the child, the 
damages recoverable are as provided in Section 377.34.

2. Where the person causing the injury is deceased, the damages 
recoverable in an action against the decedent's personal 
representative are as provided in Section 377.42.

(h) If an action arising out of the same wrongful act or neglect 
may be maintained pursuant to Section 377.60 for wrongful death of 
a child described in this section, the action authorized by this section 
may be consolidated therewith for trial as provided in Section 1048.

SEC. 19. Section 377 of the Code of Civil Procedure is repealed.
SEC. 20. Chapter 4 (commencing with Section 377.10) is added 
to Title 3 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 4. EFFECT OF DEATH

Article 1. Definitions

377.10. For the purposes of this chapter, "beneficiary of the 
decedent's estate" means:

(a) If the decedent died leaving a will, the sole beneficiary or all 
of the beneficiaries who succeed to a cause of action, or to a particular 
item of property that is the subject of a cause of action, under the 
decedent's will.

(b) If the decedent died without leaving a will, the sole person or 
all of the persons who succeed to a cause of action, or to a particular 
item of property that is the subject of a cause of action, under 
Sections 6401 and 6402 of the Probate Code or, if the law of a sister 
state or foreign nation governs succession to the cause of action or 
particular item of property, under the law of the sister state or 
foreign nation.

377.11. For the purposes of this chapter, "decedent's successor in 
interest" means the beneficiary of the decedent's estate or other 
successor in interest who succeeds to a cause of action or to a
Article 2. Survival and Continuation

377.20. (a) Except as otherwise provided by statute, a cause of action for or against a person is not lost by reason of the person’s death, but survives subject to the applicable limitations period.

(b) This section applies even though a loss or damage occurs simultaneously with or after the death of a person who would have been liable if the person’s death had not preceded or occurred simultaneously with the loss or damage.

377.21. A pending action or proceeding does not abate by the death of a party if the cause of action survives.

377.22. Nothing in this chapter shall be construed as affecting the assignability of causes of action.

Article 3. Decedent’s Cause of Action

377.30. A cause of action that survives the death of the person entitled to commence an action or proceeding passes to the decedent’s successor in interest, subject to Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 of the Probate Code, and an action may be commenced by the decedent’s personal representative or, if none, by the decedent’s successor in interest.

377.31. On motion after the death of a person who commenced an action or proceeding, the court shall allow a pending action or proceeding that does not abate to be continued by the decedent’s personal representative or, if none, by the decedent’s successor in interest.

377.32. (a) The person who seeks to commence an action or proceeding or to continue a pending action or proceeding as the decedent’s successor in interest under this article, shall execute and file an affidavit or a declaration under penalty of perjury under the laws of this state stating all of the following:

(1) The decedent’s name.

(2) The date and place of the decedent’s death.

(3) “No proceeding is now pending in California for administration of the decedent’s estate.”

(4) If the decedent’s estate was administered, a copy of the final order showing the distribution of the decedent’s cause of action to the successor in interest.

(5) Either of the following, as appropriate, with facts in support thereof:

(A) “The affiant or declarant is the decedent’s successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) and succeeds to the decedent’s interest in the action or proceeding.”

(B) “The affiant or declarant is authorized to act on behalf of the decedent’s successor in interest (as defined in Section 377.11 of the
California Code of Civil Procedure) with respect to the decedent's interest in the action or proceeding."

(6) "No other person has a superior right to commence the action or proceeding or to be substituted for the decedent in the pending action or proceeding."

(7) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) A certified copy of the decedent's death certificate shall be attached to the affidavit or declaration.

377.33. The court in which an action is commenced or continued under this article may make any order concerning parties that is appropriate to ensure proper administration of justice in the case, including appointment of the decedent's successor in interest as a special administrator or guardian ad litem.

377.34. In an action or proceeding by a decedent's personal representative or successor in interest on the decedent's cause of action, the damages recoverable are limited to the loss or damage that the decedent sustained or incurred before death, including any penalties or punitive or exemplary damages that the decedent would have been entitled to recover had the decedent lived, and do not include damages for pain, suffering, or disfigurement.

377.35. On or after January 1, 1993, this article applies to the commencement of an action or proceeding the decedent was entitled to commence, and to the continuation of an action or proceeding commenced by the decedent, regardless of whether the decedent died before, on, or after January 1, 1993.

Article 4. Cause of Action Against Decedent

377.40. Subject to Part 4 (commencing with Section 9000) of Division 7 of the Probate Code governing creditor claims, a cause of action against a decedent that survives may be asserted against the decedent's personal representative or, to the extent provided by statute, against the decedent's successor in interest.

377.41. On motion, the court shall allow a pending action or proceeding against the decedent that does not abate to be continued against the decedent's personal representative or, to the extent provided by statute, against the decedent's successor in interest, except that the court may not permit an action or proceeding to be continued against the personal representative unless proof of compliance with Part 4 (commencing with Section 9000) of Division 7 of the Probate Code governing creditor claims is first made.

377.42. In an action or proceeding against a decedent's personal representative or, to the extent provided by statute, against the decedent's successor in interest, on a cause of action against the
decedent, all damages are recoverable that might have been
recovered against the decedent had the decedent lived except
damages recoverable under Section 3294 of the Civil Code or other
punitive or exemplary damages.

377.43. This article applies to the commencement on or after
January 1, 1993, of an action or proceeding against the decedent’s
personal representative or successor in interest, or to the making of
a motion on or after January 1, 1993, to continue a pending action or
proceeding against the decedent’s personal representative or
successor in interest, regardless of whether the decedent died
before, on, or after January 1, 1993.

Article 5. Insured Claims

377.50. An action to establish the decedent’s liability for which
the decedent was protected by insurance may be commenced or
continued against the decedent’s estate as provided in Chapter 1
(commencing with Section 550) of Part 13 of Division 2 of the
Probate Code.

Article 6. Wrongful Death

377.60. A cause of action for the death of a person caused by the
wrongful act or neglect of another may be asserted by any of the
following persons or by the decedent’s personal representative on
their behalf:

(a) The decedent’s surviving spouse, children, and issue of
deceased children, or, if none, the persons who would be entitled to
the property of the decedent by intestate succession.

(b) Whether or not qualified under subdivision (a), if they were
dependent on the decedent, the putative spouse, children of the
putative spouse, stepchildren, or parents. As used in this subdivision,
“putative spouse” means the surviving spouse of a void or voidable
marriage who is found by the court to have believed in good faith
that the marriage to the decedent was valid.

(c) A minor, whether or not qualified under subdivision (a) or
(b), if, at the time of the decedent’s death, the minor resided for the
previous 180 days in the decedent’s household and was dependent on
the decedent for one-half or more of the minor’s support.

377.61. In an action under this article, damages may be awarded
that, under all the circumstances of the case, may be just, but may
not include damages recoverable under Section 377.34. The court
shall determine the respective rights in an award of the persons
entitled to assert the cause of action.

377.62. (a) An action under Section 377.30 may be joined with an
action under Section 377.60 arising out of the same wrongful act or
neglect.

(b) An action under Section 377.60 and an action under Section
377.31 arising out of the same wrongful act or neglect may be
consolidated for trial as provided in Section 1048.

SEC. 21. A chapter heading is added immediately preceding Section 378 of the Code of Civil Procedure, to read:

CHAPTER 5. PERMISSIVE JOINER

SEC. 22. Section 385 of the Code of Civil Procedure is repealed.
SEC. 23. A chapter heading is added immediately preceding Section 386 of the Code of Civil Procedure, to read:

CHAPTER 6. INTERPLEADER

SEC. 24. A chapter heading is added immediately preceding Section 387 of the Code of Civil Procedure, to read:

CHAPTER 7. INTERVENTION

SEC. 25. Section 388 of the Code of Civil Procedure is repealed.
SEC. 26. Section 388 is added to the Code of Civil Procedure, to read:

388. In an action brought by a party for relief of any nature other than solely for money damages where a pleading alleges facts or issues concerning alleged pollution or adverse environmental effects which could affect the public generally, the party filing the pleading shall furnish a copy to the Attorney General of the State of California. The copy shall be furnished by the party filing the pleading within 10 days after filing.

SEC. 27. A chapter heading is added immediately preceding Section 389 of the Code of Civil Procedure, to read:

CHAPTER 8. COMPULSORY JOINER

SEC. 28. Section 389.6 of the Code of Civil Procedure is repealed.
SEC. 29. Section 390 of the Code of Civil Procedure is repealed.
SEC. 29.5. Section 258 is added to the Probate Code, to read:

258. A person who feloniously and intentionally kills the decedent is not entitled to bring an action for wrongful death of the decedent or to benefit from the action brought by the decedent’s personal representative. The persons who may bring an action for wrongful death of the decedent and to benefit from the action are determined as if the killer had predeceased the decedent.

SEC. 30. Section 551 of the Probate Code is amended to read:

551. Notwithstanding Section 366.2 of the Code of Civil Procedure, if the limitations period otherwise applicable to the action has not expired at the time of the decedent’s death, an action under this chapter may be commenced within one year after the expiration of the limitations period otherwise applicable.

SEC. 31. Chapter 2 (commencing with Section 573) of Part 13 of Division 2 of the Probate Code is repealed.
SEC. 31.2. The heading of Chapter 8 (commencing with Section 6320) of Part 1 of Division 6 of the Probate Code is amended to read:

CHAPTER 8. NONPROBATE TRANSFER TO TRUSTEE NAMED IN DECEDENT'S WILL

SEC. 31.4. Section 6320 of the Probate Code is amended to read: 6320. As used in this chapter, unless the context otherwise requires:
   (a) "Designation" means a designation made pursuant to Section 6321.
   (b) "Instrument" includes all of the following:
       (1) An insurance, annuity, or endowment contract (including any agreement issued or entered into by the insurer in connection therewith, supplemental thereto, or in settlement thereof).
       (2) A pension, retirement benefit, death benefit, stock bonus, profit-sharing or employees’ saving plan, employee benefit plan, or contract created or entered into by an employer for the benefit of some or all of his or her employees.
       (3) A self-employed retirement plan, or an individual retirement annuity or account, established or held pursuant to the Internal Revenue Code.
       (4) A multiple-party account, as defined in Section 5132.
       (5) Any other written instrument of a type described in Section 5000.

SEC. 31.6. Section 6321 of the Probate Code is amended to read: 6321. An instrument may designate as a primary or contingent beneficiary, payee, or owner a trustee named or to be named in the will of the person entitled to designate the beneficiary, payee, or owner. The designation shall be made in accordance with the provisions of the contract or plan or, in the absence of such provisions, in a manner approved by the insurer if an insurance, annuity, or endowment contract is involved, and by the trustee, custodian, or person or entity administering the contract or plan, if any. The designation may be made before or after the execution of the designator’s will and is not required to comply with the formalities for execution of a will.

SEC. 32. Section 6611 of the Probate Code is amended to read: 6611. (a) Subject to the limitations and conditions specified in this section, the person or persons in whom title vested pursuant to Section 6609 are personally liable for the unsecured debts of the decedent.
   (b) The personal liability of a person under this section does not exceed the fair market value at the date of the decedent’s death of the property title to which vested in that person pursuant to Section 6609, less the total of all of the following:
       (1) The amount of any liens and encumbrances on that property.
       (2) The value of any probate homestead interest set apart under Section 6520 out of that property.

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(3) The value of any other property set aside under Section 6510 out of that property.

(c) In any action or proceeding based upon an unsecured debt of the decedent, the surviving spouse of the decedent, the child or children of the decedent, or the guardian of the minor child or children of the decedent, may assert any defense, cross-complaint, or setoff which would have been available to the decedent if the decedent had not died.

(d) If proceedings are commenced in this state for the administration of the estate of the decedent and the time for filing claims has commenced, any action upon the personal liability of a person under this section is barred to the same extent as provided for claims under Part 4 (commencing with Section 9000) of Division 7, except as to the following:

(1) Creditors who commence judicial proceedings for the enforcement of the debt and serve the person liable under this section with the complaint therein prior to the expiration of the time for filing claims.

(2) Creditors who have or who secure an acknowledgment in writing of the person liable under this section that that person is liable for the debts.

(3) Creditors who file a timely claim in the proceedings for the administration of the estate of the decedent.

(e) Section 366.2 of the Code of Civil Procedure applies in an action under this section.

SEC. 33. Section 7664 of the Probate Code is amended to read:

7664. A person to whom property is distributed under this article is personally liable for the unsecured debts of the decedent. Such a debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In an action based on the debt, the person may assert any defenses available to the decedent if the decedent had not died. The aggregate personal liability of a person under this section shall not exceed the fair market value of the property distributed to the person, valued as of the date of the distribution, less the amount of any liens and encumbrances on the property on that date. Section 366.2 of the Code of Civil Procedure applies in an action under this section.

SEC. 34. Section 9103 of the Probate Code is amended to read:

9103. (a) Upon petition by a creditor and notice of hearing given as provided in Section 1220, the court may allow a claim to be filed after expiration of the time for filing a claim if the creditor establishes that either of the following conditions is satisfied:

(1) Neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the administration of the estate more than 15 days before expiration of the time provided in Section 9100, and the creditor’s petition was filed within 30 days after either the creditor or the creditor’s attorney had actual knowledge of the administration whichever occurred first.
(2) Neither the creditor nor the attorney representing the creditor in the matter had knowledge of the existence of the claim more than 15 days before expiration of the time provided in Section 9100, and the creditor’s petition was filed within 30 days after either the creditor or the creditor’s attorney had knowledge of the existence of the claim whichever occurred first.

(b) The court shall not allow a claim to be filed under this section after the earlier of the following times:

(1) The time the court makes an order for final distribution of the estate.

(2) One year after the time letters are first issued to a general personal representative. Nothing in this paragraph authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 366.2 of the Code of Civil Procedure.

(c) The court may condition the claim on terms that are just and equitable, and may require the appointment or reappointment of a personal representative if necessary. The court may deny the creditor’s petition if a payment to general creditors has been made and it appears that the filing or establishment of the claim would cause or tend to cause unequal treatment among creditors.

(d) Regardless of whether the claim is later established in whole or in part, payments otherwise properly made before a claim is filed under this section are not subject to the claim. Except to the extent provided in Section 9392 and subject to Section 9053, the personal representative or payee is not liable on account of the prior payment. Nothing in this subdivision limits the liability of a person who receives a preliminary distribution of property to restore to the estate an amount sufficient for payment of the distributee’s proper share of the claim, not exceeding the amount distributed.

SEC. 35. Section 9391 of the Probate Code is amended to read:

9391. The holder of a mortgage or other lien on property in the dece’dent’s estate, including, but not limited to, a judgment lien, may commence an action to enforce the lien against the property that is subject to the lien, without first filing a claim as provided in this part, if in the complaint the holder of the lien expressly waives all recourse against other property in the estate. Section 366.2 of the Code of Civil Procedure does not apply to an action under this section.

SEC. 36. Section 9392 of the Probate Code is amended to read:

9392. (a) Subject to subdivision (b), a person to whom property is distributed is personally liable for the claim of a creditor, without a claim first having been filed, if all of the following conditions are satisfied:

(1) The identity of the creditor was known to, or reasonably ascertainable by, a general personal representative within four months after the date letters were first issued to the personal representative, and the claim of the creditor was not merely conjectural.

(2) Notice of administration of the estate was not given to the creditor under Chapter 2 (commencing with Section 9050) and
neither the creditor nor the attorney representing the creditor in the matter has actual knowledge of the administration of the estate before the time the court made an order for final distribution of the property.

(3) The statute of limitations applicable to the claim under Section 366.2 of the Code of Civil Procedure has not expired at the time of commencement of an action under this section.

(b) Personal liability under this section is applicable only to the extent the claim of the creditor cannot be satisfied out of the estate of the decedent and is limited to a pro rata portion of the claim of the creditor, based on the proportion that the value of the property distributed to the person out of the estate bears to the total value of all property distributed to all persons out of the estate. Personal liability under this section for all claims of all creditors shall not exceed the value of the property distributed to the person out of the estate. As used in this section, the value of property is the fair market value of the property on the date of the order for distribution, less the amount of any liens and encumbrances on the property at that time.

(c) Nothing in this section affects the rights of a purchaser or encumbrancer of property in good faith and for value from a person who is personally liable under this section.

SEC. 37. Section 10501 of the Probate Code is amended to read:

10501. (a) Notwithstanding any other provision of this part, whether the personal representative has been granted full authority or limited authority, a personal representative who has obtained authority to administer the estate under this part is required to obtain court supervision, in the manner provided in this code, for any of the following actions:

(1) Allowance of the personal representative’s compensation.

(2) Allowance of compensation of the attorney for the personal representative.

(3) Settlement of accounts.

(4) Subject to Section 10520, preliminary and final distributions and discharge.

(5) Sale of property of the estate to the personal representative or to the attorney for the personal representative.

(6) Exchange of property of the estate for property of the personal representative or for property of the attorney for the personal representative.

(7) Grant of an option to purchase property of the estate to the personal representative or to the attorney for the personal representative.

(8) Allowance, payment, or compromise of a claim of the personal representative, or the attorney for the personal representative, against the estate.

(9) Compromise or settlement of a claim, action, or proceeding by the estate against the personal representative or against the attorney for the personal representative.
(10) Extension, renewal, or modification of the terms of a debt or other obligation of the personal representative, or the attorney for the personal representative, owing to or in favor of the decedent or the estate.

(b) Notwithstanding any other provision of this part, a personal representative who has obtained only limited authority to administer the estate under this part is required to obtain court supervision, in the manner provided in this code, for any of the following actions:

(1) Sale of real property.
(2) Exchange of real property.
(3) Grant of an option to purchase real property.
(4) Borrowing money with the loan secured by an encumbrance upon real property.

(c) Paragraphs (5) to (10), inclusive, of subdivision (a) do not apply to a transaction between the personal representative as such and the personal representative as an individual where all of the following requirements are satisfied:

(1) Either (A) the personal representative is the sole beneficiary of the estate or (B) all the known heirs or devisees have consented to the transaction.
(2) The period for filing creditor claims has expired.
(3) No request for special notice is on file or all persons who filed a request for special notice have consented to the transaction.
(4) The claim of each creditor who filed a claim has been paid, settled, or withdrawn, or the creditor has consented to the transaction.

SEC. 38. Section 10520 is added to the Probate Code, to read:

10520. If the time for filing claims has expired and it appears that the distribution may be made without loss to creditors or injury to the estate or any interested person, the personal representative has the power to make preliminary distributions of the following:

(a) Income received during administration to the persons entitled under Chapter 8 (commencing with Section 12000) of Part 10.
(b) Household furniture and furnishings, motor vehicles, clothing, jewelry, and other tangible articles of a personal nature to the persons entitled to the property under the decedent’s will, not to exceed an aggregate fair market value to all persons of fifty thousand dollars ($50,000) computed cumulatively through the date of distribution. Fair market value shall be determined on the basis of the inventory and appraisal.
(c) Cash to general pecuniary devisees entitled to it under the decedent’s will, not to exceed ten thousand dollars ($10,000) to any one person.

SEC. 39. Section 13107.5 of the Probate Code is amended to read:

13107.5. Where the money or property claimed in an affidavit or declaration executed under this chapter is the subject of a pending action or proceeding in which the decedent was a party, the successor of the decedent shall, without procuring letters of administration or awaiting probate of the will, be substituted as a
party in place of the decedent by making a motion under Article 3 (commencing with Section 377.30) of Chapter 4 of Title 2 of Part 2 of the Code of Civil Procedure. The successor of the decedent shall file the affidavit or declaration with the court when the motion is made. For the purpose of Article 3 (commencing with Section 377.30) of Chapter 4 of Title 2 of Part 2 of the Code of Civil Procedure, a successor of the decedent who complies with this chapter shall be considered as a successor in interest of the decedent.

SEC. 40. Section 13109 of the Probate Code is amended to read:
13109. A person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is personally liable, to the extent provided in Section 13112, for the unsecured debts of the decedent. Any such debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In any action based upon the debt, the person may assert any defenses, cross-complaints, or setoffs that would have been available to the decedent if the decedent had not died. Nothing in this section permits enforcement of a claim that is barred under Part 4 (commencing with Section 9000) of Division 7. Section 366.2 of the Code of Civil Procedure applies in an action under this section.

SEC. 41. Section 13156 of the Probate Code is amended to read:
13156. (a) Subject to subdivisions (b), (c), and (d), the petitioner who receives the decedent's property pursuant to an order under this chapter is personally liable for the unsecured debts of the decedent.

(b) The personal liability of any petitioner shall not exceed the fair market value at the date of the decedent's death of the property received by that petitioner pursuant to an order under this chapter, less the amount of any liens and encumbrances on the property.

(c) In any action or proceeding based upon an unsecured debt of the decedent, the petitioner may assert any defense, cross-complaint, or setoff which would have been available to the decedent if the decedent had not died.

(d) Nothing in this section permits enforcement of a claim that is barred under Part 4 (commencing with Section 9000) of Division 7.

(e) Section 366.2 of the Code of Civil Procedure applies in an action under this section.

SEC. 42. Section 13204 of the Probate Code is amended to read:
13204. Each person who is designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 is personally liable to the extent provided in Section 13207 for the unsecured debts of the decedent. Any such debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In any action based upon the debt, the person may assert any defense, cross-complaint, or setoff that would have been available to the decedent if the decedent had not died. Nothing in this section permits enforcement of a claim that is barred under Part 4
(commencing with Section 9000) of Division 7. Section 366.2 of the Code of Civil Procedure applies in an action under this section.

SEC. 43. Section 13554 of the Probate Code is amended to read:
13554. (a) Except as otherwise provided in this chapter, any debt described in Section 13550 may be enforced against the surviving spouse in the same manner as it could have been enforced against the deceased spouse if the deceased spouse had not died.
(b) In any action or proceeding based upon the debt, the surviving spouse may assert any defense, cross-complaint, or setoff which would have been available to the deceased spouse if the deceased spouse had not died.
(c) Section 366.2 of the Code of Civil Procedure applies in an action under this section.

SEC. 43.2. Section 15686 of the Probate Code is amended to read:
15686. (a) As used in this section, "trustee's fee" includes, but is not limited to, the trustee's periodic base fee, rate of percentage compensation, minimum fee, hourly rate, and transaction charge, but does not include fees for extraordinary services.
(b) A trustee may not charge an increased trustee's fee for administration of a particular trust unless the trustee first gives at least 60 days' written notice of that increased fee to all of the following persons:
(1) Each beneficiary who is entitled to an account under Section 16062.
(2) Each beneficiary who was given the last preceding account.
(3) Each beneficiary who has made a written request to the trustee for notice of an increased trustee's fee and has given an address for receiving notice by mail.
(c) If a beneficiary files a petition under Section 17200 for review of the increased trustee's fee or for removal of the trustee and serves a copy of the petition on the trustee before the expiration of the 60-day period, the increased trustee's fee does not take effect as to that trust until otherwise ordered by the court or the petition is dismissed.

SEC. 43.4. Section 15804 of the Probate Code is amended to read:
15804. (a) Subject to subdivisions (b) and (c), it is sufficient compliance with a requirement in this division that notice be given to a beneficiary, or to a person interested in the trust, if notice is given as follows:
(1) Where an interest has been limited on any future contingency to persons who will compose a certain class upon the happening of a certain event without further limitation, notice shall be given to the persons in being who would constitute the class if the event had happened immediately before the commencement of the proceeding or if there is no proceeding, if the event had happened immediately before notice is given.
(2) Where an interest has been limited to a living person and the same interest, or a share therein, has been further limited upon the happening of a future event to the surviving spouse or to persons
who are or may be the distributees, heirs, issue, or other kindred of the living person, notice shall be given to the living person.

(3) Where an interest has been limited upon the happening of any future event to a person, or a class of persons, or both, and the interest, or a share of the interest, has been further limited upon the happening of an additional future event to another person, or a class of persons, or both, notice shall be given to the person or persons in being who would take the interest upon the happening of the first of these events.

(b) If a conflict of interest involving the subject matter of the trust proceeding exists between a person to whom notice is required to be given and a person to whom notice is not otherwise required to be given under subdivision (a), notice shall also be given to persons not otherwise entitled to notice under subdivision (a) with respect to whom the conflict of interest exists.

(c) Nothing in this section affects any of the following:

(1) Requirements for notice to a person who has requested special notice, a person who has filed notice of appearance, or a particular person or entity required by statute to be given notice.

(2) Availability of a guardian ad litem pursuant to Section 1003.

(d) As used in this section, "notice" includes other papers.

SEC. 43.6. Section 16314 of the Probate Code is amended to read:

16314. (a) A specific gift, a general pecuniary gift, an annuity, or a gift for maintenance distributable under a trust carries with it income and bears interest in the same manner as a specific devise, a general pecuniary devise, an annuity, or a devise for maintenance under a will set forth in Chapter 8 (commencing with Section 12000) of Part 10 of Division 7.

(b) For the purpose of this section, a reference in Chapter 8 (commencing with Section 12000) of Part 10 of Division 7 to the date of the testator's death means the date of the settlor's death or other event upon which the distributee's right to receive the gift occurs.

SEC. 43.8. Section 18100.5 is added to the Probate Code, to read:

18100.5. (a) The trustee may execute an affidavit stating that the trustee is qualified and has power to act and is properly exercising the powers under the trust. The affidavit shall state the name or other designation of the trust sufficient to identify it and shall state that the trust is in effect. An affidavit under this subdivision may be executed by the trustee voluntarily or on the demand of a third person.

(b) With respect to a third person dealing with the trustee or assisting the trustee in the conduct of a transaction, if the third person relies on the trustee's affidavit without actual knowledge that the trustee is exceeding the trustee's powers or improperly exercising them:

(1) The third person is not bound to inquire whether the trustee has power to act or is properly exercising a power and may assume without inquiry the existence of a trust power and its proper exercise.
(2) The third person is fully protected in dealing with or assisting the trustee just as if the trustee has and is properly exercising the power the trustee purports to exercise.

(c) If the trustee furnishes an affidavit pursuant to subdivision (a), whether voluntarily or on demand, a third person dealing with the trustee who refuses to accept the exercise of a trustee's power covered by the affidavit is liable for attorney's fees incurred in an action or proceeding necessary to confirm the trustee's qualifications or powers, unless the court determines that the third person believed in good faith that the trustee was not qualified or was attempting to exceed or improperly exercise the trustee's powers.

(d) A third person's failure to demand an affidavit under subdivision (a) does not affect the protection provided the third person by Section 18100, and no inference as to whether a third person has acted in good faith may be drawn from the failure to demand an affidavit from the trustee.

SEC. 44. Section 19103 of the Probate Code is amended to read:
19103. (a) Upon petition by a claimant and upon giving notice of hearing in the manner and to the person set forth in Section 19024, the court may allow a claim to be filed after expiration of the time provided in Section 19100 if it appears that either of the following conditions are satisfied:

(1) Neither the claimant nor the attorney representing the claimant in the matter had actual knowledge of the proceeding under this part more than 15 days before expiration of the time provided in Section 19100, and the claimant's petition was filed within 30 days after either the claimant or the claimant's attorney had actual knowledge of the proceeding whichever occurred first.

(2) Neither the claimant nor the attorney representing the claimant in the matter had knowledge of the existence of the claim more than 15 days before expiration of the time provided in Section 19100 and the claimant's petition was filed within 30 days after either the claimant or the claimant's attorney had knowledge of the existence of the claim whichever occurred first.

(b) The court shall not allow a claim to be filed under this section more than one year after the date of first publication of notice to creditors under Section 19040. Nothing in this subdivision authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 366.2 of the Code of Civil Procedure.

(c) The court may condition the claim on terms that are just and equitable. The court may deny the claimant's petition if a distribution to trust beneficiaries or payment to general creditors has been made and it appears the filing or establishment of the claim would cause or tend to cause unequal treatment among beneficiaries or creditors.

(d) Regardless of whether the claim is later established in whole or in part, property distributed under the terms of the trust subsequent to an order settling claims under Chapter 2 (commencing with Section 19020) and payments otherwise properly
made before a claim is filed under this section are not subject to the claim. Except to the extent provided in Chapter 12 (commencing with Section 19400) and subject to Section 19053, the trustee, distributee, or payee is not liable on account of the prior distribution or payment.

SEC. 45. Section 19104 of the Probate Code is amended to read:

19104. (a) Subject to subdivision (b), if a claim is filed within the time provided in this chapter, the claimant may later amend or revise the claim. The amendment or revision shall be filed in the same manner as the claim.

(b) An amendment or revision may not be made to increase the amount of the claim after the time for filing a claim has expired. An amendment or revision to specify the amount of a claim that, at the time of filing, was not due, was contingent, or was not yet ascertainable, is not an increase in the amount of the claim within the meaning of this subdivision. An amendment or revision of a claim may not be made for any purpose after the earlier of the following times:

(1) The time the court makes an order approving settlement of the claim against the deceased settlor under Chapter 2 (commencing with Section 19020).

(2) One year after the date of the first publication of notice to creditors under Section 19040. Nothing in this paragraph authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 366.2 of the Code of Civil Procedure.

SEC. 46. Section 19400 of the Probate Code is amended to read:

19400. Subject to Section 366.2 of the Code of Civil Procedure, if there is no proceeding to administer the estate of the deceased settlor, and if the trustee does not file a proposed notice to creditors pursuant to Section 19003 and does not publish notice to creditors pursuant to Chapter 3 (commencing with Section 19040), then a beneficiary of the trust to whom payment, delivery, or transfer of the deceased settlor's property is made pursuant to the terms of the trust is personally liable, to the extent provided in Section 19402, for the unsecured claims of the creditors of the deceased settlor's estate.

SEC. 47. Section 19401 of the Probate Code is amended to read:

19401. Subject to Section 19402, if the trustee filed a proposed notice to creditors pursuant to Section 19003 and published notice to creditors pursuant to Section 19040, and if the identity of the creditor was known to, or reasonably ascertainable by, the trustee within four months of the first publication of notice pursuant to Section 19040, then a person to whom property is distributed is personally liable for the claim of the creditor, without a claim first having been filed, if all of the following conditions are satisfied:

(a) The claim of the creditor was not merely conjectural.

(b) Notice to the creditor was not given to the creditor under Chapter 4 (commencing with Section 19050) and neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the administration of the trust estate sooner
than one year after the date of first publication of notice pursuant to Section 19040.

(c) The statute of limitations applicable to the claim under Section 366.2 of the Code of Civil Procedure has not expired at the time of commencement of an action under this section.

SEC. 48. Section 19402 of the Probate Code is amended to read: 19402. (a) In any action under this chapter, subject to Section 366.2 of the Code of Civil Procedure, the distributee may assert any defenses, cross-complaints, or setoffs that would have been available to the deceased settlor if the settlor had not died.

(b) Personal liability under this chapter is applicable only to the extent the claim of the creditor cannot be satisfied out of the trust estate of the deceased settlor and is limited to a pro rata portion of the claim of the creditor, based on the proportion that the value of the property distributed to the person out of the trust estate bears to the total value of all property distributed to all persons out of the trust estate. Personal liability under this chapter for all claims of all creditors shall not exceed the value of the property distributed to the person out of the trust estate. As used in this chapter, the value of the property is the fair market value of the property on the date of its distribution, less the amount of any liens and encumbrances on the property at that time.

CHAPTER 179

An act to amend Section 17537.2 of the Business and Professions Code, relating to advertising plans.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 17537.2 of the Business and Professions Code is amended to read:

17537.2. The following, when used as part of an advertising plan or program defined in Section 17537.1, are deceptive and constitute unfair trade practices:

(a) When, in order to utilize the incentive, the recipient is requested to pay any money to any person or entity named or referred to in the offer, or to purchase, rent, or otherwise pay that person or entity for any product or service including a deposit, whether returnable or not, whether payment is for an item, a service, shipping, handling, insurance or payment for anything.

Notwithstanding the preceding paragraph, when the offered incentive is a certificate or coupon redeemable for transportation, accommodations, recreation, vacation, entertainment, or like services, the offer may place a condition on the use of the incentive
which requires the recipient to pay directly to the transportation company, the accommodation, recreation, vacation or entertainment facility, or similar direct provider of like services, a refundable deposit, not to exceed fifty dollars ($50), to reserve space availability or admission, only if the deposit shall be returned in United States dollars immediately upon the recipient’s arrival at the location of the provider to whom the recipient paid the deposit. If the incentive is such a certificate or coupon, and if government-imposed taxes directly related to the service being provided are not included in the incentive, the offer itself, in close proximity to the description of the incentive which is evidenced by the certificate or coupon, shall disclose those government-imposed taxes which will be the recipient’s responsibility and the approximate dollar amount of those taxes. A deposit from the recipient may be collected to cover the cost of those government-imposed taxes.

(b) Stating or implying in the offer that the recipient is one of a selected group to receive a particular incentive or one or more of a group of incentives, without clearly and conspicuously disclosing in close proximity to the statement or implied statement of selection the total number of persons in that select group or the odds of receiving the incentive or incentives. Statements of selection which require such disclosure include such phrases as “you are a finalist,” “we are sending this to a limited number of people,” “either you or another named person has won the major prize,” “if you do not respond, your incentive will be given to someone else.”

(c) Stating or implying in the offer that the recipient is likely to receive one or more of the offered incentives because other named people have already received other named incentives, unless the offer clearly and conspicuously discloses in close proximity to the statement the recipient’s odds of receiving the identified incentive.

(d) When the solicitation states or implies that the recipient is likely to receive an incentive which has a normal retail price which is higher than that of another named incentive unless that statement is true. For purposes of this section, a list of incentives implies that the incentives are in descending or ascending order of value unless the solicitation clearly and conspicuously negates the implication in close proximity to the list.

(e) Describing an incentive or incentives in an untrue or misleading manner. Untrue or misleading descriptions include those which imply that the incentive being offered is of greater fair market value or of a different kind or nature than a recipient would be led to believe from a reasonable reading of the offer, or which lists the recipient’s name in close proximity to a specific incentive unless the offer clearly and conspicuously discloses immediately next to or immediately under or above the recipient’s name the recipient’s odds of receiving the specific incentive.

(f) Subdivision (a) shall not apply to an incentive constituting an opportunity to stay at a hotel or other resort accommodations at a discount from the standard rate for the hotel or resort
accommodations, if all of the following conditions are met:

(1) The fee to utilize the incentive and the requirement, if any, to attend a sales presentation are clearly and conspicuously disclosed in close proximity to the description of the offered incentive.

(2) A statement appears in close proximity to the description of the offered incentive and in substantially the following form: The recipient is responsible for payment of any government-imposed taxes directly related to the service being provided and any personal expenses incurred when utilizing this offer.

(3) The accommodations to be occupied by the recipient of the incentive are within a 20-mile radius of the property on which the accommodations offered for sale are located.

(4) If the incentive is offered in conjunction with any additional incentive or incentives or as one or more of a group of incentives, the offer of such additional incentive or incentives shall comply with Section 17537.1 and the following:

(A) The additional incentive or incentives are typically and customarily included in a vacation package and may include, but not be limited to, transportation, dining, entertainment, or recreation.

(B) The fee and additional requirements, if any, to use the additional incentive or incentives are clearly and conspicuously disclosed in close proximity to the description of the offer of them.

CHAPTER 180

An act to amend Section 20131 of, and to add and repeal Section 20131.5 of, the Public Contract Code, relating to county contracts, and declaring the urgency thereof, to take effect immediately.

Approved by Governor July 11, 1992  Filed with Secretary of State July 13, 1992.

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

SECTION 1. Section 20131 of the Public Contract Code is amended to read:

20131. Counties which employ purchasing agents may:

(a) Authorize the agent to employ state-licensed independent contractors and purchase materials, furnishings, and supplies used in the construction or repair of public works estimated as costing not more than six thousand five hundred dollars ($6,500) without the formality of obtaining bids, letting contracts, preparing specifications, and the other things required by this article.

(b) In counties containing a population of 500,000 or more, authorize the agent to purchase materials and supplies used in the construction or repair of public works estimated as costing not more than three thousand five hundred dollars ($3,500) without the formality of obtaining bids, letting contracts, preparing
specifications, and the other things required by this article.

(c) Authorize the agent to purchase or contract for medical or surgical equipment or supplies, or for professional services, for a county hospital without competitive bidding, so long as an appropriation for the costs of those purchases or contracts is included in the county budget.

As used in this subdivision, "medical or surgical equipment or supplies" means only equipment or supplies commonly, necessarily, and directly used by or under the direction of a physician and surgeon in caring for or treating a patient in a hospital.

SEC. 2. Section 20131.5 is added to the Public Contract Code, to read:

20131.5. (a) In San Bernardino County the county may authorize the purchasing agent to both employ state-licensed independent contractors and purchase materials and supplies used in the construction or repair of public works estimated as costing not more than thirty thousand dollars ($30,000) without the formality of obtaining bids, letting contracts, preparing specifications, and the other things required by this article. The purchasing agent shall obtain at least three written proposals for each project. If the purchasing agent is unable to obtain three written proposals, the agent shall document the attempts to obtain the written proposals. When advertising for the project begins, the purchasing agent shall send written notification to any party who has made a written request for that notification. The notification shall include, at a minimum, the information contained in the advertisement required by Section 20125.

(b) To encourage and allow San Bernardino County an opportunity to further consider joining the Uniform Public Construction Cost Accounting Act (Chapter 2 (commencing with Section 22000) of Part 3), the provisions of this section shall remain in effect only until June 30, 1993, and as of that date are repealed, unless a later enacted statute, which is chaptered before June 30, 1993, deletes or extends that date.

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 unintended repeal of Section 20131 of the Public Contract Code on June 30, 1992, it is necessary that this act take effect immediately.
An act to amend Section 74784 of the Government Code, relating to courts.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. This act shall be known and may be cited as the Stanislaus County Court Services Consolidation Act of 1992.

SEC. 2. Section 74784 of the Government Code is amended to read:

74784. (a) Except as provided in subdivision (b), 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 marshals 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:

(1) Two marshal-captains.
(2) Nineteen deputy marshals.
(3) One supervising civil process technician.
(4) One civil process technician.
(5) Three civil process clerks.
(6) Three marshal technicians.
(7) The number of deputy marshal-keepers as may be required by law.

(b) Notwithstanding any other provision of law, the Board of Supervisors of Stanislaus County may find that cost savings can be realized by eliminating the office of marshal and consolidating the court-related services provided by the sheriff and the marshal within that county. If that finding is made and such a consolidation is approved by resolution of the board, there shall be conducted among all of the judges of the superior and municipal courts of that county an election to approve the consolidation as set forth in the board’s resolution. The outcome shall be determined by a simple majority of votes cast. The registrar of voters shall administer that election within a reasonable period of time in an expeditious fashion and tabulate the results thereof. The results of that election shall be reported within five days following the election period by the registrar of voters to the board of supervisors and to the judges of the superior and municipal courts of that county. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the consolidation as approved by a majority of the votes cast in that election. However, if prior to the effective date of this subdivision, the board of supervisors passes a resolution setting forth the terms and conditions of the
consolidation and makes a finding of cost savings, and if the judges of the superior and municipal courts approve the consolidation by a majority vote and so certify to the board, no election shall be necessary under this subdivision and the board shall commence the implementation of the consolidation.

Upon any consolidation pursuant to this subdivision, the board of supervisors and the sheriff shall create a Court Services Bureau within the office of the sheriff, which shall carry out all current functions of the marshal and the court security and civil divisions of the sheriff's department, and which shall commence to exist at the time the office of marshal is eliminated.

A Court Security Services Oversight Committee consisting of two judges of the superior court and two judges of the municipal court shall be created upon the elimination of the office of marshal, which shall have the authority and duty to oversee the funding, staffing, and operation of the Court Services Bureau. That authority and those duties shall include the following:

(1) To recommend approval to the superior and municipal courts of transfers of staff in and out of the Court Services Bureau, and security measures and plans prepared by the Court Services Bureau.

(2) As between the sheriff and the courts, a majority vote of the superior court judges and a majority vote of the municipal court judges shall be the final determination of the staffing level subsequent to the 1992–93 fiscal year, and funding level and budget of the Court Services Bureau prepared for the Court Services Bureau prior to submission to the board of supervisor. However, a minimum of 14 deputy sheriff coroners shall staff and serve the municipal court on a daily basis, except as to a lesser number authorized on any given day by, the presiding judge of the municipal court.

The sheriff, through the Court Services Bureau Commander, shall provide bailiffing, court security, and prisoner holding and transportation for the superior court and municipal court and shall process and serve civil and criminal process, including subpoenas and warrants. The sheriff shall provide such other services as are determined to be necessary by the Court Security Services Oversight Committee.

The sheriff shall be the appointing authority for all Court Services Bureau positions and employees. All persons so appointed shall be subject to the approval of the majority of the judges of the superior court and a majority of the judges of the municipal court.

The incumbent marshal of the Stanislaus County Municipal Court shall become commander of the Court Services Bureau at the rank of lieutenant. Any compensation or benefit in addition to that of a lieutenant shall be subject to a written agreement between the county and the incumbent marshal, and he shall not be transferred except by a majority vote of the superior court judges and a majority vote of the municipal court judges of Stanislaus County upon recommendation of the Court Security Services Oversight Committee.
The selection, appointment, and removal of subsequent commanders of the Court Services Bureau shall be made by the sheriff as directed by the majority vote of the superior court judges and a majority vote of the municipal court judges of Stanislaus County from a list of qualified candidates submitted by the sheriff and recommended by the Court Security Services Oversight Committee.

The two incumbent marshal captains of the Stanislaus County Marshal's Office shall become sergeants in the sheriff's department and be assigned to the Court Services Bureau and shall not be removed without their consent, or absent such consent, by a majority vote of the superior court judges and a majority vote of the municipal court judges of Stanislaus County.

All sworn personnel of the marshal's office who are assigned to court services on the date of any such elimination of the marshal's office shall become members of the Court Services Bureau, with those permanent employees holding the rank of deputy marshal becoming deputy sheriff coroners.

Sworn personnel may be transferred to another position in the sheriff's office at the same or equivalent classification, but shall not be involuntarily transferred out of the Court Services Bureau.

Any such personnel who are probationary employees shall retain their probationary status and rights and shall not be required to start a new probationary period.

No employee of the marshal's office on any such date the marshal's office is eliminated shall lose peace officer status or be demoted or otherwise adversely affected by the consolidation of court services accomplished by this subdivision.

Peace Officer Standards and Training certificates held by employees of the marshal's office and sheriff's department on the date of any such elimination of the marshal's office shall be considered the same for purposes of this subdivision.

Notwithstanding any other provision of this subdivision, the sheriff shall make all transfers within the Court Services Bureau consistent with existing personnel policies of the sheriff, memorandums of understanding, if any, and other such county personnel management rules and regulations.

Any deputy marshal or marshal captain on the date of any such elimination of the marshal's office who transfers out of the Court Services Bureau to another division of the sheriff's department and subsequently fails to meet the employment requirements of that division, may be transferred back to the Court Services Bureau at the sole discretion of the sheriff.

Any employee of the sheriff's department who desires to transfer into the Court Services Bureau shall make application through the appropriate division to the Court Services Bureau commander. Any such employee must agree to remain in the Court Services Bureau for at least three to five years.

All sworn permanent employees subsequently assigned to the
Court Services Bureau shall be required to meet those requirements of the California Commission on Peace Officer Standards and Training.

The county's personnel regulations and other governing county ordinances and resolutions shall determine seniority and layoff order, and displacement rights of all employees including all continuous county service shall be counted toward county seniority.

No increase in the cost of court security for the superior court and municipal court in Stanislaus County between fiscal year 1992–93 and fiscal year 1991–92 shall be considered for purposes of determining the cost of court operations pursuant to the Brown-Presley Trial Court Funding Act (Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code), notwithstanding any staffing level increase which may be required by the courts under this subdivision; and the cost of any such increase shall not be a charge against trial court funds.

CHAPTER 182

An act to amend Section 798.76 of the Civil Code, and to amend Sections 12920, 12927, 12930, 12931, 12935, 12955, 12980, 12981, 12984, 12986, 12987, and 12995 of, and to add Sections 12955.1, 12955.2, 12955.3, 12955.4, 12955.5, 12955.6, 12989, 12989.1, 12989.2, and 12989.3 to, the Government Code, relating to fair employment and housing.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. This act shall be known and may be cited as the California Fair Housing Act of 1992.

SEC. 1.5. Section 798.76 of the Civil Code is amended to read:

798.76. The management may require that a prospective purchaser comply with any rule or regulation limiting residency to adults, provided that the rule or regulation complies with the provisions of the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations.

SEC. 2. Section 12920 of the Government Code is amended to read:

12920. It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, familial status, physical disability, medical condition, marital status, sex, or age.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for such
reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advance, and substantially and adversely affects the interest of employees, employers, and the public in general.

Further, the practice of discrimination because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in housing accommodations is declared to be against public policy.

It is the purpose of this part to provide effective remedies which will eliminate these discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

SEC. 3. Section 12927 of the Government Code is amended to read:

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) "Affirmative actions" means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) "Conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) "Discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when such housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with such housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling. The term "discrimination" does not include refusal to rent or lease a portion
of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household.

(d) "Housing accommodation" means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(g) "Real estate-related transactions" include any of the following:

1. The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

2. The selling, brokering, or appraising of residential real property.

SEC. 4. Section 12930 of the Government Code is amended to read:

12930. The department shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and such other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate and conciliate complaints alleging practices made unlawful pursuant to Chapter 6 (commencing with Section 12940).

2. To receive, investigate, and conciliate complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.
(g) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

1. To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

2. To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits.

3. To issue written interrogatories.

4. To request the production for inspection and copying of books, records, documents, and physical materials.

5. To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.

(h) To issue accusations pursuant to Section 12965 or 12981 and to prosecute such accusations before the commission.

(i) To issue those publications and those results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To investigate, approve, certify, decertify, monitor, and enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

SEC. 5. Section 12931 of the Government Code is amended to read:

12931. The department may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, familial status, disability, ancestry, medical condition, marital status, sex, or age which impair the rights of persons in these communities under the Constitution or laws of the United States or of this state. The services of the department may be made available in cases of such disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The department's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

The assistance of the department pursuant to this section shall be limited to endeavors at investigation, conference, conciliation, and persuasion.

SEC. 6. Section 12935 of the Government Code is amended to read:

12935. The commission shall have the following functions, powers
and duties:
(a) To adopt, promulgate, amend, and rescind suitable rules, regulations, and standards (1) to interpret, implement, and apply all provisions of this part, (2) to regulate the conduct of hearings held pursuant to Sections 12967 and 12980, and (3) to carry out all other functions and duties of the commission pursuant to this part.
(b) To conduct hearings pursuant to Sections 12967 and 12981.
(c) To establish and maintain a principal office within the state.
(d) To meet and function at any place within the state.
(e) To appoint an executive secretary, and such attorneys and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.
(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.
(g) To create or provide financial or technical assistance to such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and to empower them to study the problems of discrimination in all or specific fields of human relationships or in particular instances of employment discrimination on the bases enumerated in this part or in specific instances of housing discrimination because of race, religious creed, color, national origin, ancestry, familial status, disability, marital status, or sex, and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. These advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.
(h) With respect to findings and orders made pursuant to this part, to establish a system of published opinions which shall serve as precedent in interpreting and applying the provisions of this part.
(i) To issue publications and results of inquiries and research which in its judgment will tend to promote good will and minimize or eliminate unlawful discrimination. These publications shall include an annual report to the Governor and the Legislature of its activities and recommendations.

SEC. 7. Section 12955 of the Government Code is amended to read:
12955. It shall be unlawful:
(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.
(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race,
color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, blindness or other physical disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person or persons, or of prospective occupants or tenants, in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner’s dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry,
disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

SEC. 8. Section 12955.1 is added to the Government Code, to read:

12955.1. For purposes of Section 12955, "discrimination" includes, but is not limited to, a failure to design and construct a covered multifamily dwelling in a manner that allows access to and use by disabled persons by providing, at a minimum, the following features:

(a) All covered multifamily dwellings shall have at least one building entrance on an accessible route, unless it is impracticable to do so because of the terrain or unusual characteristics of the site. The burden of establishing impracticability because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

(b) All covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in a manner that complies with all of the following:

1. The public and common areas are readily accessible to and useable by handicapped persons.
2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs.
3. All premises within covered multifamily dwelling units contain the following features of adaptable design:
   A. An accessible route into and through the covered dwelling unit.
   B. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
   C. Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall, and shower seat, where those facilities are provided.
   D. Useable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(c) For purposes of this section, "covered multifamily dwellings" mean buildings consisting of four or more dwelling units if the buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

(d) Notwithstanding Section 12935, regulations adopting building standards necessary to implement, interpret, or make specific the provisions of this section shall be developed by the office of the State Architect for public housing and by the Department of Housing and Community Development for all other residential occupancies, and shall be adopted pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of the Health and Safety Code.

(e) In investigating discrimination complaints, the department
shall apply the building standards contained in Title 24 of the California Code of Regulations to determine whether a covered multifamily dwelling is designed and constructed for access to and use by disabled persons in accordance with this section.

(f) The building standard requirements for persons with disabilities imposed by this section shall meet or exceed the requirements under the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.) and the existing state law building standards contained in Title 24 of the California Code of Regulations.

SEC. 9. Section 12955.2 is added to the Government Code, to read:

12955.2. For purposes of this part, "familial status" means one or more individuals under 18 years of age who reside with a parent, another person with care and legal custody of that individual, a person who has been given care and custody of that individual by a state or local governmental agency that is responsible for the welfare of children, or the designee of that parent or other person with legal custody of any individual under 18 years of age by written consent of the parent or designated custodian. The protections afforded by this part against discrimination on the basis of familial status also apply to any individual who is pregnant, who is in the process of securing legal custody of any individual under 18 years of age, or who is in the process of being given care and custody of any individual under 18 years of age by a state or local governmental agency responsible for the welfare of children.

SEC. 10. Section 12955.3 is added to the Government Code, to read:

12955.3. For purposes of this part, "disability" includes, but is not limited to, the following:

(a) A physical or mental impairment that substantially limits one or more of a person's major life activities.

(b) A record of having, or being perceived as having, a physical or mental impairment, but not including current illegal use of, or addiction to, a controlled substance (as defined by Section 102 of the federal Controlled Substance Act, 21 U.S.C. Sec. 802).

SEC. 11. Section 12955.4 is added to the Government Code, to read:

12955.4. Nothing in this part shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to those persons, unless membership in that religion is restricted on account of race, color, or national origin.

SEC. 12. Section 12955.5 is added to the Government Code, to read:

12955.5. Nothing in this part shall preclude the government from
establishing programs to collect information relating to discriminatory housing practices.

SEC. 13. Section 12955.6 is added to the Government Code, to read:

12955.6. (a) Nothing in this part shall be construed to afford fewer rights or remedies than the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.), or state law relating to fair employment and housing as it existed prior to the effective date of this section. This part may be construed to afford greater rights and remedies to an aggrieved person than those afforded by that federal law.

(b) Nothing in this part shall be construed to abrogate or limit the holding in Keith v. Volpe, 858 F. 2d 467, relating to discriminatory effect.

SEC. 14. Section 12980 of the Government Code is amended to read:

12980. The provisions of this article govern the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955 or 12955.1 may file with the department a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices which appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after
receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

(1) The names of any witnesses and the dates of any contacts with those witnesses.

(2) A summary of the dates of any correspondence or other contacts with the aggrieved persons or the respondent.

(3) A summary of witness statements.

(4) Answers to interrogatories.

(5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If an accusation is not issued within 100 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1 of the Government Code. The notice shall also indicate, unless the department has determined that no accusation will be issued, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if he or she does not desire to file a civil action. The superior, municipal, and justice courts of the State of California shall have jurisdiction of these actions, and the aggrieved person may file in any of these courts. The action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant’s residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed to by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.
SEC. 15. Section 12981 of the Government Code is amended to read:

12981. (a) In the case of failure to eliminate a violation of Section 12985 or 12955.1 which has occurred, or is about to occur, through conference, conciliation, and persuasion, or in advance thereof if circumstances warrant, the director shall cause to be issued in the name of the department, notwithstanding Section 12971, a written accusation, in the same manner and with the same powers as provided in Section 12965, except that any accusation alleging an unfair housing practice shall be issued within 100 days after the filing of a complaint, if it is possible to do so. The accusation shall require the respondent to answer the charges at an administrative hearing or civil trial as elected by the parties pursuant to Section 12989. Any aggrieved person may intervene as a party in the proceeding.

(b) If the department determines that an allegation concerns the legality of any zoning or other land use law or ordinance, it shall immediately refer the case to the Attorney General for appropriate action, in lieu of issuing an accusation.

(c) The commission shall hold hearings on accusations issued pursuant to subdivision (a) in the same manner and with the same powers as provided in Sections 12967 to 12972, inclusive, except that the commission shall make final administrative disposition of a complaint alleging unfair housing practices within one year of the date of filing of the complaint, unless it is impracticable to do so. If the department is unable to make final administrative disposition of a complaint within one year, it shall notify the complainant and the respondent, in writing, of its reasons for not doing so.

(d) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether the order or decision has been fully obeyed and implemented.

(e) Whenever the department has reasonable cause to believe that a respondent has breached a conciliation agreement, the department shall refer the matter to the Attorney General with a recommendation that a civil action be filed for the enforcement of the agreement.

(f) If the time for judicial review of a final commission order or decision has lapsed, or if all means of judicial review have been exhausted, the department may apply to the superior court in any county in which an action could have been brought under subdivision (b) of Section 12965 for the enforcement of the order or decision or order as modified in accordance with a decision on judicial review. If, after a hearing, the court determines that an order or decision has been issued by the commission and that either the time limits for judicial review have lapsed, or the order or decision was upheld in whole or in part on judicial review, the court shall issue a judgment and order enforcing the order or decision or order as modified in accordance with a decision on judicial review. The court shall not review the merits of the order or decision. The court’s
judgment shall be nonappealable and shall have the same force and effect as, and shall be subject to all the provisions of law relating to, a judgment in a civil action.

SEC. 16. Section 12984 of the Government Code is amended to read:

12984. Except as provided in Section 12980, all matters connected with any conference, conciliation, or persuasion efforts under this part are privileged and may not be received in evidence. Except as provided in Section 12980, the members of the department and its staff shall not disclose to any person what has transpired in the course of such endeavors to conciliate. Every member of the department or its staff who discloses information in violation of this section is guilty of a misdemeanor. Such disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

SEC. 17. Section 12986 of the Government Code is amended to read:

12986. The department shall within 10 days cause a copy of the verified complaint that has been filed under the provisions of this part to be served upon or mailed to the respondent alleged to have committed the violation complained of and shall advise the respondent in writing of his or her procedural rights and obligations. The respondent may file an answer to the complaint.

SEC. 18. Section 12987 of the Government Code is amended to read:

12987. (a) If the commission, after hearing, finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from the practice and to take such actions, as, in the judgment of the commission, will effectuate the purpose of this part, including, but not limited to, any of the following:

1. The sale or rental of the housing accommodation if it is still available, or the sale or rental of a like housing accommodation, if one is available, or the provision of financial assistance, terms, conditions, or privileges previously denied in violation of subdivision (f) of Section 12955 in the purchase, organization, or construction of the housing accommodation, if available.

2. Affirmative or prospective relief, including injunctive or other equitable relief.

3. The payment to the complainant of a civil penalty against any named respondent, not to exceed ten thousand dollars ($10,000), unless, in a separate accusation, the respondent has been adjudged to have, with intent, committed a prior violation of Section 12955. If the respondent has, in a separate accusation, been adjudged to have committed a prior violation of Section 12955 within the five years preceding the filing of the complaint, the amount of the civil penalty may exceed ten thousand dollars ($10,000), but may not exceed 31350
twenty-five thousand dollars ($25,000). If the respondent, in separate
accusations, has been adjudged to have, with intent, violated Section
12955 two or more times within the seven-year period preceding the
filing of the complaint, the civil penalty may exceed twenty-five
thousand dollars ($25,000), but may not exceed fifty thousand dollars
($50,000). All civil penalties awarded under this provision shall be
collected by the department. The commission may award the
prevailing party, other than the government, reasonable attorneys’
fees and costs.

(4) The payment of actual damages to the complainant.

(b) No remedy shall be available to the aggrieved person unless
the aggrieved person waives any and all rights or claims under
Section 52 of the Civil Code prior to receiving a remedy, and signs
a written waiver to that effect.

(c) The commission may require a report of the manner of
compliance.

(d) If the commission finds that a respondent has not engaged in
any practice which constitutes a violation of this part, the commission
shall state its findings of fact and shall issue and cause to be served
on the complainant an order dismissing the said accusation as to such
respondent.

(e) Any order issued by the commission shall have printed on its
face references to the provisions of the Administrative Procedure
Act which prescribe the rights of appeal of any party to the
proceeding to whose position the order is adverse.

SEC. 19. Section 12989 is added to the Government Code, to read:
12989. (a) If an accusation is issued under Section 12981, a
complainant, a respondent, or an aggrieved person on whose behalf
a complaint is filed may elect, in lieu of an administrative proceeding
under Section 12981, to have the claims asserted in the charge
adjudicated in a civil action under this part.

(b) An election under this section may be made within 20 days
after the service of the accusation, and not later than 20 days after
service of the complaint to the respondent. A notice of election shall
be filed with the department, and the department shall serve a copy
of the notice to the director, the respondent, and the aggrieved
person on whose behalf the complaint is filed. The notice shall be
filed and served on all parties to the complaint in accordance with
the procedures established by Section 12962.

(c) If either party serves a notice of election upon the
department, as prescribed, the department shall, within 30 days after
service of the notice of the election, dismiss the accusation. The
department shall itself, or at its election through the Attorney
General, within 30 days of receipt of the notice of election, file a civil
action with the proper municipal or superior court of competent
jurisdiction in its name or on behalf of the aggrieved person as a real
party in interest. The action may be filed in any county in the state
in which the unlawful practice is alleged to have been committed,
in the county in which the records relevant to that practice are
maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation. If the respondent is not found within that county, the action may be filed in the county of the respondent’s residence or principal office.

(d) Any person aggrieved with respect to the issues to be determined in a civil action filed under this part may intervene as of right in that civil action.

(e) If an election is not made pursuant to this section, the director shall maintain an administrative proceeding based on the charges in the complaint in accordance with the procedures set forth in Section 12981.

(f) The director or his or her designated representative shall be available for consultation concerning any legal issues raised by the Attorney General that relate to evidentiary or tactical matters relevant to any civil action brought under this part.

SEC. 20. Section 12989.1 is added to the Government Code, to read:

12989.1. An aggrieved person may commence a civil action in an appropriate court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach. The computation of the two-year period shall not include any time during which an administrative proceeding under this part was pending with respect to a complaint or accusation under this part based upon the discriminatory housing practice or breach.

An aggrieved person may commence a civil action whether or not a complaint has been filed under this part and without regard to the status of any complaint. Any aggrieved person who is aggrieved with respect to the issues to be determined in a civil action filed under this part, may intervene in that civil action. However, if the department has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this part by the aggrieved person with respect to the alleged discriminatory housing practice that forms the basis for the complaint, except for the purpose of enforcing the terms of the agreement.

An aggrieved person may not commence a civil action with respect to an alleged discriminatory housing practice that forms the basis of an accusation issued by the department if the department has commenced a hearing on the accusation.

SEC. 21. Section 12989.2 is added to the Government Code, to read:

12989.2. In a civil action brought under Section 12989 or 12989.1, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award the plaintiff or complainant actual and punitive damages and may grant other relief, including the issuance of a temporary or permanent injunction, or temporary
restraining order, or other order, as it deems appropriate to prevent any defendant from engaging in or continuing to engage in an unlawful practice. The court may, at its discretion, award the prevailing party, other than the state, reasonable attorney's fees and costs. Any relief granted pursuant to this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the department, or civil action under this part.

SEC. 22. Section 12989.3 is added to the Government Code, to read:

12989.3. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of denying to others the full enjoyment of any of the rights granted by this article, or that any group of persons has been denied any of the rights granted by this article and that denial raises an issue of general public importance, the Attorney General shall commence a civil action in any court.

(b) Upon referral from the department, the Attorney General may commence a civil action in any appropriate court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the department under subdivision (b) of Section 12981.

(c) A civil action under this section may be commenced not later than the expiration of 18 months after the date of the occurrence or termination of the alleged discriminatory housing practice.

(d) The Attorney General shall commence a civil action in any appropriate court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the department. A civil action shall be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach.

(e) The Attorney General, on behalf of the department or other party at whose request a subpoena is issued, under this article, shall enforce that subpoena in appropriate proceedings in the court for the judicial district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) In a civil action under this section, the court may award any of the following:

1. Preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title.

2. Other relief as the court deems appropriate, including monetary damages to persons aggrieved.

3. A civil penalty in an amount not exceeding fifty thousand dollars ($50,000), for a first violation, and in an amount not exceeding one hundred thousand dollars ($100,000), for any subsequent violation.
(g) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the state, reasonable attorney's fees and costs against any party other than the state.

(h) Upon timely application, any person may intervene in a civil action commenced by the Attorney General under this section that involves an alleged discriminatory housing practice with respect to which that person is an aggrieved person or a conciliation agreement to which that person is a party. The court may grant appropriate relief to any intervening party as is authorized to be granted to a plaintiff in a civil action under Section 12989.2.

SEC. 23. Section 12995 of the Government Code is amended to read:

12995. Nothing contained in this part relating to discrimination in housing shall be construed to:

(a) Affect the title or other interest of a person who purchases, leases, or takes an encumbrance on a housing accommodation in good faith and without knowledge that the owner or lessor of the property has violated any provision of this part.

(b) Prohibit any postsecondary educational institution, whether private or public, from providing housing accommodations reserved for either male or female students so long as no individual person is denied equal access to housing accommodations, or from providing separate housing accommodations reserved primarily for married students or for students with minor dependents who reside with them.

(c) Prohibit selection based upon factors other than race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, or other basis prohibited by the Unruh Civil Rights Act.

(d) Promote housing accommodations on a preferential or quota basis.

SEC. 24. The Legislature hereby finds and declares that this act is necessary to protect individual rights and provide remedies for alleged discriminatory housing practices that are substantially similar to those rights and remedies provided for in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430).

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CHAPTER 183

An act to amend Section 273.5 of the Penal Code, relating to domestic violence.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her
spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000), or by both.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father as set forth in Section 7004 of the Civil Code.

(e) In any case in which a person is convicted of violating this section and probation is granted, the court shall require participation in a batterer's treatment program as a condition of probation unless, considering all of the facts and the circumstances, the court finds participation in a batterer's treatment program inappropriate for the defendant.

(f) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted under subdivision (a) for an offense that occurred within seven years of the offense of the second conviction, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than 96 hours and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program, as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted of two or more violations of subdivision (a) for offenses that occurred within seven years of the most recent conviction, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than 30 days and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a
batterer’s treatment program, or both the mandatory minimum imprisonment and participation in a batterer’s treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(h) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women’s shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant’s offense.

For any order to pay a fine, make payments to a battered women’s shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant’s ability to pay. In no event shall any order to make payments to a battered women’s shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court child support.

(i) Where an injury to a married person is caused in whole or part by the criminal acts of his or her spouse in violation of subdivision (a), the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by this section or Section 1203.04, or to a shelter for payments pursuant to subdivision (h), until all separate property of the offending spouse is exhausted.

CHAPTER 184

An act to amend Sections 243, 262, 273.5, and 273.6 of the Penal Code, relating to restitution.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 243 of the Penal Code is amended to read:
243. (a) A battery is punishable by a fine of not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both the fine and imprisonment.

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the
duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(c) When a battery is committed against a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by imprisonment in a county jail for a period of not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the state prison for 16 months, or two or three years.

(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in a county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

(e) When a battery is committed against a noncohabiting former spouse, fiancé, fiancée, or a person with whom the defendant currently has, or has previously had, a dating relationship, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail for a period of not more than one year, or by both. If probation is granted, or the execution or imposition of the sentence is suspended, it shall be a condition thereof that the defendant participate in, for no less than one year, and successfully complete, a batterer's treatment program, or if none is available, in another appropriate counseling program designated by the court. However, this provision shall not be construed as requiring a city, a county, or a city and county to provide a new
program or higher level of service as contemplated by Section 6 of Article XIII B of the California Constitution.

If probation is granted upon conviction of a violation of this subdivision, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women’s shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant’s offense.

For any order to pay a fine, make payments to a battered women’s shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant’s ability to pay. In no event shall any order to make payments to a battered women’s shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence so as to display society’s condemnation for such crimes of violence upon victims with whom a close relationship has been formed.

(f) As used in this section:

(1) “Peace officer” means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) “Emergency medical technician” means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) “Mobile intensive care paramedic” means any person who meets the standards set forth in Section 1797.84 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.

(4) “Nurse” means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) “Serious bodily injury” means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(6) “Injury” means any physical injury which requires professional medical treatment.
(7) "Custodial officer" means any person who has the responsibilities and duties described in Section 831 and who is employed by a law enforcement agency of any city or county or who performs those duties as a volunteer.

(8) "Lifeguard" means a person defined in paragraph (5) of subdivision (c) of Section 241.

(9) "Traffic officer" means any person employed by a city, county, or city and county, to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(10) "Animal control officer" means any person employed by a city, county, or city and county for purposes of enforcing animal control laws or regulations.

(11) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as People v. Corey, 21 Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform as private security guards or patrolmen and to allow the exercise of peace officer powers concurrently with that employment.

SEC. 2. Section 262 of the Penal Code is amended to read:

262. (a) Rape of a person who is the spouse of a perpetrator is an act of sexual intercourse accomplished against the will of the spouse by means of force or fear of immediate and unlawful bodily injury on the spouse or another, or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this subdivision, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(b) The provisions of Section 800 shall apply to this section. However, there shall be no arrest or prosecution under this section unless the violation of this section is reported to a peace officer having the power to arrest for a violation of this section or to the district attorney of the county in which the violation occurred, within 90 days after the day of the violation.

(c) If probation is granted upon conviction of a violation of this section, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's
shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 3. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000) or by both.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father as set forth in Section 7004 of the Civil Code.

(e) In any case in which a person is convicted of violating this section and probation is granted, the court shall require participation in a batterer's treatment program as a condition of probation unless, considering all of the facts and the circumstances, the court finds participation in a batterer's treatment program inappropriate for the defendant.

(f) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted under subdivision (a) for an offense that occurred within seven years of the offense of the second conviction, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than 96 hours and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program, as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in
a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted of two or more violations of subdivision (a) for offenses that occurred within seven years of the most recent conviction, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than 30 days and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(h) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 4. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of any of the court orders set forth in subdivision (c), when obtained pursuant to Section 4359, 4458, 4516, 7020, or 7021 of the Civil Code, Section 412.21 or 527.6 of the Code of Civil Procedure, or Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure shall be a misdemeanor punishable by a fine of not more than one
thousand dollars ($1,000), or by imprisonment in a county jail for not
more than one year, or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in
a physical injury, the person shall be imprisoned in a county jail for
at least 48 hours, whether a fine or imprisonment is imposed, or the
sentence is suspended.

(c) Subdivisions (a) and (b) shall apply to the following court
orders:

(1) An order enjoining any party from molesting, attacking,
striking, threatening, sexually assaulting, battering, harassing, or
disturbing the peace of the other party, or other named family and
household members.

(2) An order excluding one party from the family dwelling or
from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the
court determined was necessary to effectuate the orders under
subdivision (a) or (d).

(d) A second or subsequent conviction for a violation of an order
issued pursuant to subdivision (a) occurring within seven years of a
prior conviction for a violation of such an order and involving an act
of violence or "a credible threat" of violence as defined in
subdivision (c) of Section 139 is punishable by imprisonment in a
county jail not to exceed one year, or in the state prison for 16 months
or two or three years.

(e) The prosecuting agency of each county shall have the primary
responsibility for the enforcement of orders issued pursuant to the
provisions listed in subdivisions (a), (b), and (d).

(f) If probation is granted upon conviction of a violation of
subdivision (a), (b), or (d), the conditions of probation may include,
in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's
shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs
of counseling and other reasonable expenses that the court finds are
the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women’s
shelter, or pay restitution as a condition of probation under this
subdivision, the court shall make a determination of the defendant’s
ability to pay. In no event shall any order to make payments to a
battered women’s shelter be made if it would impair the ability of
the defendant to pay direct restitution to the victim or court ordered
child support. Where the injury to a married person is caused in
whole or in part by the criminal acts of his or her spouse in violation
of this section, the community property may not be used to discharge
the liability of the offending spouse for restitution to the injured
spouse, required by Section 1203.04, or to a shelter for costs with
regard to the injured spouse and dependents, required by this
section, until all separate property of the offending spouse is
exhausted.
CHAPTER 185

An act to amend Section 11373 of the Health and Safety Code, relating to crimes.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 11373 of the Health and Safety Code is amended to read:

11373. (a) Whenever any person who is otherwise eligible for probation is granted probation by the trial court after conviction for a violation of any controlled substance offense under this division, the trial court shall, as a condition of probation, order that person to secure education or treatment from a local community agency designated by the court, if the service is available and the person is likely to benefit from the service.

If the defendant is a minor, the trial court shall also order his or her parents or guardian to participate in the education or treatment to the extent the court determines that participation will aid the education or treatment of the minor.

If a minor is found by a juvenile court to have been in possession of any controlled substance, in addition to any other order it may make, the juvenile court shall order the minor to receive education or treatment from a local community agency designated by the court, if the service is available and the person is likely to benefit from the service, and it shall also order his or her parents or guardian to participate in the education or treatment to the extent the court determines that participation will aid the education or treatment of the minor.

(b) The willful failure to complete a court ordered education or treatment program shall be a circumstance in aggravation for purposes of sentencing for any subsequent prosecution for a violation of Section 11353, 11354, or 11380. The failure to complete an education or treatment program because of the person's inability to pay the costs of the program or because of the unavailability to the defendant of appropriate programs is not a willful failure to complete the program.
CHAPTER 186

An act to add Section 40404.5 to the Health and Safety Code, relating to air pollution.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 40404.5 is added to the Health and Safety Code, to read:

40404.5. The Legislature further finds and declares that the south coast district, in fulfilling its directive to require the use of best available control technology for new sources, and in consideration of the state policy to promote and encourage the use of solar energy systems, shall make reasonable efforts to incorporate solar energy technology into its air quality management plan in applications where it can be shown to be cost-effective.

CHAPTER 187

An act to amend Section 33334.12 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 33334.12 of the Health and Safety Code is amended to read:

33334.12. (a) Upon failure of the agency to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within five years from the date the moneys become excess surplus, within the meaning defined in Section subdivision (e), the agency shall disburse that excess surplus to the county housing authority or other housing authority operating within the agency’s jurisdiction or another public agency exercising housing development powers within the territorial jurisdiction of the agency in accordance with subdivision (b). The housing authority or other public agency to which the money is transferred shall utilize the moneys for the purposes and subject to the same restrictions as applicable to the redevelopment agency under this part, and for that purpose may exercise all of the powers of a housing authority under Part 2 (commencing with Section 34200) to the extent not inconsistent with these limitations.

Notwithstanding Section 34209 or any other provision of law, for
the purpose of accepting a transfer of, and using, moneys pursuant
to this section, the housing authority of a county or other public
agency may exercise its powers within the territorial jurisdiction of
a city redevelopment agency in the county.

(b) The amount of excess surplus which shall be transferred to the
housing authority or other public agency because of failure of the
agency to expend or encumber excess surplus within five years shall
be the amount of the excess surplus that is not so expended or
encumbered. The housing authority or other public agency to which
the moneys are transferred shall expend or encumber them for
authorized purposes not later than three years from the date they
were transferred from the Low and Moderate Income Housing
Fund.

(c) Nothing in this section shall be construed to limit any
authority a redevelopment agency may have under other provisions
of this part to contract with a housing authority for increasing or
improving the community's supply of low- and moderate-income
housing.

(d) Notwithstanding any other provision of law, a county housing
authority, operating within a county with a population under 200,000,
may expend these moneys anywhere within the county, including
any incorporated areas, upon a finding that the purpose of the
expenditure is a benefit to the project area.

(e) For purposes of this section:

(1) "Excess surplus" means any unexpended and unencumbered
amount in an agency's Low and Moderate Income Housing Fund
that exceeds the greater of five hundred thousand dollars ($500,000)
or the aggregate amount deposited into the Low and Moderate
Income Housing Fund pursuant to Sections 33334.2 and 33334.6
during the agency's preceding five fiscal years.

(2) Moneys shall be deemed encumbered if committed pursuant
to a legally enforceable contract or agreement for expenditure for
purposes specified in Section 33334.2 or 33334.3.

(3) For purposes of determining whether an excess surplus exists,
it is the intent of the Legislature to give credit to agencies which
convey land for less than fair market value, on which low- and
moderate-income housing is built or is to be built if at least one-half
of the units developed on the land are available at affordable housing
cost to lower income households for at least the time specified in
subdivision (e) of Section 33334.3, and otherwise comply with all of
the provisions of this division applicable to expenditures of moneys
from a low- and moderate-income housing fund established pursuant
to Section 33334.3. Therefore, for the sole purpose of determining the
amount, if any, of an excess surplus, an agency may make the
following calculation: if an agency sells, leases, or grants land
acquired with moneys from the Low and Moderate Income Housing
Fund, established pursuant to Section 33334.3, for an amount which
is below fair market value, and if at least one-half of the units
constructed or rehabilitated on the land are affordable to lower
income households, as defined in Section 50079.5, the difference between the fair market value of the land and the amount the agency receives may be subtracted from the amount of moneys in an agency’s Low and Moderate Income Housing Fund. Nothing in this subdivision shall be construed to restrict the authority of an agency provided in any other provision of this part to expend funds from the Low and Moderate Income Housing Fund.

CHAPTER 188

An act to add Section 1159 to the Evidence Code, relating to evidence.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 1159 is added to the Evidence Code, to read: 1159. (a) No evidence pertaining to live animal experimentation, including, but not limited to, injury, impact, or crash experimentation, shall be admissible in any product liability action involving a motor vehicle or vehicles.
(b) This section shall apply to cases for which a trial has not actually commenced, as described in paragraph (6) of subdivision (a) of Section 581 of the Code of Civil Procedure, on January 1, 1993.

CHAPTER 189

An act to amend Sections 2010 and 2011 of the Corporations Code, and to add Section 23335 to the Revenue and Taxation Code, relating to corporations.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 2010 of the Corporations Code is amended to read: 2010. (a) A corporation which is dissolved nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it and enabling it to collect and discharge obligations, dispose of and convey its property and collect and divide its assets, but not for the purpose of continuing business except so far as necessary for the winding up thereof.
(b) No action or proceeding to which a corporation is a party
abates by the dissolution of the corporation or by reason of proceedings for winding up and dissolution thereof.

(c) Any assets inadvertently or otherwise omitted from the winding up continue in the dissolved corporation for the benefit of the persons entitled thereto upon dissolution of the corporation and on realization shall be distributed accordingly.

(d) For the purpose of this section, a dissolved corporation includes a corporation that has filed a certificate of dissolution on or after January 1, 1992, pursuant to Section 1905, and for which the Franchise Tax Board has not yet, or never has, made the determination referred to in Section 1905 that all taxes have been paid or secured.

SEC. 2. 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.

(e) For the purpose of this section, a dissolved corporation includes a corporation that has filed a certificate of dissolution on or after January 1, 1992, pursuant to Section 1905, and for which the Franchise Tax Board has not yet, or never has, made the determination referred to in Section 1905 that all taxes have been paid or secured.

SEC. 3. Section 23335 is added to the Revenue and Taxation Code, to read:

23335. (a) Any return filed pursuant to subdivision (c) or (d) of Section 25401 that the taxpayer designates in the appropriate place on the form provided by the Franchise Tax Board as the taxpayer’s final return as the result of a dissolution or withdrawal shall be treated as a request for a certificate issued by the Franchise Tax Board pursuant to Section 23334 unless the taxpayer has otherwise filed a request with the Franchise Tax Board for that certificate.

(b) If a taxpayer has filed a return that is a request for a tax clearance certificate as described in subdivision (a), the Franchise Tax Board shall provide the taxpayer with information, including forms and instructions, regarding all documents that are required by this article to be filed with the Franchise Tax Board and the Secretary of State.
CHAPTER 190

An act to amend Section 62623 of the Food and Agricultural Code, relating to milk producers.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 62623 of the Food and Agricultural Code is amended to read:

62623. For purposes of this chapter, the amounts owed to the producers shall be calculated as follows:

(a) Only shipments which occur during the first 35 days from the date of the earliest shipment for which a producer has not been paid shall be used.

(b) The minimum prices established in the stabilization and marketing plans applied to the usage assigned under the pooling plan shall be used for cooperative marketing associations.

(c) The price specified in the contract with the handler shall be used for manufacturing milk producers unless a lower price is contained in the stabilization and marketing plans, in which case the lower price shall be used.

(d) The minimum prices established in the stabilization and marketing plans shall be used for direct market milk producers who are not shipping their milk under the pooling plan.

(e) The quota, base, and overbase prices, as provided for in the pooling plan, shall be used for producers, other than cooperative marketing associations, who ship their milk directly to a handler.

(f) Deductions shall be made for those items which the handler customarily deducts from the payments, unless the deductions are in violation of Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), or Chapter 3 (commencing with Section 62700), or the deductions are for voluntary assignments made by the producer.

(g) The producer’s share of any bond recovery under Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801) shall be deducted.
An act to amend Section 9326 of the Welfare and Institutions Code, relating to aging.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992 ]

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

SECTION 1. Section 9326 of the Welfare and Institutions Code is amended to read:

9326. The California Arts Council and the Department of Aging shall:

(a) Work together to identify those creative and cultural needs related to older persons.

(b) Provide for coordination in furnishing intergenerational art programs as enhancement of the quality of life for older persons.

(c) Provide advice and technical assistance in the development of intergenerational art programs.

(d) Provide arts information as a component of the existing information and referral service network to ensure access to community art programs to older persons.

(e) Encourage all applicants for contracts and services to include older persons in their programs.

(f) Subject to the availability of federal funds under the Older Americans Act (Chapter 35 (commencing with Section 3001) of Title 42 of the United States Code), enter into an interagency agreement for the development of an arts and aging program to encourage senior access to, and participation in, cultural life in this state. The agreement shall include, but not be limited to, both of the following:

(1) Procedures for the use of artists in residence for seniors in community care or long-term care facilities.

(2) Joint application for available federal funds under the Older Americans Act, pursuant to guidelines developed by the Administration on Aging, for the use of artists or art, music, dance, or drama therapists in programs which engage seniors in the artistic process.
CHAPTER 192

An act to amend Sections 5097.2, 5097.3, and 5097.5 of the Public Resources Code, relating to public lands.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 5097.2 of the Public Resources Code is amended to read:

5097.2. Upon receipt of plans for a proposed construction project upon state lands, the department may conduct an archaeological site survey on the affected state lands in order to determine whether the lands may contain any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological sites, including fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological or historical feature. The department shall submit to the state agency, by or on whose behalf the project is to be constructed, its recommendations concerning the preservation, photographing, recording, or excavation for, any archaeological, paleontological, or historical features which may be located upon the lands.

SEC. 2. Section 5097.3 of the Public Resources Code is amended to read:

5097.3. The state agency, by or on whose behalf public works are to be constructed on state lands, may undertake such surveys, excavations, or other operations on the state lands as it determines to be necessary to preserve or record any archaeological, paleontological, or historical features, including rock art, which may be located on the lands, after receiving the recommendations of the department, or the state agency may contract with the department to undertake those operations. The department may carry out the operations.

SEC. 3. Section 5097.5 of the Public Resources Code is amended to read:

5097.5. (a) No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface, any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over the lands. Violation of this section is a misdemeanor.

(b) As used in this section, "public lands" means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof.
CHAPTER 193

An act to amend Section 8957 of, and to add Section 8953.3 to, the Education Code, relating to the California State Summer School for the Arts.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 8953.3 is added to the Education Code, to read:

8953.3. (a) The Legislature finds and declares that the admission of out-of-state pupils to the California State Summer School for the Arts will enhance the national and international standing of the pupils who attend the summer school, and increase the revenues to the school from both tuition and contributions.

(b) Pursuant to the eligibility criteria set forth in subdivision (b) of Section 8953, pupils who are not California residents, including residents of other countries, may be admitted to the summer school, not to exceed in any year 20 pupils or five percent of the total pupil population of the summer school, whichever is less. No admission under this subdivision shall result in the denial of admission under this chapter to a California resident who is eligible for that admission and satisfies applicable artistic qualifications for admission.

SEC. 2. Section 8957 of the Education Code is amended to read:

8957. (a) It is the Legislature’s intent that at least 50 percent, but not more than 75 percent, of the actual costs of the California State Summer School for the Arts (CSSSA) for each fiscal year be financed by state funds beginning in the 1991–92 fiscal year. The balance of the operating costs shall be financed with fees and private support.

(b) The board of trustees shall set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding one thousand dollars ($1,000) per session in 1989. The amount of this fee may be increased by the board of trustees up to a 5 percent increase each year thereafter. The board of trustees may award full or partial scholarships on the basis of need and ability. Pupils who are unable to pay all or part of the fee may petition the board of trustees for a fee reduction or waiver. The State Department of Education, in conjunction with the board of trustees, shall promulgate rules and regulations regarding fee reduction and waivers, which shall ensure all of the following:

(1) That, to the degree scholarship funds are available, no talented applicant shall be denied admission solely because of inability to pay all or part of the fee.

(2) That any public announcement regarding the summer school program include notification that full scholarships are available, and information regarding the procedure for applying for a scholarship.
award.

(3) That, pursuant to Section 8953, student participation in the summer school program shall be broadly representative of the socioeconomic and ethnic diversity of the state.

(c) Subdivision (b) applies only to pupils who are California residents. For pupils who are not California residents, the board of trustees annually shall set a tuition fee that is not less than the total actual costs to the summer school of services per pupil. The total actual costs of services per pupil shall be computed each year for this purpose by dividing the amount of school expenditures for the prior fiscal year by the total pupil population for the prior year.

(d) The Foundation for the California State Summer School for the Arts, which has been established as a nonprofit foundation to support the CSSSA, may raise funds from the private sector which may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

CHAPTER 194

An act to add Section 1057.6 to the Civil Code, relating to escrow.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 1057.6 is added to the Civil Code, to read:

1057.6. In an escrow transaction for the purchase or simultaneous exchange of real property, where a policy of title insurance will not be issued to the buyer or to the parties to the exchange, the following notice shall be provided in a separate document to the buyer or parties exchanging real property, which shall be signed and acknowledged by them:

"IMPORTANT: IN A PURCHASE OR EXCHANGE OF REAL PROPERTY, IT MAY BE ADVISABLE TO OBTAIN TITLE INSURANCE IN CONNECTION WITH THE CLOSE OF ESCROW SINCE THERE MAY BE PRIOR RECORDED LIENS AND ENCUMBRANCES WHICH AFFECT YOUR INTEREST IN THE PROPERTY BEING ACQUIRED. A NEW POLICY OF TITLE INSURANCE SHOULD BE OBTAINED IN ORDER TO ENSURE YOUR INTEREST IN THE PROPERTY THAT YOU ARE ACQUIRING."
An act to amend Section 14301 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992]

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

SECTION 1. Section 14301 of the Welfare and Institutions Code is amended to read:

14301. (a) The department shall determine, by actuarial methods, prospective per capita rates of payment for services provided under this chapter for Medi-Cal beneficiaries enrolled in a prepaid health plan. The rates of payment shall be determined annually, shall be effective no later than either the first day of July each year, or another date chosen by the department, and shall not exceed the total per capita amount (including cost of administration) which the department estimates (with appropriate adjustments to provide actuarial equivalence) would be payable for all services and requirements covered under the prepaid health plan contract if all such services and requirements were to be furnished to Medi-Cal beneficiaries under the fee-for-service Medi-Cal program provided for by Chapter 7 (commencing with Section 14000).

In the event that there is any delay in the payment of the new annual rates determined pursuant to this subdivision, continued payment to the prepaid health plan of the rate in effect at the time the delay occurred shall be interim payment only, and shall be subject to increase or decrease, as the case may be, to the level of the new annual rates effective as of either the first day of July or the date chosen by the department.

Notwithstanding the foregoing provision, in the event that a contract amendment providing for the new annual rates has been executed by the department and a prepaid health plan, but has not yet received the approval of all required control agencies and departments by the end of the first month following the effective date of the new rate, payment of the new annual rates shall commence no later than the first day of the second month following the effective date of the new rate. Contract amendments providing for the new annual rates shall provide that the prepaid health plan contractor agrees that by accepting payment of the new annual rates prior to final approval, such contractor stipulates to a confession of judgment for any amounts received in excess of the final approved rate. If the final approved rates differ from the rates set forth in such amendments, any underpayment by the state shall be paid by the department to the prepaid health plan within 30 days after final approval of such rates. Any overpayment by the state shall be recaptured by the state withholding the amount due from the
prepaid health plan's next capitation check. If the amount to be
withheld from subsequent capitation checks exceeds 25 percent of
the appropriate capitation payment for that month, amounts up to
25 percent shall be withheld from each successive monthly capitation
payment until such deficiencies are recovered by the state.

The contract shall provide the specific per capita rates, to be
determined by sound actuarial methods on the basis of age, sex, and
aid categories, which the state shall pay the prepaid health plan each
month for each beneficiary enrolled in the prepaid health plan, a
detailed description of the specific actuarial method or methods and
assumptions used in determining per capita rates, and a summary of
the data base, including costs and inflation assumptions and
utilization rates, which was used to determine per capita rates. In
addition, the director shall engage and rely upon the services of an
actuary or consulting actuary in determining prospective per capita
rates.

(b) Any prepaid health plan with an operating experience and
scale of operation deemed by the department to be insufficient to
justify the application of an actuarially determined per capita rate,
shall be reimbursed on a cost basis up to the fee-for-service maximum
for services provided until such time as the director determines that
a per capita method is reasonable, but not to exceed a period of one
year. For purposes of this section, costs shall be net of intercompany
profits in those circumstances where any of the following persons
have a substantial financial interest, as defined by Section 14478, in
any vendor to the prepaid health plan or any vendor to a
subcontractor of the plan:

1. Any person also having a substantial financial interest in the
   plan.

2. Any director, officer, partner, trustee or employee of the plan.

3. Any member of the immediate family of any person
designated in paragraph (1) or (2).

(c) The obligations of a prepaid health plan shall be changed only
by contract or contract amendment. Any such change may be made
during a contract term or at the time of contract renewal, where
there is a change in obligations required by federal or state law or
regulation, or required by a change in the interpretation or
implementation of any such law or regulation. If any such change in
obligations occurs which affects the cost to a prepaid health plan of
performing under the terms of its contract, then the per capita rates
under the contract may be redetermined in the manner provided by
subdivision (a) to reflect such change. During such period of time as
is required to redetermine the per capita rates, payment to a prepaid
health plan of the per capita rates in effect at the time such change
occurred shall be considered interim payments and shall be subject
to increase or decrease, as the case may be, effective as of the date
on which such change is effective.

(d) The obligations of a prepaid health plan shall be changed only
by contract or contract amendment wherein payment for the
changes, whether payment results in an increase or decrease in the
prior per capita rates paid to a prepaid health plan, shall be
determined in accordance with this section and paid to affected
prepaid health plans.

(e) Nothing contained in this section shall be construed as
removing from a prepaid health plan the risk of beneficial or adverse
effects, including inflation, which normally result from contracting
to furnish health services.

CHAPTER 196

An act to amend Sections 1680, 1751, and 1754 of the Business and
Professions Code, relating to dental auxiliaries.

[Approved by Governor July 13, 1992. Filed with
Secretary of State July 14, 1992.]

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

SECTION 1. Section 1680 of the Business and Professions Code
is amended to read:

1680. Unprofessional conduct by a person licensed under this
chapter is defined as, but is not limited to, the violation of any one
of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or
suspended or unlicensed dentist to practice dentistry as defined in
this chapter.

(c) The aiding or abetting of any unlicensed person to practice
dentistry.

(d) The aiding or abetting of a licensed person to practice
dentistry unlawfully.

(e) The committing of any act or acts of gross immorality
substantially related to the practice of dentistry.

(f) The use of any false, assumed or fictitious name, either as an
individual, firm, corporation or otherwise, or any name other than
the name under which he or she is licensed to practice, in advertising
or in any other manner indicating that he or she is practicing or will
practice dentistry, except that name as is specified in a valid permit
issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the
rebating in any form or manner of fees for professional services,
 radiograms, prescriptions or other services or articles supplied to
patients.

(h) The use of the licentiate or any agent of the licentiate
of any advertising statements of a character tending to deceive or
 mislead the public.

(i) The advertising of either professional superiority or the

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advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days or more than 180 days or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee’s attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient’s record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary
to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days either: (1) the death of his or her patient during the performance of any dental procedure; or, (2) the discovery of the death of a patient whose death is causally related to a dental procedure performed by him or her.

(aa) Participating in or operating any group advertising and referral services which is in violation of Section 650.2.

(bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall by regulation define what constitutes a fail-safe machine.

(cc) Engaging in the practice of dentistry with an expired license.

(dd) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines, thereby risking transmission of blood-borne infectious diseases from dentist or dental auxiliary to patient, from patient to patient, and from patient to dentist or dental auxiliary by failing to follow infectious control guidelines. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part I (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Registered Nursing, and the Board of Vocational Nurse and Psychiatric Technician Examiners, to encourage appropriate consistency in the implementation of this section.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(ee) The utilization by a licensed dentist of any person to perform the functions of a registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, or registered dental hygienist in extended functions who, at the time of initial employment, does not possess a current, valid license to perform those functions.

SEC. 2. Section 1751 of the Business and Professions Code is amended to read:

1751. By September 15, 1993, the board, upon recommendation of the committee, consistent with this article, standards of good dental practice, and the health and welfare of patients, shall adopt regulations relating to the functions which may be performed by dental assistants under direct or general supervision, and the settings within which dental assistants may work. At least once every seven years thereafter, the board shall review the list of functions
performable by dental assistants, the supervision level, and settings under which they may be performed, and shall update the regulations as needed to keep them current with the state of the practice.

SEC. 3. Section 1754 of the Business and Professions Code is amended to read:

1754. By September 15, 1993, the board, upon recommendation of the committee and consistent with this article, standards of good dental practice, and the health and welfare of patients, shall adopt regulations relating to the functions which may be performed by registered dental assistants under direct or general supervision, and the settings within which registered dental assistants may work. At least once every seven years thereafter, the board shall review the list of functions performable by registered dental assistants, the supervision level, and settings under which they may be performed, and shall update the regulations as needed to keep them current with the state of the practice.

CHAPTER 197

An act to amend Section 290 of the Penal Code, relating to sex offenders.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is
hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the
person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section: assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220; or any offense defined in Section 288, Section 288.5, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 286, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289; or any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of
other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy, or any violation of Section 264.1, 288, or 289 under Section 220, or of any violation of Section 261, 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has two prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a public offense punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for 16 months, or two or three years.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole
or probation of the person revoked.

(i) The statements, photographs, and fingerprints required under this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(1) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (f) if the person did register within 30 days.

SEC. 2. It is the intent of the Legislature in enacting Section 1 of this bill to abrogate the holding in People v. Saunders, 232 Cal. App. 3d 1592.

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 17590 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 198

An act to amend, repeal, and add Section 11571 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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 of any city and county, 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 of any city and county, 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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 accomplish, as nearly as possible, the Legislature's
objective of enacting the provisions of Assembly Bill 894 of the 1991–92 Regular Session, it is necessary that this act, which incorporates the provisions of Assembly Bill 894, take effect immediately.

CHAPTER 199

An act to amend Section 42808 of the Public Resources Code, relating to solid waste.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 42808 of the Public Resources Code is amended to read:

42808. "Waste tire facility" means a location, other than a solid waste facility permitted pursuant to this title that receives for transfer or disposal less than 150 tires per day averaged on an annual basis, where, at any time, waste tires are stored, stockpiled, accumulated, or discarded. "Waste tire facility" includes all of the following:

(a) "Existing waste tire facility" means a waste tire facility which is receiving, storing, or accumulating waste tires, or upon which waste tires are discarded, on January 1, 1990.

(b) "Major waste tire facility" means a waste tire facility where, at any time, 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or discarded.

(c) "Minor waste tire facility" means a waste tire facility where, at any time, 500 or more, but less than 5,000, waste tires are or will be stored, stockpiled, accumulated, or discarded. However, a "minor waste tire facility" does not include a tire dealer or an automobile dismantler, as defined in Sections 220 and 221 of the Vehicle Code, who stores tires on the dealer's or dismantler's premises for less than 90 days if not more than 1,500 waste tires are ever accumulated on the dealer's or dismantler's premises.
CHAPTER 200

An act to amend Section 13923 of the Government Code, relating to state employees.

[Approved by Governor July 13, 1992 Filed with Secretary of State July 14, 1992]

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

SECTION 1. Section 13923 of the Government Code is amended to read:

13923. The board may approve plans for payroll deduction from the salaries or wages of state officers and employees under subdivision (f) of Section 1151 for charitable contributions to the agency handling the principal combined fund drive in any area. The board shall establish necessary rules and regulations, including the following:

(a) Standards for establishing what constitutes the principal combined fund drive in an area.

(b) A requirement that the agency to receive these contributions shall pay, for deposit in the General Fund, the additional cost to the state of making these deductions and remitting the proceeds, as determined by the Controller.

(c) Provisions for standard amounts of deductions from which each state officer or employee may select the contribution he desires to make, if any.

(d) A prohibition upon state officers or employees authorizing more than one payroll deduction for charitable purposes to be in effect at the same time.

(e) A provision authorizing the Controller to combine in his or her records deductions for employee association dues, if authorized, and charitable deductions, if authorized.

The State Board of Control, in addition, may approve requests of any charitable organization qualified as an exempt organization under Section 23701d of the Revenue and Taxation Code, and paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, which is not an affiliated member beneficiary of the principal combined fund drive to receive designated deductions from the principal fund drive.

The principal combined fund drive agency, any charitable organization which is an affiliated member beneficiary of the principal combined fund drive, and any charitable organization approved by the State Board of Control to receive designated deductions on the payroll authorization form of the principal fund drive, shall certify under penalty of perjury to the State Board of Control that it is in compliance with the Fair Employment and Housing Act, Part 2.8 (commencing with Section 12900), as a condition of receiving these designated deductions.
The principal combined fund drive shall obtain from the State Board of Control the list of approved nonaffiliated beneficiaries, eligible for designated deductions in its approved drive area, and shall provide this information to each employee at the time of the principal fund drive. The principal combined drive agency shall provide a designation form for the employee to indicate those amounts to be contributed to affiliated and nonaffiliated beneficiaries. The designation form shall consist of a copy for each of the following: (1) the employee, (2) the employee’s designated beneficiary agency, and (3) the principal combined fund drive agency. The principal combined fund drive agency shall pay the amount collected for the employee designated beneficiary agency less the amount necessary to reimburse the principal combined fund drive agency for fundraising and administrative expenses. The fee charged for fundraising and administrative cost reimbursement shall be determined by the State Board of Control, published in campaign literature and made available to the employee during the solicitation process.

Nothing contained in this section shall preclude a principal fund drive agency from giving a percentage of the undesignated funds to charities which are not members of the agency handling the principal drive, or honoring an employee’s designated deduction to any charitable organization.

CHAPTER 201

An act to amend Sections 116.370 and 116.540 of, and to add Section 116.725 to, the Code of Civil Procedure, relating to small claims court.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 116.370 of the Code of Civil Procedure is amended to read:

116.370. (a) Venue in small claims actions shall be the same as in other civil actions.
(b) A defendant may challenge venue by writing to the court, without personally appearing at the hearing.
(c) In all cases, including those in which the defendant does not either challenge venue or appear at the hearing, the court shall inquire into the facts sufficiently to determine whether venue is proper, and shall make its determination accordingly.
(1) If the court determines that the action was not commenced in the proper venue, the court, on its own motion, shall dismiss the action without prejudice unless all defendants are present and agree that the action may be heard.
(2) If the court determines that the action was commenced in the proper venue, the court may hear the case if all parties are present. If the defendant challenged venue and all parties are not present, the court shall postpone the hearing for at least 15 days and shall notify all parties by mail of the court's decision and the new hearing date, time, and place.

SEC. 2. Section 116.540 of the Code of Civil Procedure is amended to read:

116.540. (a) Except as permitted by this section, no individual other than the plaintiff and the defendant may take part in the conduct or defense of a small claims action.

(b) A corporation may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, who is employed, appointed, or elected for purposes other than solely representing the corporation in small claims court.

(c) A party who is not a corporation or a natural person may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, or in the case of a partnership, a partner, engaged for purposes other than solely representing the party in small claims court.

(d) If a party is an individual doing business as a sole proprietorship, the party may appear and participate in a small claims action by a representative and without personally appearing if both of the following conditions are met:

(1) The claim can be proved or disputed by evidence of an account that constitutes a business record as defined in Section 1271 of the Evidence Code, and there is no other issue of fact in the case.

(2) The representative is a regular employee of the party for purposes other than solely representing the party in small claims actions and is qualified to testify to the identity and mode of preparation of the business record.

(e) A plaintiff is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim or allow another individual to appear and participate on his or her behalf, if (1) the plaintiff is serving on active duty in the United States armed forces outside this state, (2) the plaintiff was assigned to his or her duty station after his or her claim arose, (3) the assignment is for more than six months, (4) the representative is serving without compensation, and (5) the representative has appeared in small claims actions on behalf of others no more than four times during the calendar year. The defendant may file a claim in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220 and 116.231.

(f) A party incarcerated in a county jail, a Department of Corrections facility, or a Youth Authority facility is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim, or may authorize another individual to appear and participate on his or her behalf if that individual is
serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(g) A defendant who is a nonresident owner of real property is not required to personally appear, and may submit written declarations to serve as evidence supporting his or her defense, or may allow another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(h) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of a party under subdivision (b), (c), (d), (e), (f), or (g) to file a declaration stating (1) that the individual is authorized to appear for the party, and (2) the basis for that authorization. If the representative is appearing under subdivision (b), (c), or (d), the declaration also shall state that the individual is not employed solely to represent the party in small claims court. If the representative is appearing under subdivision (e), (f), or (g), the declaration also shall state that the representative is serving without compensation, and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(i) A husband or wife who sues or who is sued with his or her spouse may appear and participate on behalf of his or her spouse if (1) the claim is a joint claim, (2) the represented spouse has given his or her consent, and (3) the court determines that the interests of justice would be served.

(j) If the court determines that a party cannot properly present his or her claim or defense and needs assistance, the court may in its discretion allow another individual to assist that party.

(k) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.

SEC. 3. Section 116.725 is added to the Code of Civil Procedure, to read:

116.725. Nothing in this chapter shall be construed to prevent a court from correcting a clerical error in a judgment or from setting aside and vacating a judgment on the ground of an incorrect or erroneous legal basis for the decision.
CHAPTER 202

An act to amend Section 6242 of the Penal Code, relating to correctional facilities.

[Approved by Governor July 13, 1992. Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 6242 of the Penal Code is amended to read:

6242. (a) The county shall assume full responsibility to administer and operate the center and program consistent with the criteria set forth within this chapter and those established by the board. This shall include maintenance and compliance with all codes, regulations, and health standards.

(b) The county shall select a local governmental department to operate the facility in accordance with the standards and oversight provided for in this chapter.

The facility shall be owned by the department for the duration of the payment of the bond used to finance construction of the facility. Upon completion of bond repayment, ownership of the facility shall be vested in the county. Ownership of a county facility renovated with funds awarded pursuant to this chapter shall be by the department for the period of bond repayment, after which ownership shall revert to the county. The department shall retain the option to lease from the county no less than 50 percent of inmate beds after completion of bond repayment.

If a county willfully terminates its participation in this act prior to completion of bond repayment or if its grant is terminated by the board for noncompliance with program regulations, ownership of the facility shall remain vested in the department. The department shall retain the option to lease as provided in this subdivision.

(c) Counties or the department shall operate all services and programs in secure facilities pursuant to this chapter with only county or state merit system employees, except that private nonprofit providers or individual professionals with demonstrated expertise and community experience may also be utilized to provide substance abuse treatment programs. Treatment programs outside secure facilities pursuant to this chapter may be provided only by county or state staff, by private nonprofit providers, or by individual professionals with demonstrated expertise and experience in providing services to this population of the community.

(d) Custody in secure facilities shall be provided by peace officers, as defined in Sections 830.1, 830.5, and 830.55, or custodial officers, as defined in Section 831 and 831.5, who have satisfactorily met the minimum selection and training standards for corrections officers, as prescribed by the board under Section 6035.

(e) Parolees, parole violators, and state prisoners shall remain
under overall supervision of state parole officers.

(f) The department shall contract to reimburse the county for allotted bed space and programming for state offenders based on actual cost plus a reasonable fee, but in no instance shall that amount exceed the average cost of housing an inmate in a state prison facility, as determined annually by the director.

(g) A county may bill the state for services provided to state parolees pursuant to this chapter on a pro rata basis of the cost of providing the programs and services, if requested by the department.

(h) The department and the board, as well as participating counties, shall seek funding from the federal government and from private foundation sources to help meet the costs of the programs outlined in this chapter.

(i) It shall be the responsibility of the board, the department, and the design and implementation panel to keep abreast of improvements in programs of the types established by this chapter, and to attempt to revise and update programs as state-of-the-art advances develop.

(j) Requests for proposals shall be ready for submission to eligible counties within nine months after the effective date of this chapter. Eligible counties shall submit proposals within six months after the request for proposals is submitted.

(k) An amount totaling no more than 1½ percent of the total amount of funds to be disbursed under this chapter is hereby appropriated from the 1990 Prison Construction Fund and the 1990-B Prison Construction Fund to the board to be used for administrative costs.

(l) Following formal acceptance of proposals submitted by counties, the board shall have authority to modify, expand, or revise county programs, if requested by counties, or if the board concludes that changes should be made to improve, expand, or reduce the scope or approach of programs. This shall be done after formal notice to a county of proposed changes and opportunity for a county to submit evidence. The board also shall be able to recommend additional or reduced funding for a program, if funding becomes available upon appropriation by the Legislature.
CHAPTER 203

An act to amend Section 12715 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor July 13, 1992 Filed with Secretary of State July 14, 1992.]

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

SECTION 1. Section 12715 of the Business and Professions Code is amended to read:

12715. Each certificate shall provide for the following information as applicable to the transaction:

(a) The date on which the weight, measure, or count was determined.

(b) The street address or location description and the city or township where the weighing, measuring, or counting occurred.

(c) The complete signature of the weighmaster who determined each weight, measure, or count. The name of a weighmaster may be imprinted electronically on the weighmaster certificate in lieu of a handwritten signature, if the electronically imprinted name is that of the weighmaster who weighed, measured, or counted the commodity or that of another weighmaster pursuant to Section 12712.

(d) The kind of commodity and any other information that may be necessary to identify the product or distinguish it from a similar commodity.

(e) The number of units of the commodity. If not personally determined by a weighmaster, the certificate shall contain the words "driver's count" or "loader's count," as appropriate, after the number of commodity units. The abbreviation "D.C." or "L.C." may be used in lieu of the complete words.

(f) The name of the owner, or his or her agent, and the consignee. If the transaction involves hay or hay products, the name and address of the grower, and his or her agent, as provided by the driver of the vehicle.

(g) At least one of the following:

(1) The gross weight of the commodity and the vehicle or container, if only the gross weight was determined.

(2) The tare weight of the unladen vehicle or container, if only the tare weight was determined.

(3) The gross, tare, and net weights when a gross and tare are used in determining the net weight.

(4) The true net weight, measure, or count when no gross and tare weights are involved in determining the net quantity of the product.

(h) The tare weights, and the code identification or description of boxes, bins, pallets, or other containers.

(i) The correct identification of the vehicle, combination of
vehicles, or other means by which the commodity was delivered. If an equipment number is used to identify a vehicle or combination of vehicles, there shall be traceability to the registered vehicle license numbers through the weighmaster’s records.

(j) The unit of measure, such as pounds, tons, gallons, kilograms, or cubic yards, used to identify the quantity.

CHAPTER 204

An act to add Section 2285 to the Food and Agricultural Code, relating to agriculture.

[Became law without Governor’s signature. Filed with Secretary of State July 14, 1992.

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

SECTION 1. Section 2285 is added to the Food and Agricultural Code, to read:

2285. For the purpose of developing necessary information and securing the best results for agriculture in this state, the commissioner may correspond and meet with any interested individual, agency, group, association, or educational institution with an interest in, or information regarding, agricultural practices, as resources allow. As used in this section “agriculture” includes, but is not limited to, developments and issues regarding all agricultural practices, traditional and alternative pest control methodology, and other areas of agriculture resource management. The California Agricultural Commissioners and Sealers Association may provide a forum by which a commissioner keeps informed and may facilitate discussions with other associations, institutions, agencies, organizations, or groups relating to resource management and protection for agriculture.

CHAPTER 205

An act relating to the payment for services of state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 14, 1992.]
The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:
(a) The decision by the federal district court in Biggs vs. Wilson (Civ. S-90-0942-WBS/GGH, October 3, 1991) currently may require prompt payment for services rendered by specified employees subject to the federal Fair Labor Standards Act (29 U.S.C.A. Sec. 201, et seq.). This decision is currently on appeal.
(b) The application of the Fair Labor Standards Act to the various classes and classifications of state employees is uncertain and is the subject of ongoing litigation. It is the purpose of this act to eliminate the possibility of injunctive relief and liquidated damages being awarded against the state under the Fair Labor Standards Act in the event these employees, whether or not subject to the decision, are not paid on their regularly scheduled payday.
(c) The state faces an unprecedented fiscal crisis, and no Budget Act was enacted by July 1, 1992. Yet the state may be compelled by federal court order to expend moneys, notwithstanding the absence of a state budget, for Medi-Cal, Aid to Families With Dependent Children, and In-Home Supportive Service workers. In the face of these federal court decisions, it would be inequitable to not enact legislation allowing payment of state employees.
(d) These federal court orders may substantially interfere with the ability of the state to manage its fiscal affairs in this time of crisis.
(e) Further the state does not wish to compromise in any manner any views with regard to the appropriate application of the Fair Labor Standards Act to state employees.

SEC. 2. There is hereby appropriated from the General Fund and any appropriate special fund to the Controller, and the Controller is authorized to expend, an amount no greater than that necessary to enable the Controller to compensate state employees for services rendered by those employees during the period from July 1, 1992, until the date that the Budget Act of 1992 is enacted.

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:
Federal court decisions have created confusion concerning the compensation of certain classes of state employees that will result in unreasonable inequities. In order to remove the confusion surrounding the issue of what classes and classifications of state employees are entitled to receive compensation for their services before the Budget Act of 1992 is enacted, it is necessary for this act to take effect immediately.
An act to add Article 1.5 (commencing with Section 19996.3) to Chapter 7 of Part 2.6 of Division 5 of Title 2 of the Government Code, and to amend Section 20017.79 of the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Article 1.5 (commencing with Section 19996.3) is added to Chapter 7 of Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

Article 1.5. Excluded Employees Leave Program

19996.3. (a) Effective July 1, 1992, the department shall implement a personal leave program for state officers and employees excluded from, or otherwise not subject to, the Ralph C. Dills Act, contained in Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(b) (1) The department shall implement the personal leave program through regulations adopted pursuant to Section 3539.5.

(2) Regulations adopted pursuant to paragraph (1) shall ensure that the program for employees subject to this section is generally equitable and is consistent with the personal leave program provided to employees covered by memoranda of understanding reached under Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

SEC. 2. 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, the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in the following classifications:

<table>
<thead>
<tr>
<th>Classification Code</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>0617</td>
<td>Prison Industries Superintendent II (agriculture)</td>
</tr>
<tr>
<td>0648</td>
<td>Industrial Supervisor, Prison Industries (crop farm)</td>
</tr>
<tr>
<td>0679</td>
<td>Prison Industries Superintendent I (agriculture)</td>
</tr>
<tr>
<td>0682</td>
<td>Industrial Supervisor, Prison Industries (dairy)</td>
</tr>
<tr>
<td>0683</td>
<td>Assistant Dairy Operator</td>
</tr>
</tbody>
</table>
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 Prison Industries Superintendent II (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 Prison Industries Superintendent II (detergent)
7172 Prison Industries Superintendent II (wood products)
7175 Prison Industries Superintendent I (wood products)
7178 Industrial Supervisor, Prison Industries (wood products)
7179 Industrial Supervisor, Prison Industries (upholstery)
7190 Prison Industries Superintendent II (metal products)
7189 Prison Industries Superintendent I (metal products)
7191 Industrial Supervisor, Prison Industries (metal fabrication)
7192 Industrial Supervisor, Prison Industries (tool and die)
7195 Prison Industries Superintendent II (fabric products)
Prison Industries Superintendent II (mattress and bedding)
Industrial Supervisor, Prison Industries (fabric products)
Tobacco Factory Superintendent
Prison Industries Superintendent II (shoe manufacturing)
Industrial Supervisor, Prison Industries (shoes and boots, lasting to packing)
Industrial Supervisor, Prison Industries (shoe manufacturing)
Prison Industries Superintendent II (knitting mill)
Industrial Supervisor, Prison Industries (knitting mill)
Industrial Supervisor, Prison Industries (knit goods finishing)
Prison Industries Superintendent II (printing)
Industrial Supervisor, Prison Industries (maintenance and repair)
Industrial Supervisor, Prison Industries (printing)
Industrial Supervisor, Prison Industries (bindery)
Prison Industries Superintendent II (laundry)
Industrial Supervisor, Prison Industries (laundry)
Senior Medical Technical Assistant
Supervising Social Worker II, Youth Authority
Supervising Social Worker I, Youth Authority
Social Worker, Youth Authority
Supervising Groundskeeper II (correctional facility)
Lead Groundskeeper I (correctional facility)
Lead Groundskeeper (correctional facility)
Groundskeeper (correctional facility)
Janitor Supervisor II (correctional facility)
Janitor Supervisor I (correctional facility)
Janitor (correctional facility)
Supervising Housekeeper I (correc-
tional 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)
2130 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)
Teacher (librarian) (correctional facility)
Teacher (cerebral palsied children) (correctional facility)
Teacher (recreation and physical education) (correctional facility)
Teacher (music) (correctional facility)
Teacher (speech development and correction) (correctional facility)
Teacher (hearing impaired) (correctional facility)
Teacher (mentally retarded children) (correctional facility)
Teacher (emotionally/learning handicapped) (correctional facility)
Teacher (family life education) (correctional facility)
Vocational Instructor (dog grooming and handling) (correctional facility)
Vocational Instructor (powerplant mechanics) (correctional facility)
Vocational Instructor (airframe mechanics) (correctional facility)
Vocational Instructor (auto body and fender repair) (correctional facility)
Vocational Instructor (auto mechanics) (correctional facility)
Vocational Instructor (baking) (correctional facility)
Vocational Instructor (bookbinding) (correctional facility)
Vocational Instructor (carpentry) (correctional facility)
Vocational Instructor (cosmetology) (correctional facility)
Vocational Instructor (culinary arts) (correctional facility)
Vocational Instructor (merchandising) (correctional facility)
Vocational Instructor (drycleaning works) (correctional facility)
Vocational Instructor (electrical work) (correctional facility)
Vocational Instructor (electronics) (correctional facility)
Vocational Instructor (furniture refin-
isheing 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)
Vocational Instructor (storekeeping and warehousing) (correctional facility)

Vocational Instructor (office machine repair) (correctional facility)

Vocational Instructor (upholstering) (correctional facility)

Vocational Instructor (commercial diver training) (correctional facility)

Vocational Instructor (welding) (correctional facility)

Vocational Instructor (vocational nursing) (correctional facility)

Vocational Instructor (animal husbandry) (correctional facility)

Vocational Instructor (building maintenance) (correctional facility)

Vocational Instructor (computer and related technologies) (correctional facility)

Vocational Instructor (diesel mechanics) (correctional facility)

Vocational Instructor (drywall installer/taper) (correctional facility)

Vocational Instructor (floor cover layer) (correctional facility)

Vocational Instructor (glazier) (correctional facility)

Vocational Instructor (insulation installer, building and pipes) (correctional facility)

Vocational Instructor (office services and related technologies) (correctional facility)

Vocational Instructor (roofer) (correctional facility)

Vocational Instructor (small engine repair) (correctional facility)

Senior Librarian (correctional facility)

Librarian (correctional facility)

Building Maintenance Worker (correctional facility)

Warehouse Worker (correctional facility)

Warehouse Manager II (correctional facility)

Warehouse Manager I (correctional facility)
facility)

1505 Materials and Stores Supervisor II
    (correctional facility)

1508 Materials and Stores Supervisor I
    (correctional facility)

6379 Heavy Truck Driver (correctional fa-
    cility)

6382 Truck Driver (correctional facility)

6392 Automotive Equipment Operator II
    (correctional facility)

6394 Automotive Equipment Operator I
    (correctional facility)

6471 Carpenter 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 fac-
   ility)

6559 Steamfitter (correctional facility)

6617 Mason (correctional facility)

6941 Maintenance Mechanic (correctional fac-
    ility)

6643 Locksmith I (correctional facility)

6699 Chief Engineer I (correctional fac-
    ility)

6713 Stationary Engineer (correctional fac-
    ility)

6718 Stationary Engineer Apprentice
    (four-year program) (correctional fac-
    ility)

6715 Refrigeration Engineer (correctional fac-
    ility)

6724 Water and Sewage Plant Supervisor
    (correctional facility)

6748 Chief of Plant Operation III (correc-
    tional facility)

6751 Chief of Plant Operation II (correc-
    tional facility)

6754 Chief of Plant Operation I (correc-
    tional facility)

6763 Supervisor of Building Trades (cor-
    rectional facility)
Equipment Maintenance Supervisor (correctional facility)

Lead Automobile Mechanic (correctional facility)

Automobile Mechanic (correctional facility)

Automotive Pool Manager I (correctional facility)

Electronics Technician (correctional facility)

Medical Technical Assistant (correctional facility)

Vocational Instructor (Plastering) (correctional facility)

Dry Cleaning Plant Supervisor

Utility Shops Supervisor (correctional facility)

Machinist (correctional facility)

Heavy Equipment Mechanic (correctional facility)

Vocational Instructor (eyewear manufacturing) (correctional facility)

Supervising Librarian (correctional facility)

Plumber II (correctional facility)

Prison Industries Superintendent I (fabric products)

Industrial Supervisor, Prison Industries (mattress and bedding)

Prison Industries Superintendent II (bindery)

Chief Engineer II (correctional facility)

Janitor Supervisor III (correctional facility)

Laborer (correctional facility)

Fusion Welder (correctional facility)

Skilled Laborer (correctional facility)

Assistant Food Manager (correctional facility)

Construction Supervisor (correctional facility)

Glazier (correctional facility)

Quality Assurance Manager

Chief, Quality Assurance

Chief, Day Labor Programs (correctional facility)

Construction Supervisor III (correc-
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<thead>
<tr>
<th>Code</th>
<th>Title and Details</th>
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<tbody>
<tr>
<td>4108</td>
<td>Construction Supervisor II (correctional facility)</td>
</tr>
<tr>
<td>4107</td>
<td>Construction Supervisor I (correctional facility)</td>
</tr>
<tr>
<td>2015</td>
<td>Chief Assistant General Manager, Prison Industries</td>
</tr>
<tr>
<td>4302</td>
<td>Assistant General Manager, Operations</td>
</tr>
<tr>
<td>7199</td>
<td>Pest Control Technician (correctional facility)</td>
</tr>
<tr>
<td>7208</td>
<td>Correctional Business Manager I, Department of Corrections</td>
</tr>
<tr>
<td>4744</td>
<td>Correctional Business Manager II, Department of Corrections</td>
</tr>
<tr>
<td>7204</td>
<td>Industrial Supervisor, Prison Industries (dental laboratory)</td>
</tr>
<tr>
<td>7321</td>
<td>Industrial Supervisor, Prison Industries (silkscreen)</td>
</tr>
<tr>
<td>7109</td>
<td>Prison Industries Superintendent I (coffee roasting and grinding)</td>
</tr>
<tr>
<td>7203</td>
<td>Prison Industries Superintendent I (dental laboratory)</td>
</tr>
<tr>
<td>7350</td>
<td>Prison Industries Superintendent I (egg production)</td>
</tr>
<tr>
<td>7351</td>
<td>Prison Industries Superintendent I (fiberglass products)</td>
</tr>
<tr>
<td>7352</td>
<td>Prison Industries Superintendent I (furniture refurbishing)</td>
</tr>
<tr>
<td>7320</td>
<td>Prison Industries Superintendent I (silkscreen)</td>
</tr>
<tr>
<td>7202</td>
<td>Prison Industries Superintendent II (dental laboratory)</td>
</tr>
<tr>
<td>7319</td>
<td>Prison Industries Superintendent II (silkscreen)</td>
</tr>
<tr>
<td>2869</td>
<td>Vocational Instructor (dental technology) (correctional facility)</td>
</tr>
<tr>
<td>5415</td>
<td>Vocational Instructor (telemarketing/customer service) (correctional facility)</td>
</tr>
<tr>
<td>1793</td>
<td>Property Controller I (correctional facility)</td>
</tr>
<tr>
<td>1794</td>
<td>Property Controller II (correctional facility)</td>
</tr>
<tr>
<td>4760</td>
<td>Procurement and Services Officer I (correctional facility)</td>
</tr>
<tr>
<td>4761</td>
<td>Procurement and Services Officer II (correctional facility)</td>
</tr>
<tr>
<td>6303</td>
<td>Correctional Plant Supervisor, De-</td>
</tr>
</tbody>
</table>
part of Corrections

6304 Correctional Plant Manager I, Department of Corrections

6305 Correctional Plant Manager II, Department of Corrections

3080 Quality Control Technician, Prison Industries (cleaning products)

3082 Substitute Academic Teacher (correctional facility)

2727 Language, Speech and Hearing Specialist

3073 Teacher (adaptive physical education) (correctional facility)

3074 Teacher (high school-English/language arts) (correctional facility)

3075 Teacher (English language development) (correctional facility)

3076 Teacher (high school-foreign language) (correctional facility)

3077 Teacher (high school-mathematics) (correctional facility)

3078 Teacher (high school-science) (correctional facility)

3079 Teacher (high school-social science) (correctional facility)

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.

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 provisions of this act to be applicable as soon as possible in the 1992–93 fiscal year, and so facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 207

An act relating to parks and recreation.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Pursuant to Sections 5096.96, 5096.137, and 5096.158 of the Public Resources Code, the City of Los Angeles is hereby authorized to convert to a different use Portsmouth Park, which was developed with state grant funds appropriated in category (95) of Item 412 A of the Budget Act of 1975 (Chapter 1522 of the Statutes of 1974) and disbursed pursuant to Agreement Number 19-0044, category (144) of Item 443.8 of the Budget Act of 1977 (Chapter 219 of the Statutes of 1977) and disbursed pursuant to Agreement Number 76-19049, and category (b) of Item 379-101-721 of the Budget Act of 1981 (Chapter 99 of the Statutes of 1981) and disbursed pursuant to Agreement Number 80-01-278, if the City of Los Angeles develops new recreational facilities on new or existing parklands which are generally usable by the same persons who use Portsmouth Park and expends for those facilities an amount that is not less than the fair market value of the converted Portsmouth Park site.

CHAPTER 208

An act to amend Section 15250 of, and to add Section 15250.3 to, the Vehicle Code, relating to organized camps.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 15250 of the Vehicle Code is amended to read:
15250. (a) No person shall operate a commercial motor vehicle unless that person has in his or her immediate possession a valid commercial driver's license of the appropriate class.

(b) No person may be issued a commercial driver's license until he or she has passed a written and driving test for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the federal Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-570) and Part 383 of Title 49 of the Code of Federal Regulations, and has satisfied all other requirements of that act as well as any other requirements imposed by this code.

(c) The tests shall be prescribed and conducted by or under the direction of the department. The department may allow an employer to administer the driving test part of the examination required under this section and Section 15275 if the following conditions are met:

1. The tests given by the third party are the same as those which would otherwise be given by the department.

2. The third party has an agreement with the department with at least the following provisions:

   (A) Authorization for the Federal Highway Administration, or its representative, and the department, or its representative, to conduct random examinations, inspections, and audits without prior notice.

   (B) Permission for the department, or its representative, to conduct onsite inspections at least annually.

   (C) A requirement that all third-party examiners meet the same qualification and training standards as the department's examiners, to the extent necessary to conduct the driving skill tests in compliance with the requirements of Part 383 of Title 49 of the Code of Federal Regulations.

   (D) The department may cancel, suspend, or revoke the agreement with a third-party tester if the third-party tester fails to comply with the standards for the commercial driver's license testing program, or with any other term of the third-party agreement, upon 15 days prior written notice of the action to cancel, suspend, or revoke the agreement by the department to the third party. Any action to appeal or review any order of the department canceling, suspending, or revoking a third-party testing agreement shall be brought in a court of competent jurisdiction under Section 1085 of the Code of Civil Procedure, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.

   (E) Any third-party tester whose agreement has been canceled pursuant to subparagraph (D) may immediately apply for a third-party testing agreement.

   (F) A suspension of a third-party testing agreement pursuant to subparagraph (D) shall be for a term of less than 12 months as determined by the department. After the period of suspension, the agreement shall be reinstated upon request of the third-party tester.
(G) A revocation of a third-party testing agreement pursuant to subparagraph (D) shall be for a term of not less than one year. A third-party tester may apply for a new third-party testing agreement after the period of revocation and upon submission of proof of correction of the circumstances causing the revocation.

(H) Authorization for the department to charge the employer a fee, as determined by the department, which is sufficient to defray the actual costs incurred by the department for administering and evaluating the employer testing program, and for carrying out any other activities deemed necessary by the department to ensure sufficient training for the drivers participating in the program.

(3) Except as provided in Section 15250.3, the tests given by the third party shall not be accepted in lieu of tests prescribed and conducted by the department for applicants for a passenger vehicle endorsement specified in paragraph (2) of subdivision (a) of Section 15278, if the applicant operates or will operate a tour bus.

(d) Commercial driver license applicants who take and pass driving tests administered by a third party shall provide the department with certificates of driving skill satisfactory to the department that the applicant has successfully passed the driving tests administered by the third party.

(e) Implementation dates for the issuance of a commercial driver's license pursuant to this chapter may be established by the department as it determines is necessary to accomplish an orderly commercial driver license program.

SEC. 2. Section 15250.3 is added to the Vehicle Code, to read:

15250.3. The department may allow any employee of an organized camp, as defined in Section 18897 of the Health and Safety Code, regulated by the Public Utilities Commission pursuant to Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code to operate a tour bus pursuant to employment by the operator of that organized camp, if that employee satisfies the requirements for a class B license and a passenger vehicle endorsement by passing a test administered by a third party in accordance with subdivisions (c), (d), and (e) of Section 15250.

SEC. 3. It is the intent of the Legislature that this act shall not be construed to lessen or ease the safety requirements, administered by the Department of Motor Vehicles and the Public Utilities Commission, for drivers employed by organized camps.
CHAPTER 209

An act to amend Section 1755.5 of the Welfare and Institutions Code, relating to the Department of the Youth Authority.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 1755.5 of the Welfare and Institutions Code is amended to read:

1755.5. The Department of the Youth Authority may transfer to and cause to be confined in the medical facility, the Correctional Training Facility at Soledad, the California Institution for Women at Corona, the Medical Correctional Institution, the California Institution for Men, the Richard J. Donovan Correctional Facility at Rock Mountain, or the California Men’s Colony under the jurisdiction of the Department of Corrections for general study, diagnosis, and treatment, or any of them, any person over the age of 18 years who is subject to the custody, control, and discipline of the Department of the Youth Authority who was committed to the Department of the Youth Authority under Section 1731.5. The Director of Corrections may receive and keep in any institution specified in this section any person so transferred to that institution by the Department of the Youth Authority, with the same powers as if the person had been placed therein or transferred thereto pursuant to the Penal Code.

The Department of the Youth Authority may transfer to and cause to be confined in the California Rehabilitation Center for general study, diagnosis, and treatment, or any of them, any person over the age of 18 years who is subject to the custody, control and discipline of the Department of the Youth Authority. The Director of Corrections may receive and keep in the California Rehabilitation Center any person so transferred thereto by the Department of the Youth Authority, with the same powers as if the person had been placed therein or transferred thereto pursuant to Division 3 (commencing with Section 3000) of this code.

Part 3 (commencing with Section 2000) of the Penal Code, so far as those provisions may be applicable, applies to persons so transferred to and confined in any institution specified in this section, except that, whenever by reason of any law governing the commitment of a person to the Department of the Youth Authority the person is deemed not to be a person convicted of a crime, the transfer or placement of the person in the California Rehabilitation Center shall not affect the status or rights of the person and shall not be deemed to constitute a conviction of a crime.
CHAPTER 210

An act to add Section 58934.5 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 58934.5 is added to the Food and Agricultural Code, to read:

58934.5. In order to provide funds for defraying expenditures authorized by the marketing order, the director or any advisory board may also receive and disburse contributions that are made by persons other than those directly affected by the marketing order.

CHAPTER 211

An act to amend Sections 13050, 13260, 13263, and 13522.5 of, and to add Section 13523.1 to, the Water Code, relating to water.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 13050 of the Water Code is amended to read:

13050. As used in this division:
(a) “State board” means the State Water Resources Control Board.
(b) “Regional board” means any California regional water quality control board for a region as specified in Section 13200.
(c) “Person” includes any city, county, district, the state, and the United States, to the extent authorized by federal law.
(d) “Waste” includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.
(e) “Waters of the state” means any surface water or groundwater, including saline waters, within the boundaries of the state.
(f) “Beneficial uses” of the waters of the state that may be protected against quality degradation include, but are not limited to, domestic, municipal, agricultural and industrial supply; power
generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

(g) "Quality of the water" refers to chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.

(h) "Water quality objectives" means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

(i) "Water quality control" means the regulation of any activity or factor which may affect the quality of the waters of the state and includes the prevention and correction of water pollution and nuisance.

(j) "Water quality control plan" consists of a designation or establishment for the waters within a specified area of all of the following:

(1) Beneficial uses to be protected.
(2) Water quality objectives.
(3) A program of implementation needed for achieving water quality objectives.

(k) "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

(l) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

(1) The waters for beneficial uses.
(2) Facilities which serve these beneficial uses.

"Pollution" may include "contamination."

(m) "Nuisance" means anything which meets all of the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

(n) "Reclaimed water" or "recycled water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

(o) "Citizen or domiciliary" of the state includes a foreign corporation having substantial business contacts in the state or which
is subject to service of process in this state.

(p) (1) “Hazardous substance” means either of the following:
   (A) For discharge to surface waters, any substance determined to be a hazardous substance pursuant to Section 311(b)(2) of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).
   (B) For discharge to groundwater, any substance listed as a hazardous waste or hazardous material pursuant to Section 25140 of the Health and Safety Code, without regard to whether the substance is intended to be used, reused, or discarded, except that “hazardous substance” does not include any substance excluded from Section 311(b)(2) of the Federal Water Pollution Control Act because it is within the scope of Section 311(a)(1) of that act.
   (2) “Hazardous substance” does not include any of the following:
      (A) Nontoxic, nonflammable, noncorrosive stormwater runoff drained from underground vaults, chambers, or manholes into gutters or storm sewers.
      (B) Any pesticide which is applied for agricultural purposes or is applied in accordance with a cooperative agreement authorized by Section 2426 of the Health and Safety Code, and is not discharged accidentally or for purposes of disposal, the application of which is in compliance with all applicable state and federal laws and regulations.
      (C) Any discharge to surface water of a quantity less than a reportable quantity as determined by regulations issued pursuant to Section 311(b)(4) of the Federal Water Pollution Control Act.
      (D) Any discharge to land which results, or probably will result, in a discharge to groundwater if the amount of the discharge to land is less than a reportable quantity, as determined by regulations issued pursuant to Section 13271, for substances listed as hazardous pursuant to Section 25140 of the Health and Safety Code. No discharge shall be deemed a discharge of a reportable quantity until regulations set a reportable quantity for the substance discharged.
   (q) “Mining waste” means all solid, semisolid, and liquid waste materials from the extraction, beneficiation, and processing of ores and minerals. Mining waste includes, but is not limited to, soil, waste rock, and overburden, as defined in Section 2732 of the Public Resources Code, and tailings, slag, and other processed waste materials.
   (r) “Master reclamation permit” means a permit issued to a supplier or a distributor, or both, of reclaimed water, that includes waste discharge requirements prescribed pursuant to Section 13263 and water reclamation requirements prescribed pursuant to Section 13523.1.

SEC. 2. Section 13260 of the Water Code is amended to read:

13260. (a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.
(2) Any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.

(3) Any person operating, or proposing to construct, an injection well.

(b) No report of waste discharge need be filed pursuant to subdivision (a) if the requirement is waived pursuant to Section 13269.

(c) Every person subject to subdivision (a) shall file with the appropriate regional board a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge.

(d) (1) Each person for whom waste discharge requirements have been prescribed pursuant to Section 13263 shall submit an annual fee not to exceed ten thousand dollars ($10,000) according to a reasonable fee schedule established by the state board. Fees shall be calculated on the basis of total flow, volume, number of animals, or area involved.

(2) Any fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund which is hereby created. The money in the fund is available for expenditure by the state board, upon appropriation by the Legislature, for the purposes of carrying out this division.

(e) Each report of waste discharge for a new discharge submitted under this section shall be accompanied by a fee equal in amount to the annual fee for the discharge. If waste discharge requirements are issued, the fee shall serve as the first annual fee. If waste discharge requirements are waived pursuant to Section 13269, all or part of the fee shall be refunded.

(f) (1) On or before January 1, 1990, the state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivisions (d) and (j). The total revenue collected each year through annual and filing fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual and filing fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual filing fees to compensate for the over and under collection of revenue.

(2) The emergency regulations adopted pursuant to this subdivision, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. 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. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(h) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not be imposed on those who pay fees under the National Pollutant Discharge Elimination System until the time when those fees are again due, at which time the fees shall become due on an annual basis.

(j) Facilities for confined animal feeding or holding operations, including dairy farms, which have been issued waste discharge requirements or exempted from waste discharge requirements prior to January 1, 1989, are exempt from subdivision (d). If the facility is required to file a report under subdivision (c) after January 1, 1989, the report shall be accompanied by a filing fee, to be established by the state board in accordance with subdivision (f), not to exceed two thousand dollars ($2,000), and the facility shall be exempt from any annual fee.

(k) Any person operating or proposing to construct an oil, gas, or geothermal injection well subject to paragraph (3) of subdivision (a), shall not be required to pay a fee pursuant to subdivision (d), if the injection well is regulated by the Division of Oil and Gas of the Department of Conservation, in lieu of the appropriate California regional water quality control board, pursuant to the memorandum of understanding, entered into between the state board and the Department of Conservation on May 19, 1988. This subdivision shall remain operative until the memorandum of understanding is revoked by the state board or the Department of Conservation.

(I) In addition to the report required by subdivision (a), before any person discharges mining waste, the person shall first submit the following to the regional board:

(I) A report on the physical and chemical characteristics of the waste that could affect its potential to cause pollution or contamination. The report shall include the results of all tests required by regulations adopted by the board, any test adopted by the Department of Toxic Substances Control pursuant to Section 25141 of the Health and Safety Code for extractable, persistent, and bioaccumulative toxic substances in a waste or other material, and any other tests that the state board or regional board may require,
including, but not limited to, tests needed to determine the acid-generating potential of the mining waste or the extent to which hazardous substances may persist in the waste after disposal.

(2) A report that evaluates the potential of the discharge of the mining waste to produce, over the long term, acid mine drainage, the discharge or leaching of heavy metals, or the release of other hazardous substances.

(m) Except upon the written request of the regional board, a report of waste discharge need not be filed pursuant to subdivision (a) or (c) by a user of reclaimed water that is being supplied by a supplier or distributor of reclaimed water for whom a master reclamation permit has been issued pursuant to Section 13523.1.

SEC. 3. Section 13263 of the Water Code is amended to read:

13263. (a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change therein, except discharges into a community sewer system, with relation to the conditions existing from time to time in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement relevant water quality control plans, if any have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.

(b) A regional board, in prescribing requirements, need not authorize the utilization of the full waste assimilation capacities of the receiving waters.

(c) The requirements may contain a time schedule, subject to revision in the discretion of the board.

(d) The board may prescribe requirements although no discharge report has been filed.

(e) Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically.

(f) The regional board shall notify in writing the person making or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

(h) The regional board may incorporate the requirements prescribed pursuant to this section into a master reclamation permit for either a supplier or distributor, or both, of reclaimed water.

SEC. 4. Section 13522.5 of the Water Code is amended to read:

13522.5. (a) Except as provided in subdivision (e), any person reclaiming or proposing to reclaim water, or using or proposing to use reclaimed water, within any region for any purpose for which
reclamation criteria have been established, shall file with the appropriate regional board a report containing information required by the regional board.

(b) Except as provided in subdivision (e), every person reclaiming water or using reclaimed water shall file with the appropriate regional board a report of any material change or proposed change in the character of the reclaimed water or its use.

(c) Each report under this section shall be sworn to, or submitted under penalty of perjury.

(d) This section shall not be construed so as to require any report in the case of any producing, manufacturing, or processing operation involving the reclamation of water solely for use in the producing, manufacturing, or processing operation.

(e) Except upon the written request of the regional board, a report is not required pursuant to this section from any user of reclaimed water which is being supplied by a supplier or distributor for whom a master reclamation permit has been issued pursuant to Section 13523.1.

SEC. 5. Section 13523.1 is added to the Water Code, to read:

13523.1. (a) Each regional board, after consulting with, and receiving the recommendations of, the State Department of Health Services, and after any necessary hearing, may, in lieu of issuing waste discharge requirements pursuant to Section 13263 or water reclamation requirements pursuant to Section 13523 for a user of reclaimed water, issue a master reclamation permit to a supplier or distributor, or both, of reclaimed water.

(b) A master reclamation permit shall include, at least, all of the following:

(1) Waste discharge requirements, adopted pursuant to Article 4 (commencing with Section 13260) of Chapter 4.

(2) A requirement that the permittee comply with the reclamation criteria established pursuant to Section 13521.

(3) A requirement that the permittee establish and enforce rules or regulations for reclaimed water users, governing the design and construction of reclaimed water use facilities and the use of reclaimed water, in accordance with reclamation criteria established pursuant to Section 13521.

(4) A requirement that the permittee submit a quarterly report summarizing reclaimed water use, including the total amount of reclaimed water supplied, the total number of reclaimed water use sites, and the locations of those sites, including the names of the hydrologic areas underlying the reclaimed water use sites.

(5) A requirement that the permittee conduct periodic inspections of the facilities of the reclaimed water users to monitor compliance by the users with the reclamation criteria established pursuant to Section 13521 and the requirements of the master reclamation permit.

(6) Any other requirements determined to be appropriate by the regional board.
CHAPTER 212

An act to amend Section 21553 of the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 21553 of the Water Code is amended to read:

21553. The board shall order a change in the number of divisions or the method of electing directors, or both, or increase the number of directors from three to five in a district without divisions, if a petition therefor, signed by a majority of the holders of title to all of the land who are also the holders of title to a majority in value of the land, is filed in the district office at least 85 days before a general district election.

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.

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 allow irrigation districts to increase the number of their board of directors, thereby allowing for additional direction in the districts’ operation, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 213

An act to amend Sections 7347, 7396, 7423, and 7424 of, and to add Section 7427 to, the Business and Professions Code, relating to barbering and cosmetology, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]
The people of the State of California do enact as follows:

SECTION 1. Section 7347 of the Business and Professions Code is amended to read:

7347. Any person, firm, or corporation desiring to operate an establishment shall make an application to the board for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the board may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.

SEC. 2. Section 7396 of the Business and Professions Code, as added by Section 3 of Chapter 1672 of the Statutes of 1990, is amended to read:

7396. The form and content of a license issued by the board shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a barber, cosmetologist, esthetician, manicurist, electrologist, apprentice, barber instructor, or cosmetology instructor and shall contain a photograph of the licensee. The board shall establish the method or methods as it deems appropriate for utilizing a photograph of the licensee to verify licensure status. An additional fee may be charged for the processing of a photographic license.

SEC. 3. Section 7423 of the Business and Professions Code is amended to read:

7423. The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) Cosmetologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(b) Esthetician application, examination and initial license fee shall be not more than forty dollars ($40).

(c) Manicurist application, examination and initial license fee shall be not more than thirty-five dollars ($35).

(d) Barber application, examination and initial license fee shall be not more than fifty dollars ($50).

(e) Electrologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(f) Apprentice application and license fee shall be not more than
twenty-five dollars ($25).

(g) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars ($50).

(h) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

(i) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

(j) Any photographic license fee shall be established by the board in an amount sufficient to cover the costs of processing of the license.

(k) This section shall become operative on July 1, 1992.

SEC. 4. Section 7424 of the Business and Professions Code is amended to read:

7424. The amounts of the fees payable under this chapter relating to licenses to operate an establishment are as follows:

(a) The application and initial license fee shall be not more than eighty dollars ($80).

(b) The renewal fee shall be not more than forty dollars ($40).

(c) The delinquency fee is 50 percent of the renewal fee in effect on the date of renewal.

(d) Any application and initial license fee for the change of ownership of an existing establishment may be established by the board in an amount less than the fee prescribed for a new establishment, but sufficient to cover the costs of processing the application and issuing the license.

SEC. 5. Section 7427 is added to the Business and Professions Code, to read:

7427. The fees, in effect as established by the State Board of Barber Examiners prior to June 30, 1992, shall remain in effect until such time as they are changed by the State Board of Barbering and Cosmetology.

SEC. 6. Sections 1, 2, 3, 4, and 5 of this act shall become operative on July 1, 1992.

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 make clarifying corrections necessary for the implementation of Chapter 1672 of the Statutes of 1990 that merged the State Board of Barber Examiners and the Board of Cosmetology into the State Board of Barbering and Cosmetology, operative July 1, 1992, it is necessary that this act take effect immediately.
CHAPTER 214

An act to add Section 86116.5 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992]

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

SECTION 1. Section 86116.5 is added to the Government Code, to read:

86116.5. (a) In addition to the information required pursuant to Section 86116, all state and local agencies that file reports pursuant to Sections 86115 and 86116 shall disclose, except for overhead expenses, all payments of two hundred fifty dollars ($250) or more made in a reporting period, including, but not limited to, all of the following:

1. Goods and services used by a lobbyist or used to support or assist a lobbyist in connection with his or her activities as a lobbyist.
2. Payments of any other expenses which would not have been incurred but for the filer's activities to influence or attempt to influence legislative or administrative action.
3. Dues or similar payments made to any organization, including a federation, confederation, or trade, labor, or membership organization, that makes expenditures equal to 10 percent of its total expenditures, or fifteen thousand dollars ($15,000), or more, during any calendar quarter, to influence legislative or administrative action.

(b) Reports required pursuant to this section may be disclosed on a separate schedule and shall include all of the following information:
1. The name and the address of the payee.
2. The total payments made during the reporting period.
3. The cumulative amount paid during the calendar year.
4. All statements required by this section shall be filed as specified by Sections 86117 and 86118.

SEC. 2. 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.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. 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
CHAPTER 215

An act to add Section 1798.207 to the Health and Safety Code, relating to emergency medical services.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 1798.207 is added to the Health and Safety Code, to read:

1798.207. (a) It is a misdemeanor for any person to knowingly and willfully engage in conduct that subverts or attempts to subvert any licensing or certification examination, or the administration of any licensing or certification examination, conducted pursuant to this division, including, but not limited to, any of the following:

1. Conduct that violates the security of the examination material.
2. Removing from the examination room any examination materials without authorization.
3. The unauthorized reproduction by any means of any portion of the actual licensing or certification examination.
4. Aiding by any means the unauthorized reproduction of any portion of the actual licensing or certification examination.
5. Paying or using professional or paid examination-takers, for the purpose of reconstructing any portion of the licensing or certification examination.
6. Obtaining or attempting to obtain examination questions or other examination material from examinees or by any other method, except by specific authorization either before, during, or after an examination.
7. Using or purporting to use any examination questions or materials that were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination.
8. Selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing or certification examination.
9. Communicating with any other examinee during the administration of a licensing or certification examination.
10. Copying answers from another examinee or permitting one’s answers to be copied by another examinee.
11. Having in one’s possession during the administration of the licensing or certification 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.
(12) Impersonating any examinee or having an impersonator take the licensing or certification examination on one’s behalf.
(b) The penalties provided in this section are not exclusive remedies and shall not preclude remedies provided pursuant to any other provision of law.
(c) 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.
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 216

An act to add Section 5010.8 to the Education Code, relating to community college districts.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 5010.8 is added to the Education Code, to read:

5010.8. In a community college district that includes the trustee areas authorized to be established pursuant to the third paragraph Section 72023, the consolidation of the election of trustees on the same date as the statewide general election pursuant to Section 5010.7 may be approved by any county or counties for the trustee areas located entirely within that county or counties. The approval of any county or counties in which the other trustee areas are located shall not be required. Elections resulting from changes in election dates pursuant to this section shall be deemed to meet the requirement of staggered terms set forth in Section 72023.
An act to amend Sections 23401 and 24108 of, and to add Section 24134 to, the Food and Agricultural Code, relating to animals.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992]

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

SECTION 1. Section 23401 of the Food and Agricultural Code is amended to read:

23401. Inspection of horses, mules, and burros for shipment out of the state may be made at the request of the owner in the same manner and for the same fees as are provided for bovine animals pursuant to Chapter 6 (commencing with Section 21051) of Division 10. This section does not apply to inspections made pursuant to Chapter 9 (commencing with Section 24101) of Division 11.

SEC. 2. Section 24108 of the Food and Agricultural Code is amended to read:

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, to allow copies to be made of the record, or 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 a misdemeanor.

SEC. 3. Section 24134 is added to the Food and Agricultural Code, to read:

24134. Any person who falsifies any document or record required by this chapter, or by any regulation adopted pursuant to this chapter, is liable civilly for a penalty in an amount not to exceed five hundred dollars ($500) for each violation. Any money that is recovered pursuant to this section shall be paid into the Department of Food and Agriculture Fund and, upon appropriation by the Legislature, shall be expended to carry out this chapter.

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.
An act to amend Section 9641.5 of, and to repeal Sections 9641, 9642, 9643, 9644, 9645, 9646, and 9647 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

**SECTION 1.** Section 9641 of the Food and Agricultural Code is repealed.

**SEC. 2.** Section 9641.5 of the Food and Agricultural Code is amended to read:

9641.5. Any horse or other Equidae brought into this state shall be accompanied by the following:

(a) A certificate of health from the state of origin issued by an accredited veterinarian. The certificate shall state that the horse or other Equidae is free from evidence of any communicable disease.

(b) Verification that any horse or Equidae has been tested within the preceding six months and found negative to a test for equine infectious anemia. The test shall be approved by the director and conducted by a laboratory approved by the United States Department of Agriculture, and the necessary sample shall be taken, and the verification signed by, an accredited veterinarian.

A nursing foal of less than six months of age when accompanied by a negative dam and any horse or other Equidae consigned for immediate slaughter shall be exempt from the testing requirements of this section.

Any horse or other Equidae moved from California to another state for a period of not more than 14 days, are exempt from this section upon returning to California, provided, that the exemption does not apply to any horse or other Equidae that leaves the continental United States.

**SEC. 3.** Section 9642 of the Food and Agricultural Code is repealed.

**SEC. 4.** Section 9643 of the Food and Agricultural Code is repealed.

**SEC. 5.** Section 9644 of the Food and Agricultural Code is repealed.

**SEC. 6.** Section 9645 of the Food and Agricultural Code is repealed.

**SEC. 7.** Section 9646 of the Food and Agricultural Code is repealed.

**SEC. 8.** Section 9647 of the Food and Agricultural Code is repealed.
An act to amend Section 23512.6 of, to repeal Section 23512.4 of, and to repeal and add Section 23512.2 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 23512.2 of the Elections Code is repealed.
SEC. 2. Section 23512.2 is added to the Elections Code, to read: 23512.2. The declaration of candidacy shall be in substantially the following form:

I, ____________________________, do hereby declare myself as a candidate for election to the office of

________________________________________. I am a registered voter. If elected, I will qualify and accept the office of

________________________________________ and serve to the best of my ability. I request my name be placed on the official ballot of the district for the election to be held on the ___ day of __________, 19___, and that my name appear on the ballot as follows:

________________________________________
(Print name above)

My current residence address is ____________________________ and my telephone number is ____________________________.

I further request that the following occupational designation appear on the ballot under my name.

________________________________________
(Print desired designation, if any, above)

I declare that the foregoing occupation is true and in conformance with the requirements of Section 10211 of the Elections Code.

I am aware that any person who files or submits for filing a declaration of candidacy knowing that it or any part of it has been made falsely is punishable by a fine or imprisonment, or both, as set forth in Section 29303 of the Elections Code.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on ________________, 19____, at _____________________________ (City), California.

(Signature of Candidate)

SEC. 3. Section 23512.4 of the Elections Code is repealed.
SEC. 4. Section 23512.6 of the Elections Code is amended to read:
23512.6. Each candidate shall set forth in full the oath or affirmation set forth in Section 3 of Article XX of the California Constitution which shall be filed with the declaration of candidacy and which shall satisfy the provisions of Section 3 of Article XX of the California Constitution with respect to any district office. The county clerk or district secretary, or a person designated by the county clerk or district secretary, shall administer the oath.
SEC. 5. 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 of 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.
SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:
In order to clarify any ambiguities in the law concerning declarations of candidacy for district elections in time for the November 3, 1992, general election, it is necessary that this act take effect immediately.
An act to amend Sections 33704 and 35221 of the Food and Agricultural Code, relating to food.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 33704 of the Food and Agricultural Code is amended to read:

33704. (a) Sections 33701, 33731, 33732, 33733, 33734, 33767, 33768, 33770, 33771, 33776, and 34593 do not apply to the manufacture of ice cream that is manufactured from ice cream mix, to ice milk that is manufactured from ice milk mix, to frozen yogurt that is manufactured from frozen yogurt mix, to lowfat frozen yogurt that is manufactured from lowfat frozen yogurt mix, to lowfat frozen dairy dessert that is manufactured from lowfat frozen dairy dessert mix, to nonfat frozen dairy dessert that is manufactured from nonfat frozen dairy dessert mix, to nondairy frozen dessert that is manufactured from nondairy frozen dessert mix, if those products are manufactured in a freezing device from which those products are served directly in a semifrozen state, without packaging of any type, for consumption on the premises in or from rooms where food is served to the public.

Except for nondairy frozen dessert mix, all mixes so used shall be secured from a licensed manufacturer of milk products.

Ice cream mix, ice milk, frozen yogurt mix, lowfat frozen yogurt mix, frozen dairy dessert mix, and nondairy frozen dessert mix shall be manufactured into a semifrozen state without adulteration and freezing device salvage shall not be reused as a mix.

(b) A limited packaging permit may be issued by the director to a semifrozen (soft-serve) milk products plant for on-premises manufacture and packaging of hard frozen dairy products or hard frozen dairy product novelties. The permit may only be issued after the suitability of the facility for manufacture and packaging has been determined by the director. An annual onsite evaluation of compliance with the specific permit conditions shall be completed by the director prior to renewal of the limited packaging permit. A semifrozen milk products plant issued a limited packaging permit shall meet all of the following standards:

1. The manufacturing and packaging of hard frozen dairy product novelties shall be done when the establishment is closed to the public.

2. The hard frozen products shall only be sold to purchasers for consumption. No hard frozen product manufactured pursuant to the limited packaging permit shall be sold for resale.

3. All frozen dairy product mixes used for the manufacture and
packaging of hard frozen dairy product novelties shall be dispensed from single service containers sealed at the licensed milk products plant where processed and pasteurized. Reconstitution of dry mix or condensed mix is prohibited at a semifrozen milk products plant issued a limited packaging permit.

(4) Adequate facilities, consistent with recognized good manufacturing practices for the production and packaging of hard frozen dairy products, as determined by the director, shall be provided as a condition of the limited packaging permit. The facilities shall include, but are not limited to, adequate utensil and novelty mold washing, sterilization and storage, and sufficient sanitary work area, including handwashing facilities, dedicated to the manufacture and packaging of hard frozen dairy product novelties. Sanitation guidelines consistent with good manufacturing and handling practices for retail food establishments manufacturing and packaging hard frozen dairy products in conformance with Part 110 (commencing with Section 110.3) of Title 21 of the Code of Federal Regulations shall be utilized by the director as a condition for issuance and renewal of the limited packaging permit.

(5) Each individually packaged hard frozen novelty shall be labeled with the name of the product and the name and address of the manufacturer.

c) Nondairy frozen dessert mix shall be obtained from manufacturers licensed pursuant to Section 38931 or under Section 38984. Any dry or condensed mix to be reconstituted into freezable form shall be reconstituted on the premises in containers or equipment that meet the requirements of Sections 33763, 33764, 33765, and 33766. Any water used for reconstitution shall be treated in a manner to ensure a quality equal to potable pasteurized water. Upon reconstitution, the product shall be poured directly into the freezing unit or refrigerated at a temperature not to exceed 45 degrees Fahrenheit, and so maintained until frozen, or both.

(d) Where any retail establishment manufactures two or more of the products provided for under this section, each of those products shall be processed in a separate freezing device, and that freezing device shall be clearly identified as to the product being manufactured therein.

(e) The director may, by agreement with any approved milk inspection service, authorize the service to inspect and enforce requirements of this code applicable to the establishments covered by this section. Any agreement shall provide that the approved inspection service shall collect the applicable license fee for those establishments as provided in Sections 35221 and 38933. The fees so collected shall be retained by the approved service to cover its cost of enforcement, but 15 percent of the fees collected shall be remitted to the director to cover the cost of administration.

SEC. 2. Section 35221 of the Food and Agricultural Code is amended to read:

35221. (a) Every person that is engaged in the business of
dealing in, receiving, manufacturing, freezing, or processing ice cream, ice milk, sherbet, or any similar frozen product, of manufacturing, freezing, or processing imitation ice cream, imitation ice milk, or any similar frozen product, or of processing any other dairy product for which a license is required, shall pay the following fees:

(1) For a license for all frozen milk products and all imitation frozen milk products, one hundred dollars ($100) for the calendar year for which the license is issued. The fee for the renewal of this license is one hundred dollars ($100), plus three dollars ($3) for each additional 10,000 gallons or fraction of 10,000 gallons over and above 20,000 gallons that were manufactured during the preceding year, ending December 31.

(2) For a semifrozen (soft-serve) milk products plant license issued to persons making application under Section 33704, one hundred fifty dollars ($150) for the calendar year for which the semifrozen (soft-serve) milk products plant license is issued. The fee for the renewal of this license is one hundred fifty dollars ($150).

(3) For a limited packaging permit issued to a licensed semifrozen (soft-serve) milk products plant making application under subdivision (b) of Section 33704, three hundred dollars ($300) for issuance of the initial permit. The fee for the annual renewal of this permit is one hundred fifty dollars ($150).

(4) For a license for any other dairy product for which a license is required, one hundred dollars ($100) for the calendar year for which the license is issued. The fee for the renewal of any such license is one hundred dollars ($100), plus one dollar ($1) for each 100,000 pounds, or part of 100,000 pounds over and above the first 100,000 pounds, of milk fat that was purchased or received during the preceding year, ending December 31.

(5) For a person, except a hospital or sanitarium, that is engaged in the business of manufacturing any diabetic or dietetic frozen milk product or mix, one hundred dollars ($100) for the calendar year for which a diabetic or dietetic frozen milk products license is issued. The fee for the renewal of this license is one hundred dollars ($100).

(b) The license fees required by this section shall be prorated on a quarterly basis for any licensee that commences operations after the first quarter in any calendar year, regardless of whether or not the milk products plant was licensed during the preceding calendar year.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. 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 221

An act to amend Section 5353 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 5353 of the Public Utilities Code is amended to read:

5353. This chapter does not apply to any of the following:

(a) Transportation service rendered wholly within the corporate limits of a single city or city and county and licensed or regulated by ordinance.

(b) Transportation of school pupils conducted by or under contract with the governing board of any school district entered into pursuant to the Education Code.

(c) Common carrier transportation services between fixed termini or over a regular route which are subject to authorization pursuant to Article 2 (commencing with Section 1031) of Chapter 5 of Part 1 of Division 1.

(d) Transportation services occasionally afforded for farm employees moving to and from farms on which employed when the transportation is performed by the employer in an owned or leased vehicle, or by a nonprofit agricultural cooperative association organized and acting within the scope of its powers under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, and without any requirement for the payment of compensation therefor by the employees.

(e) Transportation service rendered by a publicly owned transit system.

(f) Passenger vehicles carrying passengers on a noncommercial enterprise basis.

(g) Taxicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver.

(h) Transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver. This exemption also applies to a vehicle having a seating capacity of more than 15 passengers if the
driver files with the commission evidence of liability insurance protection in the same amount and in the same manner as required for a passenger stage corporation, and the vehicle undergoes and passes an annual safety inspection by the Department of the California Highway Patrol. The insurance filing shall be accompanied by a one-time filing fee of seventy-five dollars ($75). This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit," as used in this subdivision, does not include the recovery of the actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.

(i) Medical transportation vehicles, including vehicles employed to transport developmentally disabled persons for regional centers established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(j) Transportation services rendered solely within the Lake Tahoe Basin, comprising that area included within the Tahoe Regional Planning Compact as set forth in Section 66801 of the Government Code, when the operator of the services has obtained any permit required from the Tahoe Basin Transportation Authority or the City of South Lake Tahoe, or both.

(k) Subject to Section 34507.6 of the Vehicle Code, transportation service provided by the operator of an automobile rental business in vehicles owned or leased by that operator, without charge other than as may be included in the automobile rental charges, to carry its customers to or from its office or facility where rental vehicles are furnished or returned after the rental period.

(l) Subject to Section 34507.6 of the Vehicle Code, transportation service provided by the operator of a hotel, motel, or other place of temporary lodging in vehicles owned or leased by that operator, without charge other than as may be included in the charges for lodging, between the lodging facility and an air, rail, water, or bus passenger terminal or between the lodging facility and any place of entertainment or commercial attraction, including, but not limited to, facilities providing snow skiing. Nothing in this subdivision authorizes the operator of a hotel, motel, or other place of temporary lodging to provide any round-trip sightseeing service without a permit, as required by subdivision (c) of Section 5384.

(m) Transportation of hot air balloon ride passengers in a balloon chase vehicle from the balloon landing site back to the original take-off site, provided that the balloon ride was conducted by a balloonist who meets all of the following conditions:

1. Does not fly more than a total of 30 passenger rides for compensation annually.
2. Does not provide any preflight ground transportation services in their vehicles.
3. In providing return transportation to the launch site from landing does not drive more than 300 miles annually.
4. Files with the Commission an exemption declaration and
proof of vehicle insurance, as prescribed by the Commission, certifying that the operator qualifies for the exemption and will maintain minimum insurance on each vehicle of one hundred thousand dollars ($100,000) for injury or death of one person, three hundred thousand dollars ($300,000) for injury or death of two or more persons and one hundred thousand dollars ($100,000) for damage to property.

Nothing in this subdivision authorizes the operator of a commercial balloon operation to provide any round-trip sightseeing service without a permit, as required by subdivision (c) of Section 5384.

CHAPTER 222

An act to amend Section 1197 of the Insurance Code, relating to insurance.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. 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, including all affiliates which shall be treated as one borrower, in an amount exceeding 10 percent of the capital stock and surplus or 1 percent of the admitted assets of the lending insurer, whichever amount is greater.

CHAPTER 223


[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 84102 of the Government Code is amended to read:

84102. The statement of organization required by Section 84101 shall include:

(a) The name, street address and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. Whenever a
committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address and telephone number of each sponsor.

(c) The full name, street address and telephone number, if any, of the treasurer and other principal officers.

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation.

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate, or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly. If a committee is controlled by a candidate for partisan office, the controlled committee shall indicate the political party, if any, with which the candidate is affiliated.

(f) The disposition of surplus funds which will be made in the event of dissolution.

(g) Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime 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 224

An act to amend Sections 264.2 and 266c of the Penal Code, relating to sex offenses.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 264.2 of the Penal Code is amended to read:

264.2. (a) Whenever there is an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in paragraph (5) of subdivision (i) of Section 13701 of the Penal Code.

(b) (1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for examination, and the victim approves of that notification. Should there be more than one rape victim counseling center in the local area, the victim shall select the center to be notified.

(2) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

SEC. 2. Section 266c of the Penal Code is amended to read:

266c. Every person who induces any other person, except the spouse of the perpetrator, to engage in sexual intercourse, penetration of the genital or anal openings by a foreign object, substance, instrument, or device, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act, is punishable by imprisonment in a county jail for not more than one year or in the state prison for two, three, or four years.

As used in this section, "fear" means the fear of physical injury or death to the person or to any relative of the person or member of the person's family.
CHAPTER 225

An act to amend Section 5062 of the Penal Code, relating to prisoners.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Section 5062 of the Penal Code is amended to read: 5062. Whenever any person confined in any state institution subject to the jurisdiction of the Director of Corrections escapes, or is discharged or paroled from that institution, and any personal funds or property of that person remains in the hands of the Director of Corrections, and no demand is made upon the director by the owner of the funds or property or his or her legally appointed representative, all money and other intangible personal property of the person, other than deeds, contracts, or assignments, remaining in the custody or possession of the director shall be held by him or her for a period of three years from the date of that escape, discharge, or parole, for the benefit of that person or his or her successors in interest.

Upon the expiration of the three-year period, any money and other intangible personal property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the director shall be subject to Article 1 (commencing with Section 1500) of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of one year from the date of that escape, discharge, or parole:

(a) All deeds, contracts, or assignments shall be filed by the director with the public administrator of the county of commitment of that person.

(b) All tangible personal property other than money, remaining unclaimed in his or her custody or possession, shall be sold by the director at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him or her subject to Section 5008 and subject to Article 1 (commencing with Section 1500) of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure. If he or she deems it expedient to do so, the director may accumulate the property of several inmates and may sell the property in lots as he or she may determine, provided that he or she makes a determination as to each inmate's share of the proceeds.

If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify its retention by the director to be offered for sale at public auction or upon a sealed-bid basis at a later date, the director may order it destroyed.
An act to add Chapter 22 (commencing with Section 14875) to Division 7 of the Water Code, relating to water.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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

SECTION 1. Chapter 22 (commencing with Section 14875) is added to Division 7 of the Water Code, to read:

CHAPTER 22. GRAYWATER SYSTEMS FOR SINGLE FAMILY RESIDENCES

14875. This chapter applies to the construction, installation, or alteration of graywater systems for landscape irrigation for a single-family residence.

14875.1. "Department" means the Department of Water Resources.

14876. "Graywater" means untreated household waste water which has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and which does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Graywater includes waste water from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include waste water from kitchen sinks or dishwashers.

14877. "Graywater system" means a system and devices, attached to the plumbing system for the sanitary distribution or use of graywater.

14877.1. (a) On or before July 1, 1993, the department, in consultation with the State Department of Health Services, shall adopt standards for the installation of graywater systems in residential buildings. In adopting these standards the department shall consider, among other resources, "Appendix W," as adopted, on February 5, 1992, by the California Ad-Hoc Graywater Committee, under the direction of the department.

(b) The department shall revise its graywater systems standards as needed.

14877.2. A graywater system may be installed in a residential building if the city or county having jurisdiction over the building determines that the system complies with standards adopted by the department.

14877.3. After a public hearing, a city or county may adopt, by ordinance, more stringent criteria for approval of graywater systems or may prohibit graywater systems.
CHAPTER 227

An act to amend Sections 1063.1, 1063.2, 1063.5, and 1063.14 of the Insurance Code, relating to insurance.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 15, 1992.]

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 assignee as the person entitled thereto under a premium finance agreement as defined in Section 673 and entered into prior to insolvency, 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 1063.2 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” for unearned premium by lenders under insurance premium finance agreements as defined in Section 673 shall be computed as of the earliest cancellation date of the policy pursuant to Section 673 or subdivision (g) of this section.

(i) “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.

(j) “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.

SEC. 3. Section 1063.5 of the Insurance Code is amended to read:

1063.5. Each time an insurer becomes insolvent then, to the extent necessary to secure funds for the association for payment of covered claims of that insolvent insurer and also for payment of reasonable costs of adjusting the claims, the association shall collect premium payments from its member insurers sufficient to discharge its obligations. The association shall allocate its claim payments and costs, incurred or estimated to be incurred, to one or more of the following categories: (a) workers’ compensation claims; (b) homeowners’ claims, and automobile claims, which shall include: automobile material damage, automobile liability (both personal injury and death and property damage), medical payments and uninsured motorist claims; and (c) claims other than workers’
. compensation, homeowners', and automobile, as above defined. Separate premium payments shall be required for each category. The premium payments for each category shall be used to pay the claims and costs allocated to that category. The rate of premium charged shall be a uniform percentage of net direct written premium in the preceding calendar year applicable to that category. The rate of premium charges to each member in the appropriate categories shall initially be based on the written premium of each insurer as shown in the latest year's annual financial statement on file with the commissioner. The initial premium shall be adjusted by applying the same rate of premium charge as initially used to each insurer's written premium as shown on the annual statement for the second year following the year in which the initial premium charge is made. The difference between the initial premium charge and the adjusted premium charge shall be charged or credited to each member insurer by the association as soon as practical after the filing of the annual statements of the member insurers with the commissioner for the year on which the adjusted premium is based. In the case of an insurer that was a member insurer when the initial premium charge was made and that paid the initial assessment but is no longer a member insurer at the time of the adjusted premium charge by reason of its insolvency or its withdrawal from the state and surrender of its certificate of authority to transact insurance in this state, any credit accruing to that insurer shall be refunded to it by the association. "Net direct written premiums" shall mean the amount of gross premiums, less return premiums, received in that calendar year upon business done in this state, other than premiums received for reinsurance. In cases of a dispute as to the amount of any such net direct written premium between the association and one of its members the written decision of the commissioner shall be final. The premium charged to any member insurer for any of the three categories or a category established by the association shall not be more than 1 percent of the net direct premium written in that category in this state by that member insurer. However, in no event shall the total premium charged a member insurer in one calendar year exceed 1 percent of the net direct premium written by the member insurer in one calendar year. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect an amount of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. However, during the period of deferment, no dividends shall be paid to shareholders or policyholders by the company whose assessment was deferred. Deferred assessments shall be paid when the payment will not reduce capital or surplus below required minimums. These payments shall be credited against future assessments to those companies receiving larger assessments by virtue of the deferment. The premium charges shall be recognized
in the ratemaking procedures for insurance rates in the same manner that losses are recognized or as otherwise provided in this article. After all covered claims of the insolvent insurer and expenses of administration have been paid, any unused premiums and any reimbursements or claims dividends from the liquidator remaining in any category shall be retained by the association and applied to reduce future premium charges in the appropriate category. However, an insurer which ceases to be a member of the association, other than an insurer that has become insolvent or has withdrawn from the state and has surrendered its certificate of authority following an initial assessment that is entitled to a refund based upon an adjusted assessment as provided above in this section, shall have no right to a refund of any premium previously remitted to the association. The commissioner may suspend or revoke the certificate of authority to transact business in this state of a member insurer which fails to pay a premium when due and after demand has been made.

Interest at a rate equal to the current federal reserve discount rate plus 2 1/2 percent per annum shall be added to the premium of any member insurer which fails to submit the premium requested by the association within 30 days after such mailing request. However, in no event shall the interest rate exceed the legal maximum.

SEC. 4. Section 1063.14 of the Insurance Code is amended to read:

1063.14. (a) The plan of operation adopted pursuant to subdivision (c) of Section 1063 shall contain provisions whereby each member insurer is required to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agents' commission.

(b) The amount of any surcharge shall be separately stated on either a billing or policy declaration sent to an insured. The association shall determine the rate of the surcharge and the collection period for each category and these shall be mandatory for all member insurers of the association who write business in those categories. Member insurers who collect surcharges in excess of premiums paid pursuant to Section 1063.5 for an insolvent insurer shall remit the excess to the association as an additional premium within 30 days after the association has determined the amount of the excess recoupment and given notice to the member of that amount. The excess shall be applied to reduce future premium charges in the appropriate category.

(c) The plan of operation may permit a member insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of
its obligation to recoup the amount of surcharge otherwise collectible.

CHAPTER 228

An act to amend Section 41841.5 of the Education Code, relating to school funding.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 16, 1992.]

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

SECTION 1. Section 41841.5 of the Education Code is amended to read:

41841.5. (a) The Superintendent of Public Instruction shall allow to each school district maintaining a secondary school or county superintendent of schools, as the case may be, an amount equal to the actual current expense of the district of maintaining adult education classes for prisoners in any county jail or any county industrial farm or county or joint county road camp for the current fiscal year. The amount so allowed to a district or county superintendent of schools for each unit of average daily attendance in these classes shall in no event exceed the statewide average revenue limit for adults multiplied by 0.8.

Each school district or county superintendent of schools shall receive advanced apportionments as authorized by Sections 41330, 41332, and 41335 on the basis of the cost data report of the district for the preceding fiscal year and each district or county superintendent of schools shall file a preliminary cost data report based upon estimated current expenses.

For purposes of this section, the Superintendent of Public Instruction shall, by rules and regulations, establish minimum standards for the conduct of the adult education classes, including, but not necessarily limited to, attendance requirements and requirements concerning records to be kept and reports to be submitted.

(b) There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the following fiscal years for the purposes of subdivision (a):

1. For the 1980–81 fiscal year ......................... $1,020,100
2. For the 1981–82 fiscal year and each fiscal year thereafter .............................................. $1,113,000

Commencing with the 1982–83 fiscal year, the amounts in paragraph (2) shall be cumulatively increased by 6 percent, unless otherwise provided by law. Commencing with the 1990–91 fiscal
year, the amounts in paragraph (2) shall be increased by the percentage change determined pursuant to subdivision (b) of Section 42238.1.

CHAPTER 229

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 14, 1992. Filed with Secretary of State July 16, 1992.]

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 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) If licensure or proper licensure is controverted, then 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 person'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 230

An act to amend Section 10237.3 of, and to repeal Section 10224 of,
the Business and Professions Code, relating to real property.

[Approved by Governor July 14, 1992. Filed with
Secretary of State July 16, 1992.]

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

SECTION 1. Section 10224 of the Business and Professions Code
is repealed.
SEC. 2. Section 10237.3 of the Business and Professions Code is
amended to read:
10237.3. It is unlawful for any person to act as a real property
securities dealer in this state without first having obtained a real
estate broker's license.

CHAPTER 231

An act to amend Sections 65858 and 66007 of the Government
Code, relating to land use.

[Approved by Governor July 18, 1992. Filed with
Secretary of State July 20, 1992.]

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

SECTION 1. Section 65858 of the Government Code is amended
to read:
65858. (a) Without following the procedures otherwise required
prior to the adoption of a zoning ordinance, the legislative body, to
protect the public safety, health and welfare, may adopt as an
urgency measure an interim ordinance prohibiting any uses which
may be in conflict with a contemplated general plan, specific plan,
or zoning proposal which the legislative body, planning commission
or the planning department is considering or studying or intends to
study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains a finding that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.

(d) Ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.

SEC. 2. Section 66007 of the Government Code is amended to read:

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

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

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

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the property owner or lessee as grantor. The local agency shall record a release of the obligation, containing a legal description of the property, in the event the obligation is paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a).

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

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

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

(f) Methods of complying with the requirement in subdivision (b) that a proposed construction schedule or plan be adopted, include, but are not limited to, (1) the adoption of the capital improvement plan described in Section 66002, or (2) the submittal of a five-year plan for construction and rehabilitation of school facilities pursuant to subdivision (c) of Section 17717.5 of the Education Code.

CHAPTER 232

An act to amend Sections 3503, 3504, 3526, 3564, 3567, and 5350 of the Elections Code, and to amend Sections 12172 and 88003 of the Government Code, relating to elections.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 3503 of the Elections Code is amended to read:

3503. Upon receipt of a draft of a petition, the Attorney General shall prepare a summary of the chief purposes and points of the proposed measure. The summary shall be prepared in the manner provided for the preparation of ballot titles in Article 5 (commencing with Section 3530), the provisions of which in regard to the preparation, filing, and settlement of titles and summaries are hereby made applicable to the summary. The Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the final version of a proposed initiative measure, or if a fiscal estimate or opinion is to be included, within 15 days after receipt of the fiscal estimate or opinion prepared by the Department of Finance and the Joint Legislative Budget Committee pursuant to Section 3504.

If during the 15-day period, the proponents of the proposed initiative measure submit amendments, other than technical, nonsubstantive amendments, to the final version of the measure, the Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the amendments.

The proponents of any initiative measure shall, at the time of submitting the draft of the measure to the Attorney General, pay a fee of two hundred dollars ($200), which shall be placed in a trust
fund in the office of the Treasurer and refunded to the proponents if, within two years from the date the summary is furnished to the proponents, the measure qualifies for the ballot. If the measure does not qualify within that period, the fee shall be immediately paid into the General Fund of the state.

SEC. 2. Section 3504 of the Elections Code is amended to read:

3504. Notwithstanding Section 3503, the Attorney General, in preparing a title or summary for an initiative measure, shall determine whether the substance thereof if adopted would affect the revenues or expenditures of the state or local government, and if he or she determines that it would, he or she shall include in the title either the estimate of the amount of any increase or decrease in revenues or costs to the state or local government, or an opinion as to whether or not a substantial net change in state or local finances would result, if the proposed initiative is adopted.

The estimates as required by this section shall be made jointly by the Department of Finance and the Joint Legislative Budget Committee, who shall deliver them to the Attorney General so that he or she may include them in the titles prepared by him or her.

The estimate shall be delivered to the Attorney General within 25 working days from the date of receipt of the final version of the proposed initiative from the Attorney General, unless in the opinion of both the Department of Finance and the Joint Legislative Budget Committee a reasonable estimate of the net impact of the proposed initiative cannot be prepared within the 25-day period. In the latter case, the Department of Finance and the Joint Legislative Budget Committee shall, within the 25-day period, give the Attorney General their opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative is adopted.

Any statement of fiscal impact prepared by the Legislative Analyst pursuant to subdivision (b) of Section 12172 of the Government Code may be used by the Department of Finance and the Joint Legislative Budget Committee in the preparation of the fiscal estimate or the opinion.

SEC. 3. Section 3526 of the Elections Code is amended to read:

3526. Whenever the Legislature submits any measure to the voters of the state, the author of the measure and no more than two persons appointed by the author may draft an argument for the adoption of the measure, or the author of the measure may appoint no more than three persons to draft the argument. In no case shall more than three persons write the argument. This argument shall not exceed 500 words in length.

If the author of the measure desires separate arguments to be written in its favor by each person appointed, separate arguments may be written, but the combined length of the arguments shall not exceed 500 words.

SEC. 4. Section 3564 of the Elections Code is amended to read:

3564. A ballot argument shall not be accepted under this article
unless accompanied by all of the following:
   (a) The name, business or home address, and telephone number of each person submitting the argument.
   (b) If the argument is submitted on behalf of an organization, the name, business address, and telephone number of the organization and of at least two of its principal officers.
   (c) The name, business or home address, and telephone number of a contact person for each individual or organization submitting the argument.
   (d) If the argument is signed by anyone other than the proponent or legislative author, the name and official title of the person or persons authorized by the proponent to sign the argument.
   (e) The signed statement required by Section 5350.
   (f) No person signing an argument for or against a measure or a rebuttal to an argument for or against a measure may identify himself or herself in reference to that signature as a candidate for any office.

SEC. 5. Section 3567 of the Elections Code is amended to read:

3567. When the Secretary of State has received the arguments that will be printed in the ballot pamphlet, the Secretary of State within five days of receipt thereof, shall send copies of the arguments in favor of the proposition to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be filed with the Secretary of State no later than a date to be designated by the Secretary of State.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SEC. 6. Section 5350 of the Elections Code is amended to read:

5350. All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each proponent and by each author, if different, of the argument:
The undersigned proponent(s) or author(s) of the

argument  

(primary/rebuttal)

ballot proposition  

(in favor of/against)

at the  

(name or number)

election for the  

(title of election)

to be held on  

(jurisdiction)

(date)

that such argument is true and correct to the best of

knowledge and belief.

(Signed/ her/ their)

Signed  

Date  


SEC. 7. Section 12172 of the Government Code is amended to read:

12172. The Secretary of State shall, upon the request of the proponents of an initiative measure which is to be submitted to the voters of the state, review the provisions of the initiative measure after it is prepared prior to its circulation. In conducting the review, the Secretary of State shall do both of the following:

(a) Analyze and comment on the provisions of the measure with respect to form and language clarity.

(b) Request and obtain a statement of fiscal impact from the Legislative Analyst.

The Legislative Analyst shall furnish the Secretary of State with a statement of fiscal impact with respect to the initiative measure within 25 working days after being requested to do so by the Secretary of State pursuant to subdivision (b).

In the preparation of the statement of fiscal impact, the Legislative analyst may use the fiscal estimate or the opinion prepared pursuant to Section 3504 of the Elections Code.

The review performed pursuant to this section shall be for the purpose of suggestion only and shall not have any binding effect on the proponents of the initiative measure.

SEC. 8. Section 88003 of the Government Code is amended to read:

88003. The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Any estimate of increased cost to local governments shall be set out in boldface print in the ballot pamphlet. The analysis shall be written in clear and
concise terms which will easily be understood by the average voter, and shall avoid the use of technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information which the average voter needs to understand the measure adequately. The Legislative Analyst may contract with professional writers, educational specialists or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The Legislative Analyst may also request the assistance of any state department, agency, or official in preparing his or her analysis. Prior to submission of the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons appointed by the Legislative analyst for the purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one shall be bilingual, and one shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make such recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee’s recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section. The title of the measure which appears on the ballot shall be amended to contain a summary of the Legislative Analyst’s estimate of the net state and local government financial impact.

SEC. 9. 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. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. 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.
An act to amend Section 6157 of the Government Code, relating to public agencies.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 6157 of the Government Code is amended to read:

6157. (a) The state, and each city, whether general law or chartered, county, and district, each subdivision, department, board, commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the public agency, may be imposed to recover the public agency’s processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by this person may be prescribed.

(c) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) The provisions in subdivision (b) prohibiting a returned check charge being added to, and becoming a part of, an obligation which constitutes a lien on real property do not apply to obligations under the Veterans’ Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code).
CHAPTER 234

An act relating to parks and recreation.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Pursuant to Sections 5096.27 and 5096.137 of the Public Resources Code, the City of Vacaville is hereby authorized to convert to a different use up to two and one-half acres of parkland at Lagoon Valley Regional Park, which was partially acquired and developed with state grant funds under the Cameron-Unruh Beach, Park, Recreational, and Historical Facilities Bond Act of 1964 (Chapter 1.6 (commencing with Section 5096.1) of Division 5 of the Public Resources Code) and under the Nejedly-Hart State, Urban, and Coastal Park Bond Act of 1976 (Chapter 1.68 (commencing with Section 5096.111) of Division 5 of the Public Resources Code), subject to the following:

(a) The city acquires and develops substitute parkland and recreational facilities at least equal in area and of equal or greater fair market value and recreational utility than the converted parkland.

(b) The city provides the Department of Parks and Recreation with appraisals of both the land to be converted and the land to be substituted for review and approval.

(c) The city submits to the Department of Parks and Recreation copies of the preliminary title report for the land to be substituted.

(d) The city complies with the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400) of Division 5 of the Public Resources Code).

CHAPTER 235

An act to amend Section 1170.1 of the Penal Code, relating to sex offenses.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a
different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1, and pursuant to Section 11370.2 of the Health and Safety Code. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to Section 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, or 12022.9 and an enhancement imposed pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code. The subordinate term for each consecutive offense which is not a “violent felony” as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for such consecutive offenses which are not “violent felonies” as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a “violent felony” as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8) or (9) of subdivision (c) of Section 667.5, shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of any enhancements imposed pursuant to Section 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.7, 12022.75, or 12022.9.

(b) When a consecutive term of imprisonment is imposed under Sections 669 and 1170 for two or more convictions for kidnapping, as defined in Section 207, involving both separate victims and separate occasions, the aggregate term shall be calculated as provided in subdivision (a), except that the subordinate term for each subsequent kidnapping conviction shall consist of the middle term for each kidnapping conviction for which a consecutive term of imprisonment is imposed and shall include one-third of any enhancements imposed pursuant to Section 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.7, 12022.75, or 12022.9. The five-year limitation on the total of subordinate terms provided in subdivision (a) shall not apply to subordinate terms for second and subsequent convictions of kidnapping, as defined in Section 207, involving separate victims and separate occasions.

(c) In the case of any person convicted of one or more felonies committed while the person is confined in a state prison, or is subject to reimprisonment for escape from such custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all the convictions which the person is required to serve consecutively shall commence from the time the person would otherwise have been released from
prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. This subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(d) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, and 12022.9, and the additional terms provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, unless the additional punishment therefor is stricken pursuant to subdivision (h). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of such additional term, the court shall apply the sentencing rules of the Judicial Council.

(e) When two or more enhancements under Sections 12022, 12022.4, 12022.5, 12022.55, 12022.7, and 12022.9 may be imposed for any single offense, only the greatest enhancement shall apply; however, in cases of lewd or lascivious acts upon or with a child under the age of 14 years accomplished by means of force or fear, as described in Section 288, kidnapping, as defined in Section 207, sexual battery, as defined in Section 243.4, penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted lewd or lascivious acts upon or with a child under the age of 14 years accomplished by means of force or fear, kidnapping, sexual battery, penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022, 12022.4, or subdivision (a) of, or paragraph (2) of subdivision (b) of, Section 12022.5 and (2) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, and 12022.9, and in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, shall be pleaded and proven as provided by law.

(g) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, or 12022.9, or an enhancement is
being imposed pursuant to Section 11370.2, 11370.4, or 11379.8 of the
Health and Safety Code, or the defendant stands convicted of felony
escape from an institution in which he or she is lawfully confined.

(h) Notwithstanding any other provision of law, the court may
strike the additional punishment for the enhancements provided in
Sections 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.6, 12022.7,
12022.75, and 12022.9, or the enhancements provided in Section
11370.2, 11370.4, or 11379.8 of the Health and Safety Code, if it
determines that there are circumstances in mitigation of the
additional punishment and states on the record its reasons for
striking the additional punishment.

(i) For any violation of paragraph (2) or (3) of subdivision (a) of
Section 261, Section 264.1, subdivision (b) of Section 288, subdivision
(a) of Section 289, or sodomy or oral copulation by force, violence,
duress, menace or fear of immediate and unlawful bodily injury on
the victim or another person as provided in Section 286 or 288a, the
number of enhancements which may be imposed shall not be
limited, regardless of whether such enhancements are pursuant to
this or some other section of law. Each of such enhancements shall
be a full and separately served enhancement and shall not be merged
with any term or with any other enhancement.

CHAPTER 236

An act to amend Section 44929.23 of the Education Code, relating
to certificated employees.

[Approved by Governor July 18, 1992. Filed with
Secretary of State July 20, 1992.]

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

SECTION 1. Section 44929.23 of the Education Code is amended to read:

44929.23. (a) The governing board of a school district of any type
or class having an average daily attendance of less than 250 pupils
may classify as a permanent employee of the district any employee,
who, after having been employed by the school district for three
complete consecutive school years in a position or positions requiring
certification qualifications, is reelected for the next succeeding
school year to a position requiring certification qualifications. If that
classification is not made, the employee shall not attain permanent
status and may be reelected from year to year thereafter without
becoming a permanent employee until a change in classification is
made.

(b) Notwithstanding subdivision (a), Section 44929.21 shall apply
to certificated employees employed by a school district, if the
governing board elects to dismiss probationary employees pursuant
to Section 44948.2. If that election is made by the governing board of the school district thereafter shall classify as a permanent employee of the district any probationary employee, who, after being employed for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications as required by Section 44929.21. Any probationary employee who has been employed by the district for two or more consecutive years on the date of that election in a position or positions requiring certification qualifications shall be classified as a permanent employee of the district.

(c) If the classification is not made pursuant to subdivision (a) or (b) the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made.

CHAPTER 237

An act to amend Section 89036 of the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 89036 of the Education Code is amended to read:

89036. (a) The trustees may enter into agreements with any public or private agency, officer, person, or institution, corporation, association, or foundation for the performance of acts or for the furnishing of services, facilities, materials, or equipment by or for the trustees or for the joint performance of an act or function or the joint furnishing of services and facilities by the trustees and the other party to the agreement.

The trustees may enter into agreements with the federal government or any agency thereof in accordance with the procedures prescribed by the federal government or agency in order to receive the benefits of any federal statute extending benefits to the California State University or to the California State University students, including, but not limited to:

(1) Agreements with any agency of the federal government for the education of persons in the service of the federal government.

(2) Agreements with any agency of the federal government for the education of veterans. These agreements shall provide for payment of the maximum amount permitted under the act, or acts, of Congress under which the agreement is entered into.
Notwithstanding any other provision of law, the trustees have all power necessary to perform such acts and comply with conditions required or imposed by the federal government in order to receive the benefits. The trustees are vested with all necessary power and authority to cooperate with any such agency of the federal government in the administration of any applicable act of Congress and rules and regulations adopted thereunder.

(b) Notwithstanding any other provision of law, the trustees have all power necessary to award contracts to one or more contractors, at any one or more campuses, for the collection of delinquent education loans required to be repaid under federal law.

(c) Notwithstanding Section 10295 of the Public Contract Code, Article 3 (commencing with Section 10300) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code, or any other provision of law, the trustees may purchase, without advertising for bids, and without the approval of the Department of General Services, library materials including, but not limited to, books, periodicals, computerized information for library use, educational films, audiovisual materials, test materials, workbooks and instructional computer software, in any amount needed for the support of the California State University. Any savings that may accrue as a result of the act amending this code section during the 1992 portion of the 1991–92 Regular Session of the Legislature to exempt the trustees from the bid process and from the approval of the Department of General Services shall be expended to purchase additional library materials.

(d) Article 1 (commencing with Section 4300) of Chapter 4 of Division 5 of Title 1 of the Government Code does not apply to the purchase by the trustees of musical instruments for the use of students of the California State University.

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

In order to authorize the Trustees of the California State University to purchase library materials, without advertising for bids and without the approval of the Department of General Services, as soon as possible, it is necessary that this act take effect immediately.
CHAPTER 238

An act to amend Sections 17250 and 24372.2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) (1) Section 168 of the Internal Revenue Code, relating to the accelerated cost recovery system, shall apply to assets placed in service on or after January 1, 1987, in taxable years beginning on or after January 1, 1987.

(2) In the case of assets placed in service on or after January 1, 1987, in taxable years beginning prior to January 1, 1987, a taxpayer may elect to have Sections 168 and 179 of the Internal Revenue Code apply by doing all of the following:

(A) Making an election on the return for the first taxable year beginning on or after January 1, 1987.

(B) Establishing a depreciation adjustment account for each asset (or group of assets) in an amount equal to the difference between the depreciation allowed on the federal return for each asset (or group of assets) and the depreciation allowed under this part.

(C) The depreciation adjustment account (or accounts) established under subparagraph (B) shall be amortized over 60 months beginning with the first taxable year beginning on or after January 1, 1987.

(3) In the case of assets placed in service prior to January 1, 1987, in taxable years beginning prior to January 1, 1987, Section 168 of the Internal Revenue Code shall apply only to residential rental property as provided by former Section 17250.5 (as amended by Chapter 1461 of the Statutes of 1985).

(b) For purposes of subdivision (a), Section 168 of the Internal Revenue Code shall be modified as follows:

(1) Sound recordings shall be treated as recovery property only if so elected under Section 48(s) of the Internal Revenue Code.

(2) For purposes of this part, any reference to "tax imposed by this chapter" in Section 168 of the Internal Revenue Code means "net tax," as defined in Section 17039.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 169 of the Internal Revenue Code, except that the deduction shall be available only with respect to facilities located in this state, and the "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Air Resources Board, in the case of air pollution, and the State Water Resources Control Board, in the case
of water pollution.

(d) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

(e) The provisions of Section 7622(c)(e) of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.

(f) The provisions of Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

SEC. 2. Section 24372.3 of the Revenue and Taxation Code is amended to read:

24372.3. Every taxpayer at its election shall be entitled to a deduction for amortization of pollution control facilities in accordance with Section 169 of the Internal Revenue Code, except that the deduction shall be available only with respect to facilities located in this state and the "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Air Resources Board, in the case of air pollution, and the State Water Resources Control Board, in the case of water pollution.

CHAPTER 239

An act to amend Section 19610.6 of the Business and Professions Code, relating to horseracing.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992]

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

SECTION 1. Section 19610.6 of the Business and Professions Code is amended to read:

19610.6. Notwithstanding Section 19605.71, and in lieu of any deduction under Section 19610.3 or 19610.4, the 22nd District Agricultural Association shall deduct an additional amount of 0.33 of 1 percent from the total parimutuel wagers placed at its satellite wagering facility.

Forty percent of the amount deducted pursuant to this section shall be distributed to the City of Del Mar and 40 percent shall be distributed to the City of Solana Beach, if the respective city has elected to receive a distribution under this section. The remaining amounts deducted pursuant to this section shall be distributed to the San Dieguito River Valley Regional Open Space Park Joint Powers Authority, which is established for the enhancement of the San Dieguito River Valley and Lagoon. If the San Dieguito River Valley
Regional Open Space Park Joint Powers Authority is dissolved, the distribution of the remaining amounts deducted pursuant to this section shall be distributed to the County of San Diego. If the City of Del Mar or the City of Solana Beach has elected by ordinance to receive a distribution from a fair under this section, it shall not at any time thereafter assess or collect, with respect to an event conducted by that fair, any license or excise tax or fee, including, but not limited to, any admission, parking, or business tax, or any tax or fee levied solely upon the fair conducting satellite wagering or any patron thereof. Furthermore, a city electing to receive a distribution under this section shall provide ordinary and traditional municipal services, such as police services and traffic control, in connection with the satellite wagering. If an eligible city does not elect to receive a distribution under this section, the amount deducted shall be paid to the state as an additional license fee.

CHAPTER 240

An act to amend Section 17511.1 of the Business and Professions Code, relating to telephone solicitations.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992]

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

SECTION 1. Section 17511.1 of the Business and Professions Code is amended to read:

17511.1. As used in this article, "telephonic seller" or "seller" means a person who, on his or her own behalf or through salespersons or through the use of an automatic dialing-announcing device, as defined in Section 2871 of the Public Utilities Code, causes a telephone solicitation or attempted telephone solicitation to occur which meets the criteria specified in subdivision (a), (b), or (c) and who is not exempted by subdivision (d), as follows:

(a) A telephone solicitation or attempted telephone solicitation wherein the telephonic seller initiates telephonic contact with a prospective purchaser and represents or implies one or more of the following:

(1) That a prospective purchaser who buys one or more items will also receive additional or other items, whether or not of the same type as purchased, without further cost. For purposes of this subdivision, "further cost" does not include actual postage or common carrier delivery charges, if any.

(2) That a prospective purchaser will receive a prize or gift, if the person also encourages the prospective purchaser to do either of the following:

(A) Purchase or rent any goods or services.
(B) Pay any money, including, but not limited to, a delivery or handling charge.

(3) That a prospective purchaser is able to obtain any item or service at a price which the seller states or implies is below the regular price of the item or service offered. This paragraph shall not apply to retailers who, within the previous 12 months, have sold a majority of their goods or services through in-person sales at retail stores.

(4) That a prospective purchaser who buys office equipment or supplies will, because of some unusual event or imminent price increase, be able to buy these items at prices which are below those that are usually charged or will be charged for the items.

(5) That the seller is a person other than the person he or she is.

(6) That the items for sale are manufactured or supplied by a person other than the actual manufacturer or supplier.

(7) That the seller is offering to sell the prospective purchaser any gold, silver, or other metals, including coins, diamonds, rubies, sapphires, or other stones, coal or other minerals, or any interest in oil, gas, or mineral fields, wells, or exploration sites, or any other investment opportunity of any type whatsoever.

(8) That a prospective purchaser will receive a credit card, as defined in subdivision (a) of Section 1747.02 of the Civil Code, if the purchaser pays an up front or preapplication fee for the credit card to the telephonic seller.

(b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by unrequested notifications sent by the seller to persons who have not previously purchased goods or services from the seller or who have not previously requested credit from the seller, to a prospective purchaser wherein the seller represents or implies to the recipient of the notification that any of the following applies to the recipient:

(1) That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification.

(2) That the recipient will receive a prize or gift if the recipient calls the seller.

(3) That if the recipient buys one or more items from the seller, the recipient will also receive additional or other items, whether or not of the same type as purchased, without further cost or at a cost which the seller states or implies is less than the regular price of such items.

However, this subdivision does not apply to the solicitation of sales by a catalog seller who periodically issues and delivers catalogs to potential purchasers by mail or by other means. This exception only applies if the catalog includes a written description or illustration and the sales price of each item of merchandise offered for sale, includes at least 24 full pages of written material or illustrations, is distributed in more than one state, and has an annual circulation of not less than 250,000 customers.

(c) A solicitation or attempted solicitation which is made by
telephone in response to inquiries generated by advertisements on behalf of the telephonic seller wherein it is represented or implied that the seller is offering to sell to the prospective purchaser any gold, silver, or other metals, including coins, diamonds, rubies, sapphires, or other stones, coal or other minerals, or any interest in oil, gas, or mineral fields, wells, or exploration sites, or any other investment opportunity of any type whatsoever.

(d) For purposes of this article, "telephonic seller" or "seller" does not include any of the following:

(1) A person offering or selling a security qualified under Section 25110, 25120, or 25130 of the Corporations Code or exempt from qualification under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 of the Corporations Code. The fact that a notice claiming an exemption under the Corporate Securities Law of 1968 is filed with the Department of Corporations does not create an exemption under this paragraph.

(2) A person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4, when the solicited transaction is governed by that law.

(3) A person licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3, when the solicited transaction is governed by that law.

(4) A person licensed or certificated pursuant to Part 2 (commencing with Section 680) of Division 1 of the Insurance Code, including a person licensed pursuant to Chapter 5 (commencing with Section 1621) thereof, when the solicited transaction is governed by that law.

(5) A person offering or selling a franchise registered pursuant to Section 31110 of the Corporations Code or exempt from registration under Chapter 1 (commencing with Section 31100) of Part 2 of Division 5 of Title 4 of the Corporations Code. The fact that a notice claiming an exemption under the Franchise Investment Law is filed with the Department of Corporations does not create an exemption under this paragraph.

(6) A person soliciting the sale of a seller assisted marketing plan, as defined in Title 2.7 (commencing with Section 1812.200) of Part 4 of Division 3 of the Civil Code, who has filed with the Secretary of State the documents required by Section 1812.203 of the Civil Code.

(7) A person primarily soliciting the sale of a newspaper of general circulation, as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code, a magazine, or membership in a book or record club whose program operates in conformity with the requirements of Section 1584.5 of the Civil Code.

(8) A person soliciting business from prospective purchasers who have previously purchased from the business enterprise for which the person is calling.

(9) A person soliciting without the intent to complete and who does not complete the sales presentation during the telephone
solicitation but completes the sales presentation at a later face-to-face
meeting between the solicitor and the prospective purchaser. However, if a seller, directly following a telephone solicitation,
causes an individual whose primary purpose it is to go to the
prospective purchaser to collect the payment or deliver any item
purchased, this exemption does not apply.

(10) Any supervised financial institution or parent, subsidiary, or
affiliate thereof. As used in this paragraph, "supervised financial
institution" means any commercial bank, trust company, savings and
loan association, credit union, industrial loan company, personal
property broker, consumer finance lender, commercial finance
lender, or insurer, provided that the institution is subject to
supervision by an official or agency of this state or of the United
States.

(11) A person soliciting the sale of a preneed funeral arrangement
regulated by Article 9 (commencing with Section 7735) of Chapter
12 of Division 3.

(12) A person licensed pursuant to Chapter 19 (commencing with
Section 9600) of Division 3 when acting pursuant to that licensure.

(13) A person soliciting the sale of services provided by a cable
television system licensed or franchised pursuant to Section 53066 of
the Government Code or any other authority.

(14) A person or an affiliate of a person whose business is
regulated by the Public Utilities Commission.

(15) A person soliciting the sale of a commodity pursuant to Part
2 (commencing with Section 58601) of Division 21 of the Food and
Agricultural Code, if the solicitation neither intends to, nor actually
results in, a sale which costs the purchaser in excess of one hundred
dollars ($100).

(16) An issuer or subsidiary of an issuer that has a class of securities
which is subject to Section 12 of the Securities Exchange Act of 1934
(15 U.S.C. Sec. 78l) and which is either registered or exempt from
registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of
subsection (g) (2) of that section.

(17) A person soliciting exclusively the sale of telephone
answering services to be provided by that person or that person's
employer.

(18) A person soliciting a transaction regulated by the Commodity
Futures Trading Commission if the person is registered or
temporarily licensed for this activity with the Commodity Futures
Trading Commission under the Commodity Exchange Act, (7 U.S.C.
Sec. 1 et seq.) and the registration or license has not expired or been
suspended or revoked.

(19) A person who sells coins or bullion at a price which is not
more than 25 percent more than the price at which the seller is
concurrently buying the same coins or bullion, if: (A) the seller has
had a retail location in California from which he or she has been
selling coins or bullion to the public in person for at least three years;
(B) the telephonic solicitations are not the person's primary business
and sales made telephonically make up less than 20 percent of the person's total retail sales; and (C) the person claiming an exemption pursuant to this subdivision complies with Section 17511.3, as applicable, and subdivision (p) of Section 17511.4.

(20) A person licensed pursuant to Chapter 14 (commencing with Section 1800) of Division 1 of the Financial Code to receive money for transmittal to foreign countries if the license has not expired or been suspended or revoked.

(e) In any civil proceeding alleging a violation of this article, the burden of proving an exemption or an exception from a definition is upon the person claiming it, and in any criminal proceeding alleging a violation of this article, the burden of producing evidence to support a defense based upon an exemption or an exception from a definition is upon the person claiming it.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. 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 241

An act to amend Section 655.6 of the Business and Professions Code, relating to clinical laboratories.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 655.6 of the Business and Professions Code is amended to read:

655.6. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from any patient, client, customer, or third-party payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by that person or under his or her direct supervision.

(b) Clinical laboratories performing cytologic examinations of gynecologic slides shall directly bill either the patient or the responsible third-party payer for the cytology services rendered by those laboratories. Clinical laboratories shall not bill the physician or surgeon who requests the tests.
(c) For the purposes of this section, any person or entity who is responsible to pay for cytologic examination of gynecologic slides services provided to that patient shall be considered a responsible third-party payer.

(d) This section shall not apply to any of the following:
(1) Any person who, or clinical laboratory that, contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if services are to be provided to members of the plan on a prepaid basis.
(2) Any person who, or clinic that, provides cytologic examinations of gynecologic slides services without charge to the patient, or on a sliding scale payment basis where the patient's charge for services is determined by the patient's ability to pay.
(3) Health care programs operated by public entities, including, but not limited to, colleges and universities.
(4) Health care programs operated by private educational institutions to serve the health care needs of their students.
(5) Any person who, or clinic that, contracts with an employer to provide medical services to employees of the employer if the cytologic services relating to the examination of gynecologic slides are provided under the contract.

CHAPTER 242

An act to add Section 4049.54 to the Health and Safety Code, relating to water supply.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. The Legislature finds and declares that it is important to be able to identify pipes that can or may carry nonpotable water so that cross connections by users can be avoided.

SEC. 2. Section 4049.54 is added to the Health and Safety Code, to read:

4049.54. (a) All pipes installed above or below the ground, on and after June 1, 1993, that are designed to carry reclaimed water, shall be colored purple or distinctively wrapped with purple tape.

(b) Subdivision (a) shall apply only in areas served by a water supplier delivering water for municipal and industrial purposes, and in no event shall apply to any of the following:

(1) Municipal or industrial facilities that have established a labeling or marking system for reclaimed water on their premises, as otherwise required by a local agency, that clearly distinguishes reclaimed water from potable water.

(2) Water delivered for agricultural use.
(c) For purposes of this section, "reclaimed water" has the same meaning as defined in subdivision (n) of Section 13050 of the Water Code.

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 243

An act to amend Section 11501 of, and to repeal Section 11516 of, the Welfare and Institutions Code, relating to transitional child care.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 11501 of the Welfare and Institutions Code is amended to read:

11501. (a) Families who were formerly recipients of aid under this chapter for three of the previous six months, and who meet all federal requirements for transitional child care shall be eligible for 12 months of transitional child care under this article. Transitional child care services shall include the same services as those child care supportive services provided under subdivision (b) and paragraphs (1), (2), and (5) of subdivision (c) of Section 11323.8, except for those portions which are specifically prohibited by federal law or regulations.

(b) To the extent permissible under federal law and regulations, transitional child care supportive services provided pursuant to subdivision (b) and paragraphs (1), (2), and (5) of subdivision (c) of Section 11323.8 shall be provided by the county in the same manner as they are provided to families in the county GAIN program. The county may contract out with public and private child care programs to provide any or all of the services.

(c) No funding shall be provided for nonfederal cases or for costs which are not eligible for federal matching funds unless specifically provided under this chapter.

SEC. 2. Section 11516 of the Welfare and Institutions Code is repealed.

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 244

An act to amend Sections 3200, 3202, and 3203 of the Fish and Game Code, relating to game.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 3200 of the Fish and Game Code is amended to read:
3200. Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder’s license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:
(a) Licensed pheasant clubs, except to the extent provided in Section 3283.
(b) Licensed domesticated migratory game bird shooting areas as defined in Article 4 (commencing with Section 3300) of Chapter 2 of Part 1 of Division 4.
(c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of those birds or mammals for actual consumption on the premises.
(d) Retail meat dealers selling such meat to customers for actual consumption.
(e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange, or donation to other public zoological gardens.

SEC. 2. Section 3202 of the Fish and Game Code is amended to read:
3202. There are classes of domesticated game breeder’s licenses, designated “class 1” and “class 2.”
(a) A class 1 domesticated game breeder's license authorizes the 
licensee to engage in all domesticated game breeding activities 
except that not more than 175 Chinese ringneck or Mongolian 
ingleneck pheasants, or both, or hybrids thereof, may be sold under 
a class 1 license.

(b) A class 2 domesticated game breeder's license is required in 
order to sell more than 175 Chinese ringneck or Mongolian ringneck 
pheasants, or both, or hybrids thereof, and entitles the licensee to all 
the rights and privileges of a class 1 license.

SEC. 3. Section 3203 of the Fish and Game Code is amended to 
read:

3203. The department shall issue a class 1 domesticated game 
breeder's license upon the payment of a base fee of eight dollars ($8), 
as adjusted under Section 713, a class 2 domesticated game breeder's 
license upon the payment of a base fee of forty dollars ($40), as 
adjusted under Section 713.

CHAPTER 245

An act to add Section 199.3 to the Code of Civil Procedure, relating 
to courts.

[Approved by Governor July 18, 1992. Filed with 
Secretary of State July 20, 1992.]

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

SECTION 1. Section 199.3 is added to the Code of Civil 
Procedure, to read:

199.3. In Nevada County, prospective jurors residing in the 
Truckee Division of the Nevada County Municipal Court, except as 
otherwise provided in this section, shall only be included in trial 
court venires of divisions of the superior court located within the 
Truckee Division of the Nevada County Municipal Court during the 
months of November, December, January, and February. However, 
each prospective juror residing in the Truckee Division of the 
Nevada County Municipal Court 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 
j ustice during any time of the year.
CHAPTER 246

An act to amend Sections 22651.1 and 22658 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 22651.1 of the Vehicle Code is amended to read:

22651.1. Persons operating or in charge of any storage facility where vehicles are stored pursuant to Section 22651 shall accept a valid bank credit card or cash for payment of towing and storage by the registered owner, legal owner, or the owner’s agent claiming the vehicle. A person operating or in charge of any storage facility who refuses to accept a valid bank credit card shall be liable to the registered owner of the vehicle for four times the amount of the towing and storage charges, but not to exceed five hundred dollars ($500). In addition, persons operating or in charge of the storage facility shall have sufficient funds 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 agreeing with a towing or storage provider on rates.

SEC. 2. Section 22658 of the Vehicle Code is amended to read:

22658. (a) Except as provided in Section 22658.2, the owner or person in lawful possession of any private property, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, may 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. 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

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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, 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 shall 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
(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. A person operating or in charge of any storage facility who refuses to accept a valid bank credit card shall be liable to the registered owner of the vehicle for four times the amount of the towing and storage charges, but not to exceed five hundred dollars ($500). 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).

CHAPTER 247

An act to amend Section 423 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992]

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

SECTION 1. Section 423 of the Revenue and Taxation Code is amended to read:
423. Except as provided in Section 423.7, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value these lands by the capitalization of income method in the following manner:
(a) The annual income to be capitalized shall be determined as follows:
(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.
(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to that use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted, including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes, or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing that revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum
of the following components:

(1) An interest component, to be determined by the board and announced no later than September 1 of the year preceding the assessment year, which is the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to each of the four immediately preceding assessment years. The interest component defined by this paragraph shall be implemented in phases and shall be:

(A) For the 1993–94 assessment year, the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest ¼ percent.

(B) For the 1994–95 assessment year, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rate for those bonds, as most recently published by the Federal Reserve Board as of the September 1 immediately prior to the 1993–94 assessment year.

(C) For the 1995–96 assessment year, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the 1993–94 and 1994–95 assessment years.

(D) For the 1996–97 assessment year, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the 1993–94, 1994–95, and 1995–96 assessment years.

(E) For the 1997–98 assessment year, and each fiscal year thereafter, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the four immediately preceding assessment years.

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject.

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax
rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

In determining the 1975 base year value under Article XIII A of the California Constitution for any parcel for comparison, the county may charge a contract holder a fee limited to the reasonable costs of such determination not to exceed twenty dollars ($20) per parcel.

(e) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein. As used in this subdivision "improvements which contribute to the income of the land" shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

CHAPTER 248

An act to add Article 5 (commencing with Section 54720) to Chapter 6.4 of Part 1 of Division 2 of Title 5 of the Government Code, relating to benefit assessments.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Article 5 (commencing with Section 54720) is added to Chapter 6.4 of Part 1 of Division 2 of Title 5 of the Government Code, to read:
Article 5. Special Benefit Assessments

54720. The city council of the City of Redding may by ordinance or resolution adopted after notice and public hearing pursuant to Article 4 (commencing with Section 54715) establish the Redding Midtown Mall Project No. 1 as an area of benefit and levy a benefit assessment for the operation and maintenance of the Redding Midtown Mall Project No. 1 to be effective upon the approval by vote of landowners whose ownership represents a simple majority of the square footage of the parcel size within the mall. In all other respects, the imposition and collection of the benefit assessment shall comply with this chapter.

SEC. 2. The Legislature finds and declares that a special act is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances applicable in the City of Redding.

CHAPTER 249

An act to amend Section 12599 of the Government Code, relating to charitable organizations.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 12599 of the Government Code is amended to read:

12599. (a) "Commercial fundraiser for charitable purposes" is defined as any individual, corporation, or other legal entity who for compensation does either of the following:

(1) Solicits funds in this state for charitable purposes and who receives and controls the funds or assets solicited for charitable purposes.

(2) As a result of a solicitation of funds in this state for charitable purposes, receives and controls the funds or assets solicited for charitable purposes.

A commercial fundraiser for charitable purposes shall not include a "trustee" as defined in Section 12582 or 12583, a "charitable corporation" as defined in Section 12582.1, or any employee thereof. A commercial fundraiser for charitable purposes shall not include a person who is an employee of a commercial fundraiser for charitable purposes registered with the Attorney General.

(b) A commercial fundraiser for charitable purposes shall, prior to soliciting any funds in California for charitable purposes, or prior to receiving and controlling any funds or assets as a result of a
solicitation in this state for charitable purposes, register with the Attorney General’s Registry of Charitable Trusts on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Registry of Charitable Trusts by January 15 of each calendar year in which the commercial fundraiser for charitable purposes does business and shall be effective for one year. For 1990, a registration or renewal fee of two hundred dollars ($200) shall be required for registration of a commercial fundraiser for charitable purposes, and shall be payable by certified or cashier’s check to the Attorney General’s Registry of Charitable Trusts at the time of registration or renewal. The Attorney General may adjust the annual registration or renewal fee as needed to ensure that revenues will fully offset, but not exceed, the actual costs incurred by the Department of Justice pursuant to this section. The Attorney General’s Registry of Charitable Trusts may grant extensions of time to file annual registration as required, pursuant to subdivision (b) of Section 12586.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General’s Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff’s designee, an annual financial report on a form provided by the Attorney General, accounting for all funds collected pursuant to any solicitation for charitable purposes during the preceding calendar year. The annual financial report shall be filed with the Attorney General’s Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff’s designee, no later than 30 days after the close of the preceding calendar year. Nothing in this section shall be construed as requiring the sheriff of any county, or the sheriff’s designee, to maintain on file any annual financial report filed pursuant to this subdivision.

(d) The contents of the forms for annual registration and annual financial reporting by commercial fundraisers for charitable purposes shall be established by the Attorney General in a manner consistent with the procedures set forth in subdivisions (a) and (b) of Section 12586. The annual financial report shall require a detailed, itemized accounting of funds solicited for charitable purposes on behalf of each charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code or for each charitable purpose during the accounting period, and shall include, among other data, the following information for funds solicited by the commercial fundraiser for charitable purposes:

1. Total revenue.
2. The fee or commission charged by the commercial fundraiser for charitable purposes.
3. Salaries paid by the commercial fundraiser for charitable purposes to its officers and employees.
4. Fundraising expenses.
5. Distributions to the identified charitable organization or
purpose.

(6) The names and addresses of any director, officer, or employee of the commercial fundraiser for charitable purposes who is a director, officer, or employee of any charitable organization listed in the annual financial report.

(e) It shall be unlawful for any commercial fundraiser for charitable purposes to solicit funds in this state for charitable purposes unless the commercial fundraiser for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article. Failure to comply with these registration or annual renewal and financial reporting requirements shall be grounds for injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(f) A commercial fundraiser for charitable purposes is a constructive trustee for charitable purposes as to all funds collected pursuant to solicitation for charitable purposes and shall account to the Attorney General for all funds. A commercial fundraiser for charitable purposes is subject to the Attorney General’s supervision and enforcement over charitable funds and assets to the same extent as a trustee for charitable purposes under this article.

(g) It shall be unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses of the fundraiser upon receiving a written or oral request from a person solicited for a contribution for a charitable purpose. "Percentage of total fundraising expenses," as used in this section, means the ratio of the total expenses of the fundraiser to the total revenue received by the fundraiser for the charitable purpose for which funds are being solicited, as reported on the most recent financial report filed with the Attorney General’s Registry of Charitable Trusts. A commercial fundraiser shall disclose this information in writing within five working days from receipt of a request by mail or fax. A commercial fundraiser shall orally disclose this information immediately upon a request made in person or in a telephone conversation and shall follow this response with a written disclosure within five working days. Failure to comply with the requirements of this subdivision shall be grounds for an injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(h) 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 application 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.
CHAPTER 250

An act to amend Sections 5320 and 5410 of the Corporations Code, relating to housing.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 5320 of the Corporations Code is amended to read:
5320. (a) Subject to Section 5613, and unless otherwise provided in the corporation's articles or bylaws:
(1) No member may transfer a membership or any right arising therefrom.
(2) All rights of membership cease upon the member’s death or dissolution.
(b) Notwithstanding subdivision (a), no member may transfer for value a membership or any right arising therefrom.
(c) Notwithstanding subdivisions (a) and (b), this section does not prohibit or restrict the transfer, purchase, or sale of a membership in a limited equity housing cooperative, provided that the transfer, purchase, or sale is consistent with Section 33007.5 of the Health and Safety Code.

SEC. 2. Section 5410 of the Corporations Code is amended to read:
5410. No corporation shall make any distribution. This section shall not apply to the purchase of a membership in a limited-equity housing cooperative, as defined in Section 33007.5 of the Health and Safety Code, which is organized as a public benefit corporation.

CHAPTER 251

An act to amend Section 1001.65 of the Penal Code, relating to crime.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 1001.65 of the Penal Code is amended to read:
1001.65. (a) A district attorney may collect a fee if his or her office collects and processes a bad check. The amount of the fee shall not exceed twenty-five dollars ($25) for each bad check in addition to the actual amount of any bank charges incurred by the victim as
a result of the offense.

(b) Notwithstanding subdivision (a), if a bad check case is not referred to a diversion program pursuant to this chapter, the court may impose a bad check collection fee for the collection and processing of a bad check by the district attorney of not more than twenty-five dollars ($25) for each bad check in addition to the actual amount of any bank charges incurred by the victim as a result of the offense, not to exceed one thousand dollars ($1,000) in the aggregate. The court may also, as a condition of probation, require a defendant to participate in and successfully complete a check writing education class. If so required, the court shall make inquiry into the financial condition of the defendant, and upon a finding that the defendant is able in whole or part to pay the expense of the education class, the court may order him or her to pay for all or part of that expense.

(c) If the district attorney elects to collect any fee for bank charges incurred by the victim pursuant to this section, that fee shall be paid to the victim as for any bank fees that the victim may have been assessed. In no event shall reimbursement of a bank charge to the victim pursuant to subdivision (a) or (b) exceed ten dollars ($10) per check.

CHAPTER 252

An act to amend Section 25.9 of the Civil Code, relating to minors.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 25.9 of the Civil Code is amended to read:

25.9. (a) Notwithstanding any other provision of law, a minor who has attained the age of 12 years who, in the opinion of the attending professional person, is mature enough to participate intelligently in mental health treatment or counseling on an outpatient basis or in a decision to consent to residential shelter services, and (1) would present a danger of serious physical or mental harm to himself or herself or to others without the mental health treatment or counseling or residential shelter services, or (2) has been the alleged victim of incest or child abuse, may give consent to the furnishing of outpatient services or residential shelter services. That consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or the legal guardian of the minor shall not be necessary to authorize the provision of these services. A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in subdivision (e), shall make his or her best efforts to notify the parent, parents, or legal guardian of the provision of services. Mental
health treatment or counseling of a minor as authorized by this section shall include the involvement of the minor’s parent, parents, or legal guardian, unless in the opinion of the professional person who is treating or counseling the minor, that involvement would be inappropriate. The person shall state in the client record whether and when he or she attempted to contact the parent, parents, or legal guardian of the minor, and whether the attempt to contact was successful or unsuccessful, or the reason why, in his or her opinion, it would be inappropriate to contact the parent, parents, or legal guardian of the minor.

(b) The parent, parents, or legal guardian of a minor shall not be liable for payment for any such mental health treatment or counseling services, as provided in subdivision (a), unless the parent, parents, or legal guardian participates in the mental health treatment or counseling and then only for the services rendered with that participation. The parent, parents, or legal guardian of a minor shall not be liable for payment for any residential shelter services a provider in subdivision (a) unless the parent, parents, or legal guardian consented to the provision of those services.

(c) “Mental health treatment or counseling services,” as used in this section, means the provision of mental health treatment or counseling on an outpatient basis by any governmental agency, by a person or agency having a contract with a governmental agency to provide these services, by any agency which receives funding from community united funds, by runaway houses and crisis resolution centers, or by any private mental health professional, as defined in subdivision (d).

(d) “Professional person,” as used in this section, means a person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Code of Regulations; marriage, family and child counselors as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code; licensed educational psychologists as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code; credentialed school psychologists as defined in Section 49424 of the Education Code; clinical psychologists, as defined in Section 1316.5 of the Health and Safety Code; and the chief administrators of any agency referred to in subdivision (c) or (e).

(e) “Residential shelter services” means the provision of residential and other support services to minors on a temporary or emergency basis in a facility which services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency which receives funding from community funds, or a licensed community care facility or crisis resolution center; or the provision of other support services on a temporary or emergency basis by any professional person as defined in subdivision (d).

(f) This section shall not be construed to authorize a minor to
receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of his or her parent or guardian.

CHAPTER 253

An act to amend Section 66667 of the Government Code, relating to San Francisco Bay, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 66667 of the Government Code is amended to read:

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. Funds annually appropriated to the commission for Long Term Management Strategy related expenses, equal to the level of funding for that purpose appropriated to the commission in the 1991–92 Budget, shall not be considered alternative funding. 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

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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.

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 for the expenses of the San Francisco Bay Conservation and Development Commission incurred in the 1991–92 fiscal year as a result of participating in the Long Term Management Strategy, an ongoing program to determine economically and environmentally feasible methods of dredging in San Francisco Bay, it is necessary that this act take effect immediately.

CHAPTER 254

An act to amend Section 7371 of the Labor Code, relating to occupational safety and health.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992]

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

SECTION 1. Section 7371 of the Labor Code is amended to read: 7371. As used in this chapter, the following definitions shall apply:

(a) “Crane” means a machine for lifting or lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. It may be driven manually or by power and may be a fixed or a mobile machine, but does not include stackers, lift trucks, power shovels, backhoes, excavators, concrete pumping equipment, or straddle type mobile boat hoists.

(b) “Straddle type mobile boat hoist” means a straddle type carrier supported by four wheels with pneumatic tires capable of straddling and carrying boats with high masts and superstructure.

(c) “Tower crane” means a crane in which a boom, swinging jib, or other structural member is mounted on a vertical mast or tower.

(d) “Mobile tower crane” means a tower crane which is mounted on a crawler, truck, or similar carrier for travel or transit.

(e) “Crane employer” means an employer who is responsible for the maintenance and operation of a tower crane.

(f) “Certificating agency” shall have the same definition as in Section 4885 of Title 8 of the California Code of Regulations.
CHAPTER 255

An act to amend Section 3039 to, the Fish and Game Code, relating to fish and game.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 3039 of the Fish and Game Code is amended to read:

3039. (a) Except as otherwise provided in this section and Sections 3087 and 4303, or any other provision of this code, or regulations adopted pursuant thereto, it is unlawful to sell or purchase any species of bird or mammal or part thereof found in the wild in California.

(b) Products or handicraft items made from furbearing mammals and nongame mammals, their carcass or parts thereof, lawfully taken under the authority of a trapping license, may be purchased or sold at any time.

(c) Shed antlers, or antlers taken from domestically reared animals that have been manufactured into products or handicraft items, or that have been cut into blocks or units which are to be handcrafted or manufactured into those articles may be purchased or sold at any time. However, complete antlers, whole heads with antlers, antlers that are mounted for display, or antlers in velvet may not be sold or purchased at any time, except as authorized by Section 3087.

(d) Notwithstanding Section 3504, inedible parts of domestically raised game birds may be sold or purchased at any time.

(e) Any person who illegally takes any bird or mammal for profit or for personal gain by engaging in any activity authorized by this section is subject to civil liability pursuant to Section 2582.

CHAPTER 256

An act relating to the Department of Motor Vehicles.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. The Department of Motor Vehicles shall develop recommendations for a plan, that may be implemented under existing law, to assist the efforts of the Missing Persons Department of the Salvation Army. These recommendations shall be submitted
to the Governor and the Legislature on or before March 1, 1993.

CHAPTER 257

An act to add Section 20323 to the Public Contract Code, relating to transportation.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 20323 is added to the Public Contract Code, to read:

20323. (a) The Legislature finds and declares that the award of purchase contracts by the Sacramento Regional Transit District under competitive bid procedures may not be feasible for products and materials which are undergoing rapid technological changes or for the introduction of new technologies into district operations, and that in these circumstances it is in the public interest to consider the broadest possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, vendor financing, performance reliability, standardization, life-cycle costs, delivery timetables, support logistics, and other similar factors in addition to price in the award of these contracts.

(b) Notwithstanding any other provision of law, the Board of Directors of the Sacramento Regional Transit District may direct the purchase of (1) computers, telecommunications equipment, fare collection equipment, microwave equipment, and other related electronic equipment and apparatus; and (2) specialized rail transit equipment, including, but not limited to, rail cars by competitive negotiation upon a finding by two-thirds vote of all members of the board of the district that the purchase of that equipment in compliance with provisions of this code generally applicable to the purchase does not constitute a method of procurement adequate for the district's needs. This section does not apply to contracts for construction or for the procurement of any product available in substantial quantities to the general public.

(c) Competitive negotiation, for the purposes of this section includes, but is not limited to, all of the following requirements:

1. A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the district in its discretion, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, notice of the request for proposal shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before the date for receipt of the proposals. The district shall make every effort to generate the maximum feasible number
of proposals from qualified sources and shall make a finding to that
effect before proceeding to negotiate if only a single response to the
request for proposal is received.

(2) The request for proposal shall identify all significant evaluation factors, including price, and their relative importance.

(3) The district shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Prior to making an award, the district shall prepare a price analysis and shall find that the final negotiated price is fair and reasonable based upon comparable procurements in the marketplace.

(5) Award shall be made to the qualified proposer whose proposal will be most advantageous to the district with price and other factors considered. If award is not made to the proposer whose proposal contains the lowest price, the board shall make a finding setting forth the basis for the award.

(d) The district may reject any and all proposals and issue a new request for proposals at its discretion.

(e) Upon making an award to a qualified proposer, the district, upon request, shall make available to all other proposers and to the public, an analysis of the award which provides the basis for the selection of that particular qualified proposal.

(f) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section as follows:

(1) Protests based on the content of the request for proposals shall be filed with the district within 10 calendar days after the request for proposals is first advertised in accordance with subdivision (c). The district shall issue a written decision on the protest prior to opening of proposals. A protest may be renewed by refileing the protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the board prior to the opening of proposals in the case of protests based on the content of the request for proposals, or prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(g) Provisions in any contract concerning women and minority business enterprises, which provisions are in accordance with the request for proposals, shall not be subject to negotiation with the successful bidder.
An act to amend Sections 4606, 5204, 40303.5, 40522, and 40610 of, and to repeal Section 40153 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 4606 of the Vehicle Code is amended to read:

4606. Notwithstanding any provision of subdivision (a) of Section 5204 to the contrary, when an application for the registration of a vehicle has been made as required in Sections 4152.5 and 4602, the vehicle may be operated on the highways until the new indicia of current registration have been received from the department, upon condition that there be displayed on the vehicle the license plates and validating devices, if any, issued to the vehicle for the previous registration year.

SEC. 2. Section 5204 of the Vehicle Code is amended to read:

5204. (a) Except as provided by subdivisions (b) and (c), a tab shall indicate the year for which it is issued and a tab shall indicate the month of expiration, which tabs, stickers, or other suitable devices shall be attached to the rear license plate assigned to the vehicle for the last preceding registration year in which license plates were issued, and, when so attached, the license plate with the tabs, stickers, or other devices shall, for the purposes of this code, be deemed to be the license plate for the ensuing registration year, except that truck tractors, and commercial motor vehicles having an unladen weight of 10,000 pounds or more, shall display the tabs, stickers, or other devices upon the front license plate assigned to the truck tractor or commercial motor vehicle.

(b) The requirement of subdivision (a) that the tab indicate the year number for which issued and the month of expiration does not apply to fleet vehicles subject to Article 9.5 (commencing with Section 5300).

(c) The requirement of subdivision (a) does not apply when proper application for registration has been made pursuant to Section 4602 and the new indicia of current registration have not been received from the department.

SEC. 3. Section 40153 of the Vehicle Code is repealed.

SEC. 4. Section 40303.5 of the Vehicle Code is amended to read:

40303.5. Whenever any person is arrested for any of the following offenses, the arresting officer shall permit the arrested person to execute a notice containing a promise to correct the violation in accordance with the provisions of Section 40610 unless the arresting officer finds that any of the disqualifying conditions specified in subdivision (b) of Section 40610 exist:
(a) Any registration infraction set forth in Division 3 (commencing with Section 4000).
(b) Any driver's license infraction set forth in Division 6 (commencing with Section 12500), and subdivision (a) of Section 12951, relating to possession of driver's license.
(c) Section 21201, relating to bicycle equipment.
(d) Any infraction involving equipment set forth in Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14.8 (commencing with Section 34500), Division 16 (commencing with Section 36000), Division 16.5 (commencing with Section 38000), and Division 16.7 (commencing with Section 39000).

SEC. 5. Section 40522 of the Vehicle Code is amended to read:
40522. Whenever a person is arrested for violations specified in Section 40303.5 and none of the disqualifying conditions set forth in subdivision (b) of Section 40610 exist, and the officer issues a notice to appear, the notice shall specify the offense charged and note in a form approved by the Judicial Council that the charge shall be dismissed on proof of correction. If the arrested person presents, by mail or in person, proof of correction, as prescribed in Section 40616, on or before the date on which the person promised to appear, the court shall dismiss the violation or violations charged pursuant to Section 40303.5.

SEC. 6. Section 40610 of the Vehicle Code is amended to read:
40610. (a) (1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, or mechanical requirement of this code, and none of the disqualifying conditions set forth in subdivision (b) exist and the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.
(2) If any person is arrested for a violation of Section 4454, and none of the disqualifying conditions set forth in subdivision (b) exist, the arresting officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. In lieu of issuing a notice to correct violation pursuant to this section, the officer may issue a notice to appear, as specified in Section 40522.
(b) Pursuant to subdivision (a), a notice to correct violation shall be issued as provided in this section or a notice to appear shall be issued as provided in Section 40522, unless the officer finds any of the following:
(1) Evidence of fraud or persistent neglect.
(2) The violation presents an immediate safety hazard.
(3) The violator does not agree to, or cannot, promptly correct the violation.
(c) If any of the conditions set forth in subdivision (b) exist, the procedures specified in this section or Section 40522 are inapplicable, and the officer may take other appropriate enforcement action.

(d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

CHAPTER 259

An act to add Chapter 2.7 (commencing with Section 7286.30) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to local transactions and use taxes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Chapter 2.7 (commencing with Section 7286.30) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.7. SAN DIEGO COUNTY JUSTICE FACILITIES FINANCING ACT

7286.30. The Legislature hereby finds and declares that in the County of San Diego criminal justice-related facilities are so inadequate as to significantly impede the administration of justice, and jail and court facilities are so overcrowded as to create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house and prosecute them. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a special tax so that criminal justice-related facility needs may be addressed in an expeditious and appropriate fashion.

7286.31. (a) The board of supervisors of the County of San Diego, subject to the approval of the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2. Neither this chapter nor any ordinance or resolution approved pursuant to this chapter shall affect any tax otherwise authorized.

(b) The combined rate of tax imposed in the County of San Diego by any public entity pursuant to Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251) of Division 2, this
chapter, and any other provision of law authorizing the imposition of local sales or transactions and use taxes shall not exceed 2.25 percent.

7286.32. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the County of San Diego shall be adopted by the board of supervisors in accordance with Section 7286.31 and Part 1.6 (commencing with Section 7251) of Division 2, if the tax is approved by a two-thirds vote of the qualified voters of the county voting on the measure at a special election called for that purpose by the board. The election called by the board shall be held within the incorporated and unincorporated areas of the county. The tax ordinance shall take effect 48 hours subsequent to the closing time of the polls on the day of the election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 7286.35.

(b) Notwithstanding Section 7286.38 and subdivision (a) of this section, in the event voters approve a constitutional amendment permitting the imposition of a local special tax with the approval of a majority of the voters voting on the measure, the vote requirement for approval of the tax authorized by this act shall be a majority of voters voting on the measure.

7286.33. The ordinance shall state the tax rate and may state a term during which the tax will be imposed. The ordinance shall state the appropriate requirements for voter approval pursuant to Section 7286.32. The ordinance may authorize the board of supervisors to reduce the tax rate to one-quarter of 1 percent at its discretion, if the board determines that revenue from the reduced rate would be sufficient to fund the criminal justice-related facility obligations incurred in connection with this act.

7286.34. The board of supervisors shall have sole discretion to determine the specific activities and projects financed with revenues generated by the tax. However, those activities and projects shall be limited to the provision, construction, and operation of criminal justice-related facilities, the funding of the costs incurred by the county to conduct the election authorized by Section 7286.32, and the cost of any legal actions related to the tax and the justice-related facilities.

7286.35. (a) Any transactions and use tax ordinance adopted pursuant to this article shall become operative on the first day of the first calendar quarter commencing more than 110 days after the ordinance takes effect.

(b) Any reduction in the transactions and use tax rate authorized by the board of supervisors pursuant to Section 7286.33 shall become operative on the first day of the first calendar quarter beginning 110 days or more after the board's action authorizing the reduction.

(c) Prior to the operative date of the ordinance, the board of supervisors shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of
the ordinance.

7286.36. 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. Otherwise, the tax, the bonds, and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and uncontestable.

7286.37. 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.

7286.38. The transactions and use tax authorized under this chapter constitutes a special tax that requires approval of two-thirds of the qualified electors pursuant to Section 4 of Article XIII A of the California Constitution.

SEC. 2. 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, criminal justice-related facilities in the County of San Diego.

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 adequate criminal justice-related facilities as soon as possible to house and prosecute persons who are a danger to society, it is necessary that this act take effect immediately.

CHAPTER 260

An act to amend Section 2988 of, and to add Section 2915 to, the Business and Professions Code, relating to psychology, and making an appropriation therefor.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. The Legislature finds and declares all of the following:
(a) The practice of psychology is rapidly changing.
(b) The public health and safety would be served by requiring
persons granted a license to engage in the practice of psychology to continue their education after receiving their initial license.

(c) Over time, the Board of Psychology has been directed to encourage specific continuing education courses including AIDS, geriatric pharmacology, and recognizing chemical dependency.

(d) The Board of Psychology and members of the profession are the most appropriate parties to establish comprehensive standards for continuing education for the profession.

(e) There is a need to have a system in place which will accommodate the latest issues of social concern that may develop relative to providing professional psychological services to the public.

(f) A comprehensive program of continuing education will provide consistency, quality control, and a structure within which important professional issues can be brought to the attention of licensed psychologists.

SEC. 2. Section 2915 is added to the Business and Professions Code, to read:

2915. (a) Except as provided in this section, on or after January 1, 1996, the board shall not issue any renewal license unless the applicant submits proof that he or she has completed no less than 18 hours of approved continuing education in the preceding year. On or after January 1, 1997, except as provided in this section, the board shall issue renewal licenses only to those applicants who have completed 36 hours of approved continuing education in the preceding two years.

(b) Each person renewing his or her license issued pursuant to this chapter shall submit proof of compliance with this section to the board. False statements submitted pursuant to this section shall be a violation of Section 2970.

(c) A person applying for relicensure or for reinstatement to an active license status shall certify under penalty of perjury that he or she is in compliance with this section.

(d) The continuing education requirement shall include, but shall not be limited to, courses required pursuant to Sections 25 and 28. The requirement may include courses pursuant to Sections 32 and 2914.1. Continuing education instruction approved to meet the requirements of this section shall be completed within the State of California, or shall be approved for continuing education credit by the American Psychological Association or its equivalent as approved by the board.

(e) The board may establish a policy for exceptions from the continuing education requirement of this section.

(f) The board may recognize continuing education courses that have been approved by one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for psychologists on a statewide basis, including, but not limited to:

1) Maintaining and managing related records and data.
(2) Monitoring and approving courses.

(g) The board shall adopt regulations as necessary for implementation of this section.

(h) A licensed psychologist shall choose continuing education instruction that is related to the assessment, diagnosis, and intervention for the client population being served or to the fields of psychology in which the psychologist intends to provide services, that may include new theoretical approaches, research, and applied techniques. Continuing education instruction shall include required courses specified in subdivision (d).

(i) A psychologist shall not practice outside his or her particular field or fields of competence as established by his or her education, training, continuing education, and experience.

(j) The administration of this section may be funded through professional license fees and continuing education provider and course approval fees, or both. The fees related to the administration of this section shall not exceed the costs of administering the corresponding provisions of this section.

(k) Continuing education credit may be approved for those licensees who serve as commissioners on any examination pursuant to Section 2947, subject to limitations established by the board.

SEC. 3. Section 2988 of the Business and Professions Code is amended to read:

2988. A licensed psychologist who for reasons, including but not limited to ill health or absence from the state, is not engaged in the practice of psychology, may apply to the board to request that his or her license be placed on an inactive status. A licensed psychologist who holds an inactive license shall pay a biennial renewal fee, fixed by the board, of no more than forty dollars ($40). A psychologist holding an inactive license shall be exempt from continuing education requirements specified in Section 2915, but shall otherwise be subject to this chapter and shall not engage in the practice of psychology in this state. Licensees on inactive status who have not committed any acts or crimes constituting grounds for denial of licensure and have completed the continuing education requirements specified in Section 2915 may, upon their request have their license to practice psychology placed on active status.

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 261

An act to amend Section 28747 of the Public Utilities Code, relating to transit.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 28747 of the Public Utilities Code is amended to read:

28747. Each candidate for the board shall file a declaration of candidacy in the form and manner prescribed in the Uniform District Election Law with the county clerk of the county in which the candidate resides. Candidates for the board shall be residents and voters of the district and of the geographical area making up the election district from which they are to be elected.

CHAPTER 262

An act to add Article 3.5 (commencing with Section 53054) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, relating to cable television.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Article 3.5 (commencing with Section 53054) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 3.5. Cable Television and Video Provider Customer Service and Information Act

53054. This act shall be known and may be cited as the Cable Television and Video Provider Customer Service and Information Act.

53054.1. The Legislature finds and declares all of the following:
(a) In an unregulated environment, customers of cable and video providers should get their money’s worth for the service they subscribe to, and one way to ensure this is to encourage that customer service standards be established and that customers be informed of those standards.
(b) Cable television and video providers have made efforts to provide high-quality service to their customers. Cable television and
video providers should continue to establish standards for customer service so as to further the development of high-quality customer service.

(c) It is not the intent of this article to establish standards for customer service, but to encourage cable television and video providers to inform their customers about the standards they have established and to work to achieve these customer service goals.

53054.2. As used in this article:
(a) "Cable television operator" means the person or entity providing cable television services through the cable television system.
(b) "Cable television system" means a community antenna television system, under common ownership and control, serving a franchise area or two or more contiguous or electronically connected franchise areas.
(c) "Video provider" means any person, company, or service which provides one or more channels of video programming to a residence, including a home, condominium, apartment, or mobilehome, where some fee is paid, whether directly or as included in dues or rental charges, for that service, whether or not public rights-of-way are utilized in the delivery of the video programming. A "video provider" shall include, but not be limited to, providers of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution service, and other providers of video programming, whatever their technology.

53055. Each cable television operator or video provider in the state shall establish customer service standards. These customer service standards shall include, but not be limited to, standards regarding the following:
(a) Installation, disconnection, service and repair obligations, employee identification and service call response time and scheduling.
(b) Customer telephone and office hours; procedures for billing, charges, refunds, and credits.
(c) Procedures for termination of service.
(d) Notice of the deletion of a programming service, the changing of channel assignments, or an increase in rates.
(e) Complaint procedures and procedures for bill dispute resolution.

53055.1. (a) Each cable television operator or video provider shall annually distribute to employees, to each customer, and to the city, county, or city and county in which the cable television operator or video provider furnishes service to customers, a notice describing these customer service standards. New customers shall also be provided with this notice when service is initiated.
(b) The notice given to new customers pursuant to this section shall include, in addition to all of the information described in subdivisions (a) to (e), inclusive, of Section 53055, all of the following:
(1) A listing of the services offered by the cable television operator or video provider which clearly describes all levels of service, and including the rates for each level of service, provided that, if the information concerning levels of service and rates is otherwise distributed to new customers upon installation by the cable television operator or video provider, the information need not be included in the notice to new customers required by this section.

(2) The telephone number or numbers through which customers may subscribe to, change, or terminate service, request customer service, or seek general or billing information.

(3) A description of the rights and remedies which the cable television operator or video provider may make available to its customers if the cable television operator or video provider does not materially meet its customer service standards.

53055.2. After the customer service standards established pursuant to Section 53055 have been in effect for one year, each cable television operator and video provider shall report annually on the performance of that cable television operator or video provider with regard to meeting its customer service standards. This report shall be included in the annual notice required by Section 53055.1.

53055.3. No provision of this article shall be construed to preempt the prerogative of a city, county, or city and county to enforce customer protection standards that are contained in a franchise or license granted to a cable television operator or video provider pursuant to Section 53066.1 or that are otherwise authorized by law for other cable television operators or video providers.

53056. (a) The legislative body of the city, county, or city and county in which the cable television operator or video provider furnishes service to customers may, by ordinance, provide a schedule of penalties for the failure of the cable television operator or video provider to distribute the annual notice required by Section 53055.1, not to exceed five hundred dollars ($500) for each year in which the notice is not distributed to all customers.

(b) The city, county, or city and county shall give a cable television operator or video provider written notice of any alleged failure to distribute to all customers the annual notice required by Section 53055.1 before imposing any penalty pursuant to subdivision (a). If the cable television operator or video provider distributes this notice to all customers within 60 days after receipt of the notice from the city, county, or city and county pursuant to this subdivision, no penalty shall be imposed upon the cable television operator or video provider pursuant to subdivision (a).
CHAPTER 263

An act to add Section 2894 to the Public Utilities Code, relating to telephones.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 2894 is added to the Public Utilities Code, to read:

2894. Notwithstanding subdivision (e) of Section 2891, the disclosure of any information by a radiotelephone utility, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against any civil action brought under this chapter or any other law, including without limitation, Chapter 1.5 (commencing with Section 630) of Part 1 of Title 15 of the Penal Code, for the wrongful disclosure of that information. As used in this section, "radiotelephone utility" means any public utility licensed by the Federal Communications Commission pursuant to Part 22 (commencing with Section 22.0) of Title 47 of the Code of Federal Regulations and certificated by the Public Utilities Commission to provide one-way or two-way or one-way and two-way radiotelephone services in this state.

CHAPTER 264

An act to amend Sections 977 and 987 of, and to repeal Section 977.2 of, the Penal Code, relating to criminal procedure.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 977 of the Penal Code is amended to read:

977. (a) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only. If the accused agrees, the arraignment and plea may be by video, as provided by subdivision (c).

(b) (1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the
imposition of sentence. The accused shall be personally present at all
other proceedings unless he or she shall, with leave of court, execute
in open court, a written waiver of his or her right to be personally
present, as provided by paragraph (2). If the accused agrees, the
arraignment and plea may be by video, as provided by subdivision
(c).

(2) The accused may execute a written waiver of his or her right
to be personally present, approved by his or her counsel, and the
waiver shall be filed with the court. However, the court may
specifically direct that defendant be personally present at any
particular proceeding or portion thereof. The waiver shall be
substantially in the following form:

“WAIVER OF DEFENDANT’S PERSONAL PRESENCE”

“The undersigned defendant, having been advised of his or her
right to be present at all stages of the proceedings, including, but not
limited to, presentation of and arguments on questions of fact and
law, and to be confronted by and cross-examine all witnesses, hereby
waives the right to be present at the hearing of any motion or other
proceeding in this cause. The undersigned defendant hereby
requests the court to proceed during every absence of the defendant
that the court may permit pursuant to this waiver, and hereby agrees
that his or her interest is represented at all times by the presence of
his or her attorney the same as if the defendant were personally
present in court, and further agrees that notice to his or her attorney
that his or her presence in court on a particular day at a particular
time is required is notice to the defendant of the requirement of his
or her appearance at that time and place.”

(c) The court may permit the initial arraignment in municipal or
superior court of defendants held in any state, county, or local facility
within the county on felony or misdemeanor charges, except for
those defendants who were indicted by a grand jury, to be conducted
by two-way electronic audio/video communication between the
defendant and the courtroom in lieu of the physical presence of the
defendant in the courtroom. If the defendant is represented by
counsel, the attorney shall be present with the defendant, and may
enter a plea, during the arraignment. The defendant shall have the
right to make his or her plea while physically present in the
courtroom if he or she so requests. If the defendant decides not to
exercise the right to be physically present in the courtroom, he or she
shall execute a written waiver of that right. A judge may order a
defendant’s personal appearance in court for arraignment. In a
misdemeanor case, a judge may, pursuant to this subdivision, accept
a plea of guilty or no contest from a defendant who is not physically
in the courtroom. In a felony case, a judge may, pursuant to this
subdivision, accept a plea of guilty or no contest from a defendant
who is not physically in the courtroom if the parties stipulate thereto.

SEC. 2. Section 977.2 of the Penal Code is repealed.
SEC. 3. Section 987 of the Penal Code is amended to read:

987. (a) In a noncapital case, if the defendant appears for arraignment without counsel, he or she shall be informed by the court that it is his or her right to have counsel before being arraigned, and shall be asked if he or she desires the assistance of counsel. If he or she desires and is unable to employ counsel the court shall assign counsel to defend him or her.

(b) In a capital case, if the defendant appears for arraignment without counsel, the court shall inform him or her that he or she shall be represented by counsel at all stages of the preliminary and trial proceedings and that the representation is at his or her expense if he or she is able to employ counsel or at public expense if he or she is unable to employ counsel, inquire of him or her whether he or she is able to employ counsel and, if so, whether he or she desires to employ counsel of his or her choice or to have counsel assigned, and allow him or her a reasonable time to send for his or her chosen or assigned counsel. If the defendant is unable to employ counsel, the court shall assign counsel to defend him or her. If the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel.

The court shall at the first opportunity inform the defendant's trial counsel, whether retained by the defendant or court-appointed, of the additional duties imposed upon trial counsel in any capital case as set forth in paragraph (1) of subdivision (b) of Section 1240.1.

(c) In order to assist the court in determining whether a defendant is able to employ counsel in any case, the court may require a defendant to file a financial statement or other financial information under penalty of perjury with the court or, in its discretion, order a defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to employ his or her own counsel. If a county officer is designated, the county officer shall provide to the court a written recommendation and the reason or reasons in support of the recommendation. The determination by the court shall be made on the record. The financial statement or other financial information obtained from the defendant shall be confidential and privileged and shall not be admissible in evidence in any criminal proceeding except the prosecution of an alleged offense of perjury based upon false material contained in the financial statement. The financial statement shall be made available to the prosecution only for purposes of investigation of an alleged offense of perjury based upon false material contained in the financial statement at the conclusion of the proceedings for which the financial statement was required to be submitted. The financial statement and other financial information obtained from the defendant shall not be confidential and privileged in a proceeding under Section 987.8.

(d) In a capital case, the court may appoint an additional attorney as a cocounsel upon a written request of the first attorney appointed.
The request shall be supported by an affidavit of the first attorney setting forth in detail the reasons why a second attorney should be appointed. Any affidavit filed with the court shall be confidential and privileged. The court shall appoint a second attorney when it is convinced by the reasons stated in the affidavit that the appointment is necessary to provide the defendant with effective representation. If the request is denied, the court shall state on the record its reasons for denial of the request.

CHAPTER 265

An act to amend Sections 422.75, 667.9, and 667.10 of the Penal Code, relating to sentence enhancements.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 422.75 of the Penal Code is amended 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, disability, 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. 2. Section 667.9 of the Penal Code is amended to read:

667.9. (a) Any person who has a prior conviction for any of the offenses listed in subdivision (b), and who commits one or more of the crimes listed in subdivision (b) against a person who is 65 years of age or older, or against a person who is blind, deaf, developmentally disabled, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.

(b) Subdivision (a) applies to the following crimes:

1. Robbery, in violation of Section 211.
2. Kidnapping, in violation of Section 207.
3. Kidnapping for ransom, extortion, or robbery, in violation of Section 209.
4. Rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person in violation of subdivision (2) of Section 261.
5. Sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person in violation of Section 286 or 288a.
6. Mayhem, as defined in Section 203.
7. Burglary of the first degree, as defined in Section 460.

(c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) As used in this section, "developmentally disabled" means a severe, chronic disability of a person, which is all of the following:
1. Attributable to a mental or physical impairment or a combination of mental and physical impairments.
2. Likely to continue indefinitely.
3. Results in substantial functional limitation in three or more of the following areas of life activity:
   (A) Self-care.
   (B) Receptive and expressive language.
   (C) Learning.
   (D) Mobility.
   (E) Self-direction.
   (F) Capacity for independent living.
(G) Economic self-sufficiency.

SEC. 3. Section 667.10 of the Penal Code is amended to read:

667.10. (a) Any person who has a prior conviction of the offense set forth in Section 289 and who commits that crime against a person who is 65 years of age or older, or against a person who is blind, deaf, developmentally disabled, as defined in subdivision (d) of Section 667.9, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 289.

(b) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

CHAPTER 266

An act to amend Section 422.75 of the Penal Code, relating to sentencing.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 422.75 of the Penal Code is amended 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, disability, 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) For the purpose of imposing an additional term under subdivision (a) or (b), it shall be a factor in aggravation that the defendant personally used a firearm in the commission of the offense. Nothing in this subdivision shall preclude a court from also
imposing a sentence enhancement pursuant to Section 12022.5 or 12022.55, or any other provision of law.

(d) 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.

(e) The additional term in subdivisions (a), (b), and (d) 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.

(f) The additional term in subdivisions (a), (b), and (d) shall be in addition to any other punishment provided by law.

(g) Notwithstanding any other law, the court may strike the additional term in subdivisions (a), (b), and (d) if the court determines that there are mitigating circumstances and states on the record the reasons for striking the additional punishment.

CHAPTER 267

An act to amend Section 30914 of the Streets and Highways Code, relating to transportation.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 30914 of the Streets and Highways Code is amended to read:

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

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

2. San Mateo-Hayward Bridge and approaches: Widening of the bridge to six lanes, construction of rail transit capital improvements on the bridge structure, and improvements to the Route 92/Route 880 interchange.

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

(4) Not less than 90 percent of the revenues derived from the toll increase for Class I vehicles on the San Francisco-Oakland Bay Bridge authorized by Sections 30916 and 30917 shall be used exclusively for rail transit capital improvements designed to reduce vehicular traffic congestion on that bridge.

(b) Notwithstanding Section 30895.5, up to 3 percent of the revenues derived from the toll increase authorized by Sections 30916 and 30917 on all bridges in the southern bridge unit may be allocated by the Metropolitan Transportation Commission for transportation projects, other than those specified in Sections 30912, 30913, and 30914, which are designed to reduce vehicular traffic congestion on any bridge in that group, including, but not limited to, bicycle facilities and for the planning, construction, operation, and acquisition of rapid water transit systems. The plans for the projects may also be funded by these moneys. This section does not authorize any allocation of funds for any transit project which is inconsistent with or which violates the terms of any bond resolution of the California Transportation Commission pursuant to which bonds are outstanding on the effective date of the act amending this section at the 1989–90 Regular Session.

(c) The department shall report to the Legislature on the structural feasibility of incorporating rail transit on the San Mateo-Hayward Bridge during the preliminary design phase for widening that bridge.

CHAPTER 268

An act to amend Section 39302 of the Education Code, relating to school leasing.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 39302 of the Education Code is amended to read:

39302. Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall have available a site upon which a building to be used by the district may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites, and it shall have prepared and shall have adopted plans and specifications for the building that have been approved pursuant to Sections 39140 to 39159, inclusive. A district has a site available for the purposes of this section under any of the following conditions:

(a) If it owns a site or if it has an option on a site that allows the
school district or the designee of the district to purchase the site. Any school district may acquire and pay for an option containing such a provision.

(b) If it is acquiring a site by eminent domain proceedings and pursuant to Chapter 6 (commencing with Section 1255.010) of Title 7 of Part 3 of the Code of Civil Procedure, the district has obtained an order for possession of the site, and the entire amount deposited with the court as the probable amount of compensation for the taking has been withdrawn.

(c) In the case of a district qualifying under Section 39308.5, if it is leasing a site from a governmental agency pursuant to a lease having an original term of 35 years or more or having an option to renew that, if exercised, would extend the term to at least 35 years.

CHAPTER 269

An act to amend Sections 25830 and 25831 of, and to add and repeal Section 25830.1 of, the Government Code, relating to waste disposal fees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 25830 of the Government Code is amended to read:

25830. (a) On or before the first day of July of each calendar year, the board of supervisors of any county may, by resolution or ordinance, establish a schedule of fees to be imposed on land within the unincorporated area of the county and incorporated areas of the county where cities do not provide their own waste disposal sites, revenue from the fees to be used for the acquisition, operation, and maintenance of county waste disposal sites and for financing waste collection, processing, reclamation, and disposal services, where those services are provided. In establishing the schedule of fees, the board of supervisors shall classify the land based upon the various uses to which the land is put, the volume of waste occurring from the different land uses and any other factors that the board determines would reasonably relate the waste disposal fee to the land upon which it would be imposed. Fees imposed within the incorporated and unincorporated areas shall be uniform. Prior to imposing fees within an incorporated area, the board of supervisors shall obtain the consent of the legislative body of the city to impose the fees.

(b) The board shall set a reasonable fee for each category established and divide the land according to categories and ownership; provided, however, that the board shall establish categories of land for which:
(1) No services are provided and no fee required.
(2) Services are provided and no fee required.
(c) The board shall determine eligibility for inclusion in these
categories, upon application, on a case-by-case basis. The board shall
impose the appropriate fee upon each division of land and provide
for the billing and collection of the fees. The fees may be established,
billed, and collected on a monthly or yearly basis, and may be billed
and collected by the county tax collector as part of the regular county
tax billing system.

SEC. 2. Section 25830.1 is added to the Government Code, to read:

25830.1. Notwithstanding the uniformity requirement in Section
25830, the Tuolumne County Board of Supervisors may recover solid
waste disposal fee revenues which would have been collected on
land within the Sonora city limits had statutory authority to levy
those fees within incorporated areas been in place for the 1991–92
and subsequent fiscal years. The fee revenue shall be recovered
through solid waste disposal fees on incorporated lands over a
two-year period beginning with the first year in which statute allows
the imposition of the fees on lands within incorporated areas. This
section shall become inoperative on July 1, 1995, and this section is
repealed on January 1, 1996, unless a later enacted statute, which is
enacted before January 1, 1995, deletes or extends that date.

SEC. 3. Section 25831 of the Government Code is amended to read:

25831. Any fees authorized pursuant to Section 25830 or 25830.1
which remain unpaid for a period of 60 or more days after the date
upon which they were billed may be collected thereafter by the county as provided herein.
(a) Once a year the board of supervisors shall cause to be
prepared a report of delinquent fees. The board shall fix a time, date
and place for hearing the report and any objections or protests
thereto.
(b) The board shall cause notice of the hearing to be mailed to the
landowners listed on the report not less than 10 days prior to the date
of the hearing.
(c) At the hearing the board shall hear any objections or protests
of landowners liable to be assessed for delinquent fees. The board
may make revisions or corrections to the report as it deems just, after
which, by resolution, the report shall be confirmed.
(d) The delinquent fees set forth in the report as confirmed shall
constitute special assessments against the respective parcels of land
and are a lien on the property for the amount of the delinquent fees.
A certified copy of the confirmed report shall be filed with the
county auditor for the amounts of the respective assessments against
the respective parcels of land as they appear on the current
assessment roll. The lien created attaches upon recordation, in the
office of the county recorder of the county in which the property is
situated, of a certified copy of the resolution of confirmation. The
assessment may be collected at the same time and in the same manner as ordinary county ad valorem 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 those taxes. All laws applicable to the levy, collection and enforcement of county ad valorem property taxes shall be applicable to the assessment, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to the real property and the delinquent fees, as confirmed, relating to the property shall be transferred to the unsecured roll for collection.

SEC. 4. The Legislature finds and declares that a special act is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances applicable to Tuolumne County.

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 help counties rapidly recoup their costs associated with the provision of waste disposal services to incorporated areas which are not otherwise served by cities, it is necessary that this act take effect immediately.

CHAPTER 270

An act to amend Sections 8519, 8569, and 8570 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 8519 of the Business and Professions Code is amended to read:

8519. Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such
infestation or infection, and which recommendations have not been completed at the time of certification.

Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering the inspection report, prepare and deliver to that person or his or her designated agent, a certification, to provide:

(a) When the inspection report prepared pursuant to Section 8516 has disclosed no infestation or infection: “This is to certify that the above property was inspected on ________ (date) in accordance with the Structural Pest Control Act and rules and regulations adopted pursuant thereto, and that no evidence of active infestation or infection was found in the visible and accessible areas.”

(b) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that all recommendations to remove that infestation or infection and to repair damage caused by that infestation or infection have been completed: “This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas.”

(c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage caused by it: “This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas except as follows: ________ (describing infestations, infections, damage or evidence thereof, excepted).”

This certificate shall be accompanied by a copy of the inspection report prepared pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant to Section 8518, if any notice has been prepared at the time of the certification, or the certification may be endorsed on and made a part of that inspection report or notice of work completed.

SEC. 2. Section 8569 of the Business and Professions Code is amended to read:

8569. In addition to the partner or other individual designated as the qualifying manager for a registered company which is organized as a partnership, if any of the company’s partners desire to actively engage in pest control on behalf of the partnership each shall be required to qualify for and to be licensed as an operator or field representative.

Nothing in this chapter shall prohibit any partner who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the partnership in any other branch of pest control for which the partnership is registered, except that he or she may actively engage in pest control as an operator or field representative only in the branch for which he or
she is qualified and licensed.

Upon being licensed as an operator or field representative, the other partner may engage in pest control only on behalf of the partnership of which he or she is a member, as long as he or she remains a partner thereof, but he or she may become associated with another partnership, or with a firm or corporation, in a capacity other than as a qualifying manager.

SEC. 3. Section 8570 of the Business and Professions Code is amended to read:

8570. In addition to the officer or other individual designated as the qualifying manager for a registered company which is organized as an association or corporation, if any of the company's other officers desire to actively engage in pest control in behalf of the association or corporation, each shall be required to qualify for and to be licensed as an operator or field representative.

Nothing in this chapter shall prohibit any officer of such corporation who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the corporation in any other branch of pest control for which the corporation is registered, except that he or she may actively engage in pest control as an operator or field representative only in the branch for which he or she is qualified and licensed.

Upon being licensed as an operator or field representative, the officer may engage in pest control only on behalf of the association or corporation of which he or she is an officer, so long as he or she remains an officer thereof, but he or she may become associated with another association or corporation, or with a firm or partnership, in a capacity other than as a qualifying manager.

CHAPTER 271

An act to amend Section 4227 of the Business and Professions Code, relating to dangerous drugs and devices, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug, except upon the prescription of a physician and surgeon, dentist, podiatrist, or veterinarian. No person shall furnish any dangerous device, except upon the prescription of a physician and surgeon, dentist, podiatrist, or veterinarian.

(b) This section shall not apply to the furnishing of any dangerous
drug or device by a manufacturer or wholesaler or pharmacy to each
other or to a physician and surgeon, dentist, podiatrist, or
veterinarian, or to a laboratory under sales and purchase records that
correctly give the date, the names and addresses of the supplier and
the buyer, the drug or device, and its quantity. This section shall not
apply to the furnishing of any dangerous device by a manufacturer
or wholesaler or pharmacy to a physical therapist acting within the
scope of his or her license under sales and purchase records that
correctly give the date, the names and addresses of the supplier and
the buyer, the device, and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to
Section 4050.7, may distribute dangerous drugs and devices directly
to hemodialysis patients pursuant to regulations adopted by the
board. The board shall adopt regulations as are necessary to ensure
the safe distribution of such drugs and devices to hemodialysis
patients without interruption of supply including, but not limited to,
the following: vendor licensing, records and labeling, patient
receipts, patient training, report records, specific product and
quantity limitations, verification order forms, reports and supplies,
adequate establishment facilities, and reports to the board. A person
who violates a regulation adopted pursuant to this subdivision shall
be liable upon order of the board to surrender his or her personal
license. These penalties shall be in addition to penalties which may
be imposed pursuant to Section 4350.5. If the board finds any
hemodialysis drugs or devices distributed pursuant to this
subdivision to be ineffective or unsafe for the intended use, the board
may institute immediate recall of any or all of these drugs or devices
distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices
pursuant to subdivision (c) shall have completed a full course of
home training given by a renal dialysis center accredited by the State
Department of Health Services. The physician and surgeon
prescribing the hemodialysis products shall submit proof satisfactory
to the manufacturer or wholesaler that the patient has completed the
program.

(e) A registered pharmacist may furnish a dangerous drug
authorized for use pursuant to Section 2620.3 to a physical therapist
or may furnish a topical pharmaceutical agent authorized for use
pursuant to subdivision (e) of Section 3041 to an optometrist. A
record containing the date, name and address of the buyer, and
name and quantity of the drug shall be maintained. This subdivision
shall not be construed to authorize the furnishing of a controlled
substance as defined in Division 10 (commencing with Section

(f) A medical device retailer shall dispense, furnish, transfer, or
sell a dangerous device only to another medical device retailer, a
pharmacy, a licensed physician and surgeon, a licensed health care
facility, a licensed physical therapist, or a patient or his or her
personal representative.
(g) A registered pharmacist may furnish electroneuromyographic needle electrodes or hypodermic needles used for the purpose of placing wire electrodes for kinesiological electromyographic testing to physical therapists who are certified by the Physical Therapy Examining Committee of California to perform tissue penetration in accordance with Section 2620.5.

(h) The amendments made to subdivisions (b) and (f) by the act adding this subdivision shall not be construed to permit a licensed physical therapist to dispense or furnish a dangerous device without a prescription of a physician and surgeon, dentist, podiatrist, or veterinarian.

SEC. 1.5. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug, except upon the prescription of a physician and surgeon, dentist, podiatrist, or veterinarian. No person shall furnish any dangerous device, except upon the prescription of a physician and surgeon, dentist, podiatrist, or veterinarian, or upon the order of a chiropractor acting within the scope of his or her license.

(b) This section shall not apply to the furnishing of any dangerous drug or device by a manufacturer or wholesaler or pharmacy to each other or to a physician and surgeon, dentist, podiatrist, or veterinarian, or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug or device and its quantity. This section shall not apply to the furnishing of any dangerous device by a manufacturer or wholesaler or pharmacy to a chiropractor or physical therapist acting within the scope of his or her license under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the device, and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations adopted by the board. The board shall adopt regulations as are necessary to ensure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation adopted pursuant to this subdivision shall be liable upon order of the board to surrender his or her personal license. These penalties shall be in addition to penalties that may be imposed pursuant to Section 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of these drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices
pursuant to subdivision (c) shall have completed a full course of
home training given by a renal dialysis center accredited by the State
Department of Health Services. The physician and surgeon
prescribing the hemodialysis products shall submit proof satisfactory
to the manufacturer or wholesaler that the patient has completed the
program.

(e) A registered pharmacist may furnish a dangerous drug
authorized for use pursuant to Section 2620.3 to a physical therapist
or may furnish a topical pharmaceutical agent authorized for use
pursuant to subdivision (e) of Section 3041 to an optometrist. A
record containing the date, name and address of the buyer, and
name and quantity of the drug shall be maintained. This subdivision
shall not be construed to authorize the furnishing of a controlled
substance as defined in Division 10 (commencing with Section

(f) A medical device retailer shall dispense, furnish, transfer, or
sell a dangerous device only to another medical device retailer, a
pharmacy, a licensed physician and surgeon, a licensed health care
facility, a licensed chiropractor, a licensed physical therapist, or a
patient or his or her personal representative.

(g) A registered pharmacist may furnish electroneuromyographic
needle electrodes or hypodermic needles used for the purpose of
placing wire electrodes for kinesiological electromyographic testing
to physical therapists who are certified by the Physical Therapy
Examining Committee of California to perform tissue penetration in
accordance with Section 2620.5.

(h) The amendments made to subdivisions (b) and (f) by the act
adding this subdivision shall not be construed to permit a licensed
physical therapist to dispense or furnish a dangerous device without
a prescription of a physician and surgeon, dentist, podiatrist, or
veterinarian.

SEC. 2. Section 1.5 of this bill incorporates amendments to
Section 4227 of the Business and Professions Code proposed by both
this bill and AB 2638. It shall only become operative if (1) both bills
are enacted and become effective on or before January 1, 1993, but
this bill becomes operative first, (2) each bill amends Section 4227 of
the Business and Professions Code, and (3) this bill is enacted after
AB 2638, in which case Section 4227 of the Business and Professions
Code, as amended by Section 1 of this bill, shall remain operative
only until the operative date of AB 2638, at which time Section 1.5
of this bill shall become operative.

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 physical therapists with faster access to medical
devices without the need for a prescription, it is necessary for this act
to take effect immediately.
CHAPTER 272

An act to amend Sections 44010 and 44011 of the Education Code, relating to employees.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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, 264.1, 266, 267, 285, 286, 288, 288a, 289, 311.3, 311.4, 313.1, 647.6, or former Section 647a, subdivision (a), (b), or (c) of Section 243.4, subdivision 1, 2, 3, or 4 of Section 261, subdivision (b) of Section 311.2, 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 those 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.

(j) Any conviction for an offense resulting in the requirement to register as a sex offender pursuant to Section 290 of the Penal Code.

SEC. 2. Section 44011 of the Education Code is amended to read: 44011. "Controlled substance offense" as used in Sections 44346, 44425, 44436, 44836, and 45123 means any one or more of the following offenses:

(a) Any offense in Sections 11350 to 11355, inclusive, 11361, 11366, 11368, 11377 to 11382, inclusive, and 11550 of the Health and Safety Code.

(b) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses.

(c) Any offense committed under former Sections 11500 to 11503, inclusive, 11557, 11715, and 11721 of the Health and Safety Code.

(d) Any attempt to commit any of the above-mentioned offenses.

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 273

An act to amend Section 51245 of the Government Code, relating to agricultural lands.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 51245 of the Government Code is amended to read:

51245. If either the landowner or the city or county desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least 90 days prior to the renewal date
or by the city or county at least 60 days prior to the renewal date, the contract shall be considered renewed as provided in Section 51244 or Section 51244.5.

Upon receipt by the owner of a notice from the county or city of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The county or city may, at any time prior to the renewal date, withdraw the notice of nonrenewal. Upon request by the owner, the board or council may authorize the owner to serve a notice of nonrenewal on a portion of the land under a contract.

Within 30 days of the receipt of a notice of nonrenewal from a landowner, the service of a notice of nonrenewal upon a landowner, or the withdrawal of a notice of nonrenewal, the city or county shall deliver a copy of the notice or a notice of withdrawal of nonrenewal to the Director of Conservation.

No later than 20 days after a city or county receives a notice of nonrenewal from a landowner, serves a notice of nonrenewal upon a landowner, or withdraws a notice of nonrenewal, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the notice of nonrenewal or notice of withdrawal of nonrenewal.

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 274

An act to amend Sections 8516, 8516.1, 8517, 8538, 8551.5, 8560, 8562, 8564, 8564.5, 8565, and 8572 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms, but do not apply to work conducted pursuant to Section 8516.1.

(b) No registered company or licensee shall commence work on a contract, or sign, issue or deliver any documents expressing an opinion or statement relating to the absence or presence of wood
destroying pests or organisms until an inspection has been made. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person’s designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the inspection is made. The report shall be delivered to the person requesting the inspection, or to the person’s designated agent, before work is commenced. The following shall be set forth in the report:

1. The date of the inspection and the name of the licensee making the inspection.

2. The name and address of the person or firm ordering the report.

3. The name and address of any person who is a party in interest to whom the board is to send certified copies of inspection reports and completion notices as provided in subdivision (h).

4. The address or location of the property.

5. A general description of the building or premises inspected.

6. A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

7. Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

8. One of the following statements, as appropriate, printed in bold type:

   A) The exterior surface of the roof will not be inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors’ State License Board.

   B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

9. Indication or description of any areas that are inaccessible or not inspected with suggestion for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplementary report on conditions in these areas shall be made.

10. Recommendations for corrective measures.
(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection which is evident.

(2) The conditions that are present which are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separate report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a
licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify paragraphs (1) and (2) of subdivision (c). Additionally, the form shall explain paragraphs (1) and (2) of subdivision (c) conditions and the difference between those conditions. In no event, however, shall conditions described pursuant to paragraph (2) of subdivision (c) be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and such corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (9), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) Whenever a report is filed pursuant to subdivision (b), the board shall forthwith send to any person or firm designated under paragraph (3) of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested and upon payment of an appropriate search fee.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

This section shall become operative on July 1, 1989.

SEC. 2. Section 8516.1 of the Business and Professions Code is amended to read:

8516.1. (a) This section applies only to work conducted by a
wood roof cleaning and treatment registered company or licensee.

(b) No wood roof cleaning and treatment registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying organisms or nondecay fungi on a wood shake or shingle roof until an inspection has been made. All inspections performed by these registered companies or licensees shall be on properties that are not offered for sale, lease, or exchange, and shall be limited to the wood shakes or shingles on wood shake or shingle roofs and may only be performed for purposes of detecting the presence or absence of wood destroying organisms such as decay fungi on the wood shakes or shingles and resulting decay, or nondecay fungi such as mold, mildew, lichen, or moss on the wood shakes or shingles.

(c) All wood roof cleaning and treatment registered companies shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section shall be on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person’s designated agent within five days of the inspection if a contract is executed to perform the work. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the contract is executed to perform corrective work. The report shall be delivered to the person requesting the inspection, or to the person’s designated agent, before work is commenced. The following items shall be set forth in the report:

1. The date of the inspection and the name of the licensee making the inspection.
2. The name and address of the person or firm ordering the report.
3. The name and address of any person who is a party in interest to whom the board is to send certified copies of the inspection reports and completion notices as provided in subdivision (f).
4. The address or location of the property.
5. A general description of the building inspected.
6. A diagram or sketch of the roof inspected indicating thereon the type and approximate location of any infection of wood destroying organisms or nondecay fungi.
7. Information regarding conditions usually deemed likely to lead to infection of wood destroying organisms and nondecay fungi.
8. Recommendations for corrective measures.
9. Information regarding the wood preservative to be used for control of the wood destroying organisms and nondecay fungi as set forth in subdivision (a) of Section 8538.
10. A statement printed in 10-point boldface type, stating that the corrective measures will not improve the water tightness of the roof and if the person or entity who ordered the report wants the roof inspected for a determination of water tightness, that person or
entity should contact a roofing contractor who is licensed by the Contractors' State License Board.

(11) For purposes of this section and Section 8516, “water tightness” means that at the time the inspection was performed the roof would not, under normal climatic conditions, leak.

(d) At the time the report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infection that is evident.
(2) The conditions that are present which are deemed likely to lead to infection of wood destroying organisms such as decay fungus.
(3) The conditions that are present which are nondecay fungi such as mold, mildew, lichen, or moss.

If the registered company or licensee fails to comply with the requirements of this subdivision and a dispute arises, or if any dispute arises as to whether this subdivision has been complied with, a separate report shall be provided to the person or entity ordering the report within 24 hours of that request, but in no event later than the next business day, and at no additional cost.

(e) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall take effect.

(f) Whenever a report is filed pursuant to subdivision (c), the board shall forthwith send to any person or firm designated under paragraph (3) of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested, and, upon payment of an appropriate search fee.

(g) All work recommended by the registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on that report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

(h) All wood roof cleaning and treatment registered companies shall possess a current roofing contractor’s license issued by the Contractors’ State License Board. This requirement shall apply on and after July 1, 1993.

SEC. 3. Section 8517 of the Business and Professions Code is amended to read:

8517. Any work contract, billing, agreement, letter of work completed, or other correspondence or document expressing an opinion or making a statement relating to the presence or absence
of wood destroying pests or organisms, or for wood roof cleaning and
treatment registered companies, relating to the presence or absence
of wood destroying organisms or nondecay fungi, shall refer to the
inspection report required by Section 8516 or 8516.1. Such
documents shall indicate specifically whether all of the
recommended work as set forth in the inspection report was
completed, or, if not, it shall indicate specifically which
recommendations were not completed.

SEC. 4. Section 8538 of the Business and Professions Code is
amended to read:

8538. (a) A structural pest control operator, field representative,
or employee of a registered company shall provide the owner, or
owner’s agent, and tenant of the premises for which the work is to
be done with clear written notice which contains the following
statements and information using words with common and everyday
meaning:

(1) The pest to be controlled or in the case of wood roof cleaning
and treatment registered company applications, the purpose of
applying the wood preservative or preservatives.

(2) The pesticide or pesticides proposed to be used, and the active
ingredient or ingredients.

(3) "State law requires that you be given the following
information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS.
Structural Pest Control Companies are registered and regulated by
the Structural Pest Control Board, and apply pesticides which are
registered and approved for use by the California Department of
Food and Agriculture and the United States Environmental
Protection Agency. Registration is granted when the state finds that
based on existing scientific evidence there are no appreciable risks
if proper use conditions are followed or that the risks are outweighed
by the benefits. The degree of risk depends upon the degree of
exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms
similar to common seasonal illness comparable to the flu, contact
your physician or poison control center (telephone number) and
your pest control company immediately." (This statement shall be
modified to include any other symptoms of overexposure which are
not typical of influenza.)

"For further information, contact any of the following: Your Pest
Control Company (telephone number); for Health Questions—the
County Health Department (telephone number); for Application
Information—the County Agricultural Commissioner (telephone
number) and for Regulatory Information—the Structural Pest
Control Board (telephone number and address)."

(b) In the case of Branch 1 applications, the notice, as prescribed
by subdivision (a), shall be provided at least 48 hours prior to
application unless fumigation follows inspection by less than 48
hours.

In the case of Branch 2, Branch 3 or wood roof cleaning and
treatment registered company applications, the notice, as prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.
(2) Posting in a conspicuous place on the real property.
(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) On or before January 1, 1986, the board shall promulgate appropriate administrative regulations for the implementation of this section.

(d) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

SEC. 5. Section 8551.5 of the Business and Professions Code is amended to read:

8551.5. No unlicensed individual in the employ of a registered company shall apply any insecticide, pesticide, rodenticide, fumigant, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling or preventing infestation or infections of such pests, or organisms included in Branch 2, Branch 3, or wood roof cleaning and treatment registered company unless that individual has successfully passed an examination conducted by the board pursuant to Section 8564.5. However, that individual may, for 30 days from the date of hire, apply insecticides, pesticides, rodenticides, fumigants, or allied chemicals for the purposes of training under the direct supervision of a licensee employed by the company. This direct supervision means in the presence of the licensee at all times. The 30-day time period may not be extended.

SEC. 6. Section 8560 of the Business and Professions Code is amended to read:

8560. (a) Licenses issued to operators or field representatives shall be limited to the branch or branches of pest control for which the applicant or a wood roof cleaning and treatment registered company has qualified by application and examination.

(1) For the purpose of delimiting the type and character of work authorized by the various branch licenses hereinafter set forth, the practice of pest control is classified into the following branches, namely,

Branch 1. Fumigation. The practice relating to the control of household and wood destroying pests or organisms by fumigation
with poisonous or lethal gases.

Branch 2. General pest. The practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases.

Branch 3. Termite. The practice relating to the control of wood destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

(2) For the purposes of delimiting the type and character or work authorized for wood roof cleaning and treatment registered companies, the following apply:

(A) The practice of inspecting wood shake or shingle roofs to determine the presence or absence of (i) wood destroying organisms including decay fungi on the wood shakes or shingles, and resulting decay, and (ii) nondecay fungi including mold, mildew, lichen, or moss; cleaning the wood shakes or shingles; and applying wood preservatives to the wood shakes or shingles to prevent infection of wood destroying organisms or nondecay fungi or further damage from wood destroying organisms.

(B) The board may issue a license for a combination of two or more licenses for which an applicant qualifies under the provisions of this chapter, and such combination license shall be considered one license for the purpose of determining the fee to be charged under Section 8674.

(b) Unless otherwise authorized by the board, all written examinations shall be in ink in books supplied by the board. All examination papers shall be kept for a period of one year, upon the expiration of which such papers may be destroyed on order of the board. Each applicant for license shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examination papers are graded. No person shall be admitted to the examination room except members of the board, the examining personnel, and the applicants for license.

(c) The board shall make rules and regulations for the purpose of securing fair, impartial, and proper examinations.

(d) Licensees may be licensed in other branches or as a wood roof cleaning and treatment registered company upon complying with the requirements for qualification and by examination in those other branches, or a wood roof cleaning and treatment registered company. No failure of the licensee to pass examination in such other branch or branches shall have any effect on existing licenses.

(e) The examination shall be in each of the subjects specified in the branch, branches, or wood roof cleaning and treatment registered company relating to the respective applications. License according to such applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of such branch or branches.

SEC. 7. 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, branches, or wood roof cleaning and treatment registered companies 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
- Wood roof cleaning and treatment: 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 wood roof cleaning and treatment registered companies, 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 that operator’s license.

(c) A designation of the branch, branches, or wood roof cleaning and treatment registered companies 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 or company 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, wood roof cleaning and treatment registered companies, 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.

SEC. 8. Section 8564 of the Business and Professions Code is amended to read:

8564. To obtain an original field representative’s license, an applicant shall submit to the registrar an application in writing
containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form 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 length of time during which the applicant has engaged in any work relating to pest control.

(b) The name and place of business of the person who last employed him or her.

(c) The name of the person by whom the applicant is employed.

(d) The name of the registered company by which the applicant is to be employed.

(e) The fees prescribed by this chapter.

The board shall not accept any application for a field representative license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of such training and experience.

The board shall not accept any application for a field representative license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of such training and experience.

The board shall not accept any application for a field representative license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of such training and experience.

The board, on and after July 1, 1990, shall not accept any application for a field representative license as a wood roof cleaning and treatment registered company unless the applicant submits proof satisfactory to the board that he or she has had experience and training in the practice of identification of wood destroying organisms and nondecay fungi on wood shake or shingle roofs, wood preservative application equipment, wood preservative hazards and safety practices, wood shake or shingle roof inspection procedures and report writing under the immediate supervision of an operator or field representative licensed as a wood roof cleaning and treatment registered company, and wood preservative application
procedures, or the equivalent of that experience and training.

SEC. 9. Section 8564.5 of the Business and Professions Code is amended to read:

8564.5. (a) Prior to the application of any chemical substance included in Branch 2 or Branch 3 by any unlicensed individual in the employ of a registered company, as specified in Section 8551.5, the board shall ascertain by written examination that the individual has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(b) Passage of the written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3 for a period not to exceed three years at which time he or she shall again apply for and successfully pass the written examination.

(c) Individuals who have successfully passed the written examination by January 1, 1990, shall again successfully pass the examination by January 1, 1991, in order to allow the individual to apply any chemical substance in Branch 2 or Branch 3 for a period not to exceed three years at which time the individual shall again apply for and successfully pass the written examination.

(d) Prior to the application of any wood preservative, as part of a roof restoration process covered under Section 8516.1, by any unlicensed individual in the employ of a registered company as specified in Section 8551.5, the board shall, on and after July 1, 1990, ascertain by written examination that the individual has sufficient knowledge of wood preservative application equipment, wood preservative application procedures, mixing and formulation and wood preservative label directions.

(e) The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering such examination, provided, however, that such fee shall not exceed fifteen dollars ($15).

SEC. 10. Section 8565 of the Business and Professions Code is amended to read:

8565. The board shall ascertain by written examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

(a) The English language, including reading, writing and spelling.

(b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control, or wood roof cleaning and treatment registered company for which he or she is applying, require such knowledge.

(c) The labor laws of the state.

(d) The provisions of this chapter.

(e) Poisonous and other dangerous chemicals used in pest control, if the branch license or licenses for which he or she is applying, require such knowledge.

(f) The theory and practice of pest control in the branch or company in which the applicant desires to be licensed.
(g) Such other state laws, safety or health measures, or practices as are reasonably within the scope of structural pest control in the various branches, including an applicant's knowledge of the requirements regarding health effects and restrictions on applications, as set forth in Section 8538.

SEC. 11. Section 8572 of the Business and Professions Code is amended to read:

8572. (a) All requirements in this chapter with respect to (1) applicants for a license pursuant to Section 8516.1, (2) wood roof cleaning and treatment licensees, or (3) otherwise related to the regulation of wood roof cleaning and treatment registered companies activities shall become operative on and after July 1, 1990, insofar as they regulate those activities, and this chapter shall not be enforceable against any person applying a wood preservative to a shake or shingle roof before July 1, 1990.

(b) The board shall develop the written examinations required by Sections 8564.5, 8565, and 8566 and begin offering those examinations on or before June 1, 1990.

(c) Any person intending to apply for an operator's license shall be permitted by the board to complete the courses required by subdivision (d) of Section 8565.5 before July 1, 1990.

(d) The board shall make necessary conforming changes to its regulations with respect to the licensing of individuals pursuant to Section 8516.1.

CHAPTER 275

An act to add Section 6735.6 to the Business and Professions Code, relating to professional engineers.

[Approved by Governor July 18, 1992. Filed with Secretary of State July 20, 1992.]

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

SECTION 1. Section 6735.6 is added to the Business and Professions Code, to read:

6735.6. If a registered civil engineer is required to provide as built, as constructed, or record plans for improvements or grading, which plans show changes during the construction process, the following shall apply:

(a) If the registered civil engineer provided construction phase services on the project that include supervision of the construction of engineering structures, the plans shall be based upon the field observations of the registered civil engineer and his or her agents, and information received from the project owner, project contractors, and public agencies.

(b) If the registered civil engineer did not provide construction
phase services on the project that include supervision of the construction of engineering structures, the plans shall be based on information received from the project owner, project contractors, and public agencies, but need not be based upon a field verification or investigation of the improvements or grades, unless the registered civil engineer is engaged to provide such field verification services.

(c) The registered civil engineer shall not be required to include a certificate or statement on as built, as constructed, or record plans that is inconsistent with or varies from the provisions of this section.

CHAPTER 276

An act to add Section 11319 to the Penal Code, relating to gaming.

[Approved by Governor July 20, 1992. Filed with Secretary of State July 21, 1992.]

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 reinforce long-standing statutory prohibitions against gambling on ships that operate in California waters or from California ports. Consistent with these prohibitions under existing law and with the prohibition of casinos, as specified in subdivision (e) of Section 19 of Article IV of the California Constitution, it is the intent of the Legislature to reiterate that gambling activities within the meaning of Chapter 9 (commencing with Section 319), Chapter 10 (commencing with Section 330), or Chapter 10.5 (commencing with Section 337.1) of Title 9 of Part 1 of the Penal Code are prohibited on craft where voyages begin and end in waters of this state, consistent with the standards specified in Public Law No. 102-251, Sec. 202(b)(1)(2)(A) (15 U.S.C. 1175). Therefore, this legislation buttresses current law that prohibits gambling activities on so-called “voyages to nowhere,” that are conducted entirely intrastate and in California waters.

SEC. 2. Section 11319 is added to the Penal Code, to read:

11319. It is unlawful for any person to do any of the following:

(a) Violate any provision of Chapter 9 (commencing with Section 319), Chapter 10 (commencing with Section 330), or Chapter 10.5 (commencing with Section 337.1) of Title 9 of Part 1 on a craft that embarks from any point within the state, and disembarks at the same or another point within the state, during which time the person intentionally causes or knowingly permits gambling activity to be conducted, whether within or without the waters of the state.

(b) Manage, supervise, control, operate, or own any craft that embarks from any point within the state, and disembarks at the same or another point within the state, during which time the person intentionally causes or knowingly permits gambling activity which
would violate any provision of Chapter 9 (commencing with Section 319), Chapter 10 (commencing with Section 330), or Chapter 10.5 (commencing with Section 337.1) of Title 9 of Part 1 to be conducted, whether within or without the waters of the state.

(c) This section shall not apply to gambling activity conducted on United States-flagged or foreign-flagged craft during travel from a foreign nation or another state or possession of the United States up to the point of first entry into California waters or during travel to a foreign nation or another state or possession of the United States from the point of departure from California waters, provided that nothing herein shall preclude prosecution for any other offense under this article.

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 777

An act to amend Section 25503.16 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1992. Filed with Secretary of State July 21, 1992.]

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

SECTION 1. Section 25503.16 of the Business and Professions Code is amended to read:

25503.16. (a) Nothing in this division shall prohibit the issuance or transfer of any retail on-sale or off-sale license to any person with respect to premises which are an integral part of the operations of a hotel, motel, or marine park owned by, or operated by or on behalf of, the licensee notwithstanding that a manufacturer, winemaker, manufacturer's agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee, and notwithstanding that the issuance or transfer would otherwise result in a violation of subdivision (a) of Section 25500, subdivision (a) or (b) of Section 25501, or Section 25502, if each of the following conditions is met:
(1) In the case of a hotel or motel, the hotel or motel consists of not less than 100 guestroom accommodations.

(2) No more than one-quarter of the total gross annual revenues of the hotel, motel, or marine park is derived from the sale by the hotel, motel, or marine park of alcoholic beverages.

(3) The retail licensee shall purchase no beer or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee shall purchase no alcoholic beverages for sale in this state from any wholesale licensee which has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee.

(4) The retail licensee serves other brands of beer, wine, and distilled spirits in addition to the brands manufactured by the beer or distilled spirits manufacturer or produced by the winegrower holding an interest in the retail license.

(5) No marine park shall sell or offer for sale any distilled spirits, except during private events or private functions held at the marine park.

(b) For purposes of this section, "hotel" and "motel" shall mean an establishment containing 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.

(c) For purposes of this section, "marine park" means an establishment with not less than 125 contiguous acres, located in San Diego County, the predominant purpose of which is the education or entertainment of the public through the display of marine animals and related aquatic, food service, and amusement activities, which holds permits issued by state and federal regulatory agencies authorizing the keeping of marine animals or endangered species or both, and which has an annual paid attendance of at least 2,000,000 people.

(d) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests must be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

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 recession has adversely affected tourism, California's number one industry. Convention business is critical to the growth of tourism. This bill will permit marine parks to offer full alcoholic beverage services, thereby enhancing these facilities as convention sites. Accordingly, it is necessary that this act take effect immediately to attract increased convention and other tourism related business vital to the state's economy.

CHAPTER 278

An act to amend Section 1382 of, and to add Section 1387.2 to, the Penal Code, and to amend and repeal Section 23155 of the Vehicle Code, relating to crimes.

[Approved by Governor July 20, 1992. Filed with Secretary of State July 21, 1992 ]

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

SECTION 1. 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 a general time waiver is not expressly entered, 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 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, whichever occurs later, 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 no appeal is 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) The defendant enters a general waiver of the 30-day or 45-day trial requirement. A general waiver of the 30-day or 45-day trial requirement entitles the inferior 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 inferior court, the defendant shall be brought to trial within 30 days of the date of that withdrawal. If a general time waiver is not expressly entered, subparagraph (B) shall apply.

(B) The defendant requests or consents to the setting of a trial date beyond the 30-day or 45-day period. Whenever a case is set for trial beyond the 30-day or 45-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.

(C) 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
previously had 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.

SEC. 2. Section 1387.2 is added to the Penal Code, to read:

1387.2. Upon the express consent of both the people and the
defendant, in lieu of issuing an order terminating an action the court
may proceed on the existing accusatory pleading. For the purposes
of Section 1387, the action shall be deemed as having been previously
terminated. The defendant shall be rearraigned on the accusatory
pleading and a new time period pursuant to Section 859b or 1382 shall
commence.

SEC. 3. Section 23155 of the Vehicle Code, as added by Section
35 of Chapter 1114 of the Statutes of 1989, is amended to read:

23155. (a) Upon the trial of any criminal action, or preliminary
proceeding in a criminal action, arising out of acts alleged to have
been committed by any person while driving a vehicle while under
the influence of an alcoholic beverage in violation of subdivision (a)
of Section 23152 or subdivision (a) of Section 23153, the amount of
alcohol in the person's blood at the time of the test as shown by
chemical analysis of that person's blood, breath, or urine shall give
rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent by weight of
alcohol in the person's blood, it shall be presumed that the person
was not under the influence of an alcoholic beverage at the time of
the alleged offense.

(2) If there was at that time 0.05 percent or more but less than 0.08
percent by weight of alcohol in the person's blood, that fact shall not
give rise to any presumption that the person was or was not under
the influence of an alcoholic beverage, but the fact may be
considered with other competent evidence in determining whether
the person was under the influence of an alcoholic beverage at the
time of the alleged offense.

(3) If there was at that time 0.08 percent or more by weight of
alcohol in the person's blood, it shall be presumed that the person
was under the influence of an alcoholic beverage at the time of the
alleged offense.

(b) Percent by weight of alcohol in the person's blood shall be
based upon grams of alcohol per 100 milliliters of blood or grams of
alcohol per 210 liters of breath.
(c) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

SEC. 4. Section 23155 of the Vehicle Code, as added by Section 37 of Chapter 1114 of the Statutes of 1989, is repealed.

CHAPTER 279

An act to amend Section 1801 of the Fish and Game Code, relating to wildlife resources.

[Became law without Governor’s signature. Filed with Secretary of State July 21, 1992.

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

SECTION 1. Section 1801 of the Fish and Game Code is amended to read:

1801. It is hereby declared to be the policy of the state to encourage the preservation, conservation, and maintenance of wildlife resources under the jurisdiction and influence of the state. This policy shall include the following objectives:

(a) To maintain sufficient populations of all species of wildlife and the habitat necessary to achieve the objectives stated in subdivisions (b), (c), and (d).

(b) To provide for the beneficial use and enjoyment of wildlife by all citizens of the state.

(c) To perpetuate all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to all persons.

(d) To provide for aesthetic, educational, and nonappropriative uses of the various wildlife species.

(e) To maintain diversified recreational uses of wildlife, including the sport of hunting, as proper uses of certain designated species of wildlife, subject to regulations consistent with the maintenance of healthy, viable wildlife resources, the public safety, and a quality outdoor experience.

(f) To provide for economic contributions to the citizens of the state, through the recognition that wildlife is a renewable resource of the land by which economic return can accrue to the citizens of the state, individually and collectively, through regulated management. Such management shall be consistent with the maintenance of healthy and thriving wildlife resources and the public ownership status of the wildlife resources.

(g) To alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner
designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c).

(h) It is not intended that this policy shall provide any power to regulate natural resources or commercial or other activities connected therewith, except as specifically provided by the Legislature.

CHAPTER 280

An act to repeal Section 12183.5 of the Public Contract Code, and to amend Sections 41813, 42510, 42791, 42843, 42850, 44105, 45201, and 45505 of, and to repeal and add Section 45200 of, the Public Resources Code, relating to solid waste.

[Approved by Governor July 21, 1992. Filed with Secretary of State July 21, 1992]

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

SECTION 1. Section 12183.5 of the Public Contract Code is repealed.

SEC. 2. Section 41813 of the Public Resources Code is amended to read:

41813. After conducting a public hearing pursuant to Section 41812, the board may impose administrative civil penalties of not more than ten thousand dollars ($10,000) per day on any city or county which fails to submit an adequate element or plan in accordance with the requirements of this chapter.

SEC. 3. Section 42510 of the Public Resources Code is amended to read:

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. Except as provided in Sections 41783, 41784, and 41785, 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.

SEC. 4. Section 42791 of the Public Resources Code is amended to read:

42791. In addition to Section 42790, any person who violates this division may be assessed a civil penalty by the board of not more than one thousand dollars ($1,000) for each violation, pursuant to notice and hearing. Any civil penalties received pursuant to this subdivision shall be deposited in a separate account in the fund and, upon appropriation, shall be used by the board for the administration of
this division.

SEC. 5. Section 42843 of the Public Resources Code is amended to read:

42843. Except as provided in Section 42844, proceedings for the denial, suspension, or revocation of a permit under this chapter shall be conducted in accordance with Chapter 4 (commencing with Section 44300) of Part 4.

SEC. 6. Section 42850 of the Public Resources Code is amended to read:

42850. (a) Any person who intentionally or negligently violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each violation of a separate provision or, for continuing violations for each day that violation continues.

(b) Liability under this section and Section 42813 may be imposed in a civil action or liability may be imposed administratively pursuant to this article.

SEC. 7. Section 44105 of the Public Resources Code is amended to read:

44105. (a) The board shall maintain an inventory of all permitted solid waste facilities and shall conduct regular inspections.

(b) The board shall establish a special unit to investigate illegal, abandoned, inactive, or closed solid waste disposal sites to ensure that public health and safety and the environment are adequately protected.

SEC. 8. Section 45200 of the Public Resources Code is repealed.

SEC. 9. Section 45200 is added to the Public Resources Code, to read:

45200. Any person who (a) owns or operates a solid waste facility or disposal site and who intentionally or negligently violates or causes or permits another to violate the terms and conditions of a solid waste facilities permit, (b) operates a solid waste facility without a solid waste facilities permit, or (c) intentionally or negligently violates any standard adopted by the board, is subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each day the violation or operation occurs.

SEC. 10. Section 45201 of the Public Resources Code is amended to read:

45201. Any attorney authorized to act on behalf of the enforcement agency or the board may petition the superior court to impose, assess, and recover the civil penalties authorized by Section 45200. Funds collected shall be paid to the fund.

SEC. 11. Section 45505 of the Public Resources Code is amended to read:

45505. Any attorney authorized to act on behalf of the enforcement agency or the board may petition the superior court for injunctive relief to enforce Article 1 (commencing with Section 44001) of Chapter 3 of Part 4 or Article 1 (commencing with Section
45000) or Article 3 (commencing with Section 45300) or Article 4 (commencing with Section 45400) of this chapter, any term or condition in any solid waste facilities permit, or any standard adopted by the board for the storage of solid waste or for the operation of collection and transportation equipment.

CHAPTER 281

An act to amend Section 5009 of the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1992 Filed with Secretary of State July 21, 1992.]

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

SECTION 1. Section 5009 of the Penal Code is amended to read:

5009. (a) It is the intention of the Legislature that all prisoners shall be afforded reasonable opportunities to exercise religious freedom.

(b) (1) Except in extraordinary circumstances, upon the transfer of an inmate to another state prison institution, any member of the clergy or spiritual adviser who has been previously authorized by the Department of Corrections to visit that inmate shall be granted visitation privileges at the institution to which the inmate is transferred within 72 hours of the transfer.

(2) Visitations by members of the clergy or spiritual advisers shall be subject to the same rules, regulations, and policies relating to general visitations applicable at the institution to which the inmate is transferred.

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 preserve and protect inmates' constitutional right to practice their freedom of religion, it is necessary that this act take effect immediately.
CHAPTER 282

An act to amend Section 4275 of the Water Code, relating to water.

[Approved by Governor July 21, 1992. Filed with Secretary of State July 21, 1992.]

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

SECTION 1. Section 4275 of the Water Code is amended to read:

4275. Except as provided in Article 5 (commencing with Section 4300), the department, on or before the 15th day of August of each year, shall certify, to the auditor and the board of supervisors of each county having a watermaster service area, or part of a watermaster service area, the amount required, in order to pay the apportionments for the ensuing fiscal year, to be levied on the land used in the storage or diversion, conveyance or distribution of the water stored or diverted under the right and the land on which the water is, or is entitled to be, used.

CHAPTER 283

An act to amend Sections 685.030, 685.050, 685.090, 699.560, 706.022, 706.026, 706.030, 706.121, 706.125, and 708.020 of, to add Sections 706.024, 706.032, and 706.033 to, to repeal and add Section 706.028 of, and to repeal Section 706.107 of, the Code of Civil Procedure, relating to enforcement of judgments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1992. Filed with Secretary of State July 21, 1992.]

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

SECTION 1. Section 685.030 of the Code of Civil Procedure is amended to read:

685.030. (a) If a money judgment is satisfied in full pursuant to a writ under this title, interest ceases to accrue on the judgment:

(1) If the proceeds of collection are paid in a lump sum, on the date of levy.

(2) If the money judgment is satisfied pursuant to an earnings withholding order, on the date and in the manner provided in Section 706.024 or Section 706.028.

(3) In any other case, on the date the proceeds of sale or collection are actually received by the levying officer.

(b) If a money judgment is satisfied in full other than pursuant to a writ under this title, interest ceases to accrue on the date the judgment is satisfied in full.
(c) If a money judgment is partially satisfied pursuant to a writ under this title or is otherwise partially satisfied, interest ceases to accrue as to the part satisfied on the date the part is satisfied.

(d) For the purposes of subdivisions (b) and (c), the date a money judgment is satisfied in full or in part is the earliest of the following times:

(1) The date satisfaction is actually received by the judgment creditor.

(2) The date satisfaction is tendered to the judgment creditor or deposited in court for the judgment creditor.

(3) The date of any other performance that has the effect of satisfaction.

(e) The clerk of a municipal or justice court may enter in the Register of Actions a writ of execution on a money judgment as returned wholly satisfied when the judgment amount, as specified on the writ, is fully collected and only an interest deficit of no more than ten dollars ($10) exists, due to automation of the continual daily interest accrual calculation.

SEC. 2. Section 685.050 of the Code of Civil Procedure is amended to read:

685.050. (a) If a writ is issued pursuant to this title to enforce a judgment, the costs and interest to be satisfied in a levy under the writ are the following:

(1) The statutory fee for issuance of the writ.

(2) The amount of interest that has accrued from the date of entry or renewal of the judgment to the date of issuance of the writ, as adjusted for partial satisfactions, if the judgment creditor has filed an affidavit with the court clerk stating such amount.

(3) The amount of interest that accrues on the principal amount of the judgment remaining unsatisfied from the date of issuance of the writ until the date interest ceases to accrue.

(4) The levying officer's statutory costs for performing the duties under the writ.

(b) In a levy under the writ, the levying officer shall do all of the following:

(1) Collect the amount of costs and interest entered on the writ pursuant to paragraphs (1) and (2) of subdivision (a).

(2) Compute and collect the amount of additional interest required to be collected by paragraph (3) of subdivision (a) by reference to the daily interest entered on the writ. If amounts collected periodically do not fully satisfy the money judgment, the levying officer may, pursuant to a policy adopted by the office of the levying officer, adjust the amount of daily interest to reflect the partial satisfactions, and make later collections by reference to the adjusted amount of daily interest.

(3) Determine and collect the amount of additional costs pursuant to paragraph (4) of subdivision (a).

SEC. 3. Section 685.090 of the Code of Civil Procedure is amended to read:
685.090. (a) Costs are added to and become a part of the judgment:
   (1) Upon the filing of an order allowing the costs pursuant to this chapter.
   (2) If a memorandum of costs is filed pursuant to Section 685.070 and no motion to tax is made, upon the expiration of the time for making the motion.
   (b) The costs added to the judgment pursuant to this section are included in the principal amount of the judgment remaining unsatisfied.
   (c) If a writ or earnings withholding order is outstanding at the time the costs are added to the judgment pursuant to this section, the levying officer shall add the amount of those costs to the amount to be collected pursuant to the writ or earnings withholding order if the levying officer receives either of the following before the writ or earnings withholding order is returned:
      (1) A certified copy of the court order allowing the costs.
      (2) A certificate from the clerk of the court that the costs have been added to the judgment where the costs have been added to the judgment after a memorandum of costs has been filed pursuant to Section 685.070 and no motion to tax has been made within the time allowed for making the motion.
   (d) The levying officer shall include the costs described in subdivision (c) in the amount of the sale or collection distributed to the judgment creditor only if the levying officer receives the certified copy of the court order or the clerk's certificate before the distribution is made.

SEC. 4. Section 699.560 of the Code of Civil Procedure is amended to read:

699.560. (a) Except as provided in subdivisions (b) and (c), the levying officer to whom the writ of execution is delivered shall return the writ to the court, together with a report of the levying officer's actions and an accounting of amounts collected and costs incurred, at the earliest of the following times:
   (1) Two years from the date of issuance of the writ.
   (2) Promptly after all of the duties under the writ are performed.
   (3) When return is requested in writing by the judgment creditor.
   (4) If no levy takes place under the writ within 180 days after its issuance, promptly after the expiration of the 180-day period.
   (5) Upon expiration of the time for enforcement of the money judgment.
   (b) If a levy has been made under Section 700.200 upon an interest in personal property in the estate of a decedent, the writ shall be returned within the time prescribed in Section 700.200.
   (c) If a levy has been made under Section 4383 of the Civil Code on the judgment debtor's right to the payment of benefits from an employee pension benefit plan, the writ shall be returned within the time prescribed in that section.
   (d) If a levy has been made under the Wage Garnishment Law
(Chapter 5 (commencing with Section 706.010)), and the earnings withholding order remains in effect, the writ of execution shall be returned as provided in subdivision (a) and a supplemental return shall be made as provided in Section 706.033.

SEC. 5. Section 706.022 of the Code of Civil Procedure is amended to read:

706.022. (a) As used in this section, "withholding period" means the period which commences on the 10th day after service of an earnings withholding order upon the employer and which continues until the earliest of the following dates:

1. The date the employer has withheld the full amount required to satisfy the order.
2. The date of termination specified in a court order served on the employer.
3. The date of termination specified in a notice of termination served on the employer by the levy officer.
4. The date of termination of a dormant or suspended earnings withholding order as determined pursuant to Section 706.032.

(b) Except as otherwise provided by statute, an employer shall withhold the amounts required by an earnings withholding order from all earnings of the employee payable for any pay period of the employee which ends during the withholding period.

(c) An employer is not liable for any amounts withheld and paid over to the levying officer pursuant to an earnings withholding order prior to the date the order is issued, with the following additions and subtractions:

1. The addition of the statutory fee for service of the order and any other statutory fees for performing duties under the order.
2. The addition of costs added to the order pursuant to Section 685.090.
3. The subtraction of the amount of any partial satisfactions.
4. The addition of daily interest accruing after issuance of the order, as adjusted for partial satisfactions.

(b) From time to time the levying officer, in the levying officer's discretion, may give written notice to the employer of the amount required to satisfy the earnings withholding order and the employer shall determine the total amount to withhold based upon the levying officer's notice, notwithstanding a different amount stated in the order originally served on the employer.

(c) If the full amount required to satisfy the earnings withholding order as stated in the order or in the levying officer's notice under subdivision (b) is withheld from the judgment debtor's earnings, interest ceases to accrue on that amount.
SEC. 7. Section 706.026 of the Code of Civil Procedure is amended to read:

706.026. (a) The levying officer shall receive and account for all amounts paid by the employer pursuant to Section 706.025 and shall pay the amounts so received over to the person entitled thereto at least once every 30 days.

(b) At least once every two years, the levying officer shall file an account with the court for all amounts collected under the earnings withholding order, including costs and interest added to the amount due.

SEC. 8. Section 706.028 of the Code of Civil Procedure is repealed.

SEC. 9. Section 706.028 is added to the Code of Civil Procedure, to read:

706.028. (a) “Final earnings withholding order for costs and interest” means an earnings withholding order for the collection only of unsatisfied costs and interest, which is issued after an earlier earnings withholding order has been returned satisfied.

(b) After the amount stated as owing in a prior earnings withholding order is paid, the judgment creditor may obtain a final earnings withholding order for costs and interest to collect amounts of costs and interest that were not collected under the prior earnings withholding order.

(c) A final earnings withholding order for costs and interest shall be enforced in the same manner as other earnings withholding orders.

(d) Satisfaction of the amount stated as owing in a final earnings withholding order for costs and interest is equivalent to satisfaction of the money judgment. For this purpose, interest ceases to accrue on the date of issuance of the final earnings withholding order and no additional costs may be added after that date, except for the statutory fee for service of the order and any other statutory fees for performing duties under the order.

SEC. 10. Section 706.030 of the Code of Civil Procedure is amended to read:

706.030. (a) A “withholding order for support” is an earnings withholding order issued on a writ of execution to collect delinquent amounts payable under a judgment for the support of a child, or spouse or former spouse, of the judgment debtor. A withholding order for support shall be denoted as such on its face.

(b) Notwithstanding any other provision of this chapter:

(1) An employer shall continue to withhold pursuant to a withholding order for support until the earliest of the dates specified in paragraph (1), (2), or (3) of subdivision (a) of Section 706.022, except that a withholding order for support shall automatically terminate one year after the employment of the employee by the employer terminates.

(2) A withholding order for support has priority over any other earnings withholding order. An employer upon whom a withholding
order for support is served shall withhold and pay over earnings of the employee pursuant to such order notwithstanding the requirements of another earnings withholding order.

(3) Subject to paragraph (2) and to Article 3 (commencing with Section 706.050), an employer shall withhold earnings pursuant to both a withholding order for support and another earnings withholding order simultaneously.

SEC. 11. Section 706.032 is added to the Code of Civil Procedure, to read:

706.032. (a) Except as otherwise provided by statute:

(1) If withholding under an earnings withholding order ceases because the judgment debtor’s employment has terminated, the earnings withholding order terminates at the conclusion of a continuous 180-day period during which no amounts are withheld under the order.

(2) If withholding under an earnings withholding order ceases because the judgment debtor’s earnings are subject to an order or assignment with higher priority, the earnings withholding order terminates at the conclusion of a continuous two-year period during which no amounts are withheld under the order.

(b) If an earnings withholding order has terminated pursuant to subdivision (a), the employer shall return the order to the levying officer along with a statement of the reasons for returning the order.

SEC. 12. Section 706.033 is added to the Code of Civil Procedure, to read:

706.033. If the writ is returned before the earnings withholding order terminates, on termination of the earnings withholding order the levying officer shall make a supplemental return on the writ. The supplemental return shall contain the same information as an original return pursuant to Section 699.560.

SEC. 13. Section 706.107 of the Code of Civil Procedure is repealed.

SEC. 14. Section 706.121 of the Code of Civil Procedure is amended to read:

706.121. The “application for issuance of earnings withholding order” shall be executed under oath and shall include all of the following:

(a) The name, the last known address, and, if known, the social security number of the judgment debtor.

(b) The name and address of the judgment creditor.

(c) The court where the judgment was entered and the date the judgment was entered.

(d) The date of issuance of a writ of execution to the county where the earnings withholding order is sought.

(e) The total amount required to satisfy the order on the date of issuance (which may not exceed the amount required to satisfy the writ of execution on the date of issuance of the order plus the levying officer’s statutory fee for service of the order).

(f) The name and address of the employer to whom the order will
be directed.

(g) The name and address of the person to whom the withheld money is to be paid by the levying officer.

SEC. 15. Section 706.125 of the Code of Civil Procedure is amended to read:

706.125. The "earnings withholding order" shall include all of the following:

(a) The name, address, and, if known, the social security number of the judgment debtor.

(b) The name and address of the employer to whom the order is directed.

(c) The court where the judgment was entered, the date the judgment was entered, and the name of the judgment creditor.

(d) The date of issuance of the writ of execution to the county where the earnings withholding order is sought.

(e) The total amount required to satisfy the order on the date of issuance (which may not exceed the amount required to satisfy the writ of execution on the date of issuance of the order plus the levying officer's statutory fee for service of the order).

(f) A description of the withholding period and an order to the employer to withhold from the earnings of the judgment debtor for each pay period the amount required to be withheld under Section 706.050 or the amount specified in the order subject to Section 706.024, as the case may be, for the pay periods ending during the withholding period.

(g) An order to the employer to pay over to the levying officer at a specified address the amount required to be withheld and paid over pursuant to the order in the manner and within the times provided by law.

(h) An order that the employer fill out the "employer's return" and return it by first-class mail, postage prepaid, to the levying officer at a specified address within 15 days after service of the earnings withholding order.

(i) An order that the employer deliver to the judgment debtor a copy of the earnings withholding order and the "notice to employee of earnings withholding order" within 10 days after service of the earnings withholding order; but, if the judgment debtor is no longer employed by the employer and the employer does not owe the employee any earnings, the employer is not required to make such delivery.

(j) The name and address of the levying officer.

SEC. 16. Section 708.020 of the Code of Civil Procedure is amended to read:

708.020. (a) The judgment creditor may propound written interrogatories to the judgment debtor in the manner provided in Section 2030 requesting information to aid in enforcement of the money judgment. The judgment debtor shall answer the interrogatories in the manner and within the time provided by Section 2030.
(b) The judgment creditor may not serve interrogatories pursuant to this section within 120 days after the judgment debtor has responded to interrogatories previously served pursuant to this section or within 120 days after the judgment debtor has been examined pursuant to Article 2 (commencing with Section 708.110), and the judgment debtor is not required to respond to any interrogatories so served.

(c) Interrogatories served pursuant to this section may be enforced, to the extent practicable, in the same manner as interrogatories in a civil action.

(d) The limitation provided by Section 2030 on the number of interrogatories that may be propounded applies to each set of interrogatories propounded from time to time pursuant to this section, but does not apply cumulatively to interrogatories propounded by the judgment creditor to the judgment debtor.

SEC. 17. On its effective date, this act applies to all writs of execution and earnings withholding orders regardless of whether they were issued before the effective date of this act.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. 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. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

(a) Effective January 1, 1990, the 90-day limitation on the duration of an earnings withholding order under Section 706.022 of the Code of Civil Procedure was eliminated. A writ of execution is a prerequisite to issuance of an earnings withholding order and a writ of execution must be returned not later than two years after issuance. A serious conflict has arisen between the duration of the writ of execution and the open-ended earnings withholding order, and levying officers, employers, debtors, and creditors need clarification because writs issued in early 1990 will expire in early 1992.

(b) A levy may be made under a writ of execution for 180 days after its issuance. Only one writ is permitted to be outstanding in a county at a time, so a creditor may have an outstanding writ returned to the court and a new writ issued to support a new levy after the expiration of 180 days. But if an earnings withholding order is in operation, the writ may not be returned, and the creditor may be required to choose between continuing a wage garnishment and levying on other property.

(c) Other technical and procedural revisions are needed to improve the functioning of (1) the revised earnings withholding
order in relation to other general enforcement of judgments procedures, and (2) discovery with regard to enforcement of judgments.

CHAPTER 284

An act to add Title 2.5 (commencing with Section 750) to Part 2 of the Penal Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1992 Filed with Secretary of State July 21, 1992.]

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

SECTION 1. Title 2.5 (commencing with Section 750) is added to Part 2 of the Penal Code, to read:

TITLE 2.5. NIGHTCOURT

750. Notwithstanding any other provision of law, in the event that the superior court of a county having a population in excess of six million has discontinued, on or after December 1, 1991, a nightcourt policy or program with respect to criminal cases, the policy or program shall, upon approval of the board of supervisors, be substantially reinstated, with at least the average level of staffing and session scheduling which occurred during the period of six months immediately prior to December 1, 1991.

SEC. 2. The Legislature finds and declares that a special law is necessary due to the unique facts and circumstances applicable to Los Angeles County and that a general law cannot be made applicable within the meaning of Section 16 of Article IV 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 that any nightcourt policy or program with respect to criminal cases discontinued on or after December 1, 1991, by the superior court in a county having a population in excess of six million be reinstated as soon as possible, because experience has disclosed that the policy or program substantially relieves court congestion and promotes the economic and other legitimate interests of defendants and witnesses, who would otherwise be gravely and unduly burdened in the absence of the policy or program, it is necessary for this act to take effect immediately.
An act to amend Section 199.715 of the Health and Safety Code, relating to AIDS.

[Approved by Governor July 21, 1992. Filed with Secretary of State July 21, 1992]

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

SECTION 1. Section 199.715 of the Health and Safety Code is amended to read:

199.715. The state department may approve up to 35 pilot projects to provide housing and food for homeless persons who have AIDS or symptomatic HIV disease. The state department may provide funding to a selected number these pilot projects. All approved pilot projects shall enter into a contract with the state department, which shall define the conditions for participation as pilot projects. Notwithstanding Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2, an approved pilot project shall not be required to be licensed if it is organized and operated for the purpose of providing room and board to homeless persons with AIDS or symptomatic HIV disease and it is not organized and operated to directly provide medical or nursing care.

The pilot projects shall maintain a written agreement for referral and acceptance of residents with at least one registered nurse case manager, general acute care hospital, and licensed home health agency. The contract requirements for the pilot projects shall include the criteria and protocols which the state department determines are appropriate to ensure that the health, safety, and welfare of residents are protected. The state department may additionally provide for or enter into a contract for evaluation and assessment related to the approved pilot projects.

This chapter shall not preempt the application of any local zoning requirements in effect on January 1, 1990, to a residential AIDS shelter pilot project for homeless persons with AIDS or symptomatic HIV disease.

The implementation of these pilot projects 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.

This section 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 date on which it becomes inoperative and is repealed.
An act relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1992. Filed with Secretary of State July 21, 1992.]

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

SECTION 1. Notwithstanding any other provision of law, the allocation of property tax revenue in the 1979–80 fiscal year to the 1991–92 fiscal year, inclusive, in Amador County, as distributed as of July 1, 1992, shall be deemed correct, and no reductions or increases in apportionments shall be made for the 1979–80 fiscal year to the 1991–92 fiscal year, inclusive.

SEC. 2. It is the intent of the Legislature not to validate in the future any other mistakes in the allocation of property tax revenue unless the mistake is the result of written advice from the Department of Finance with respect to the particular allocation.

SEC. 3. With respect to the provisions of Section 1 of this act, the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances applicable only to Amador County. Amador County allocated property tax revenues from the 1979–80 to the 1991–92 fiscal year, inclusive, in good faith and with the reasonable belief that its property tax allocation methods complied with all applicable statutes. While other counties were benefited by earlier audits or reviews, Amador County was not audited or reviewed by either the Department of Finance or the Controller until 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 for local taxing agencies in Amador County to be immediately relieved of the possibility of litigation and to assure that the county auditor of Amador County is free to implement the newly adopted apportionment procedures without duress, it is necessary that this act take effect immediately.
CHAPTER 287

An act to amend Sections 1344 and 1373.6 of, to add Article 3.2 (commencing with Section 1358) to Chapter 2.2 of Division 2 of, and to repeal Section 1367.15 of, the Health and Safety Code, and to amend Sections 10192.05, 10192.1, 10192.2, 10195, 10197, 10197.1, 10197.2, 10197.6, and 10198.4 of, to add Sections 10194.4, 10194.7, 10194.8, 10195.1, 10195.46, and 10197.05 to, to repeal and add Sections 10194, 10194.2, 10194.3, 10194.5, and 10195.45 of, and to repeal Sections 10194.1, 10196.1, 10197.4, and 10197.5 of, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1992. Filed with Secretary of State July 21, 1992.]

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

SECTION 1. This act shall be known as The Medicare Supplement Act of 1992.

SEC. 2. Section 1344 of the Health and Safety Code is amended to read:

1344. (a) The commissioner may from time to time adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of rules and forms, the commissioner may classify persons and matters within the commissioner's jurisdiction, and may prescribe different requirements for different classes. The commissioner may waive any requirement of any rule or form in situations where in the commissioner's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to this chapter. The commissioner may adopt rules consistent with federal regulations and statutes to regulate health care coverage supplementing Medicare.

(b) The commissioner may honor requests from interested parties for interpretive opinions.

(c) No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, order, or written interpretive opinion of the commissioner, or any such opinion of the Attorney General, notwithstanding that the rule, form, order, or written interpretive opinion may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

SEC. 3. Section 1367.15 of the Health and Safety Code is repealed.

SEC. 4. Section 1373.6 of the Health and Safety Code is amended
to read:

1373.6. This section does not apply to a specialized health care service plan contract or to a plan contract that primarily or solely supplements Medicare. The commissioner may adopt rules consistent with federal law to govern the discontinuance and replacement of plan contracts that primarily or solely supplement Medicare.

(a) Every group contract entered into, amended or renewed on or after January 1, 1985, that provides hospital, medical, or surgical expense benefits for employees or members shall provide that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

1. The group contract terminated or an employer's participation terminated.

2. The employee or member failed to pay amounts due the health care service plan.

3. The employee or member was terminated by the health care service plan from the plan for good cause.

4. The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

5. The employer's hospital, medical, or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

1. Such person is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act.

2. The person is covered by or is eligible for hospital, medical, or surgical benefits under state or federal law.

3. The person is covered by or is eligible for hospital, medical, or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

4. The person is covered for similar benefits by an individual policy or contract.

5. The person has not been continuously covered during the three-month period immediately preceding that person's termination of coverage.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and first premium payment for the conversion contract shall be made not later than 31 days after termination from the group.

(f) The conversion contract shall cover the employee or member
and his or her dependents who were covered under the group contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage. However, it shall be the sole responsibility of the employer to notify its employees of the availability, terms, and conditions of the conversion coverage which responsibility shall be satisfied by notification within 15 days of termination of group coverage. Group coverage shall not be deemed terminated until the expiration of any continuation of the group coverage. For purposes of this subdivision, the employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms, and conditions of conversion coverage.

(h) As used in this section, "hospital, medical, or surgical benefits under state or federal law" do not include benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or Title XIX of the United States Social Security Act.

SEC. 5. Article 3.2 (commencing with Section 1358) is added to Chapter 2.2 of Division 2 of the Health and Safety Code, to read:

Article 3.2. Additional Requirements for Medicare Supplement Contracts

1358. Every health care service plan, except a federally qualified health maintenance organization pursuant to Title XIII of the United States Public Health Service Act, that offers any contract that primarily or solely supplements Medicare, or is advertised or represented as a supplement to Medicare shall, in addition to complying with the provisions of this chapter and rules of the commissioner, comply with the provisions of this article.

As used in this chapter, "Medicare" means the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, Title 1, Part 1 of Public Law 89-97, enacted by the 89th United States Congress; as then constituted or as later amended.

1358.1. A plan offering contracts to supplement Medicare shall do all of the following:

(a) Meet the minimum benefit standards as established by the commissioner.

(b) Provide an examination period of 30 days after the receipt of the contract for purposes of review of the contract at which time the applicant may return the contract. The return shall void the contract from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner by the plan in a timely manner.

1. Each plan contract or certificate shall have a notice prominently printed in no less than 10-point upper case type, on the cover page of the plan contract or certificate or attached thereto, and on the cover page of the outline of coverage, stating that the
applicant has the right to return the plan contract or certificate within 30 days after its receipt via regular mail, and to have the full premium refunded.

(2) For purposes of this section, a timely manner shall be no later than 30 days after the plan or entity issuing the contract or certificate receives the returned contract or certificate.

(3) If the plan or entity issuing the contract or certificate fails to refund all premiums paid in a timely manner, then the applicant shall receive interest on the paid premium at the legal rate of interest on judgments as provided in Section 685.010 of the Code of Civil Procedure. The interest shall be paid from the date the plan or entity received the returned contract or certificate.

(c) Explain the relationship of the coverage under the contract to the benefits provided by Medicare.

(d) Not be limited to coverage exclusively for a single disease or affliction.

(e) If the plan contract or policy does not cover custodial care, the cover page of the outline of coverages required by subdivision (c) shall contain the following statement in upper case type: “THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.”

1358.2. (a) The disclosure form required pursuant to Section 1363 and applicable regulations, if it relates to a contract that is not a contract of a federally qualified health maintenance organization and that primarily or solely supplements Medicare, with hospital or medical coverage shall also set forth the following information in the format indicated:

(1) With the information required by paragraph (1) of subdivision (b) of Section 1300.63 of the California Code of Regulations, conspicuously identify, on the first page of the disclosure form immediately under the plan name, the disclosure form as being for the plan’s Medicare supplement contract.

(2) If the Medicare supplement contract is issued on a basis not identical to that described in the disclosure form previously provided, a corrected disclosure form shall also be provided in accordance with Section 1363 when the contract is delivered and shall contain the following statement, in no less than 12-point type on the first page, immediately above the company name:

“NOTICE: Read this disclosure form carefully. It is not identical to the disclosure form previously provided and the coverage originally applied for has not been issued.”

(3) The outline of coverage provided to applicants pursuant to this section shall consist of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the plan.

The cover page shall include the items, in the same order, specified in the chart set forth in paragraph (4) of subdivision (C) of Section 16 of the Model Regulation to Implement the NAIC Medicare
Supplement Insurance Minimum Standards Model Act, as adopted by the National Association of Insurance Commissioners on July 30, 1991. All benefit plans "A" through "J" shall be shown on the cover page, and the plan or plans that are offered by the plan shall be prominently identified.

All possible charges for benefit plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. All possible charges shall be stated for all benefit plans that are offered to the prospective applicant. All possible charges for the prospective applicant shall be illustrated.

The disclosure pages shall be in the language and format described below in no less than 12-point type.

PREMIUM INFORMATION

[Insert plan's name] can only raise your premium if it raises the premium for all contracts like yours in this state. [If the premium is based on the increasing age of the enrollee, include information specifying when premiums will change.]

DISCLOSURES

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing the most important features of your Medicare supplement plan contract. This is not the plan contract and only the actual contract provisions will control. You must read the contract itself to understand all of the rights and duties of both you and [insert the health care service plan's name].

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your contract, you may return it to [insert plan's address]. If you send the contract back to us within 30 days after you receive it, we will treat the contract as if it had never been issued and return all of your payments.

POLICY REPLACEMENT

If you are replacing other health coverage, do NOT cancel it until you have actually received your new contract and are sure you want to keep it.
NOTICE

This contract may not fully cover all of your medical costs. Neither [insert the health care service plan’s name] nor its agents are connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security office or consult “The Medicare Handbook” for further details and limitations applicable to Medicare.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new contract, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your contract and refuse to pay any claims if you leave out or falsify important medical information. [If the contract is guaranteed issue, this paragraph need not appear.] Review the application carefully before you sign it. Be certain that all information has been properly recorded. [The charts displaying the features of each benefit plan offered by the plan shall use the uniform format and language shown in the charts set forth in Section 16 of the Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, as adopted by the National Association of Insurance Commissioners on July 30, 1991. No more than four benefit plans may be shown on one chart. For purposes of illustration, charts for each benefit plan are set forth below. A plan may use additional benefit plan designations on these charts.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

(b) Notwithstanding the provisions of Section 1300.63.2 of the California Code of Regulations, no plan shall combine the evidence of coverage and disclosure form into a single document relating to a contract that supplements Medicare, or is advertised or represented as a supplement to Medicare, with hospital or medical coverage.

(c) Notwithstanding the provisions of this section, a plan shall not be required to comply with the provisions of this section with respect to any group contract that is any of the following:

(1) A group contract with one or more employers or labor organizations, or trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees or combination thereof or for members or former members, or combination thereof, of the labor organizations.

(2) A group contract with any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association is composed of individuals all of whom are actively engaged in the same profession, trade or
occupation, has been maintained in good faith for purposes other than obtaining health coverage, and has been in existence for at least two years prior to the date of its initial offering of the contract to its members.

1358.3. (a) In the interest of full and fair disclosure, and to assure the availability of necessary consumer information to potential subscribers or enrollees not possessing a special knowledge of Medicare, health care service plans, and Medicare supplement contracts, a health care service plan offering contracts to supplement Medicare shall comply with the provisions of this section.

(b) The application form for persons eligible for Medicare used by a plan described in subdivision (a) shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or contract in force or whether a Medicare supplement contract is intended to replace any accident and sickness policy or certificate or plan contract presently in force. A supplementary application or other form to be signed by the applicant and solicitor, containing the questions and statements may be used.

[Statements]

(1) You do not need more than one Medicare supplement policy or contract.

(2) If you are 65 years of age or older, you may be eligible for benefits under Medi-Cal or medicaid and may not need a Medicare supplement policy or contract.

(3) The benefits and premiums under your Medicare supplement contract will be suspended during your entitlement to benefits under Medi-Cal or medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal or medicaid. If you are no longer entitled to Medi-Cal or medicaid, your contract will be reinstated if requested within 90 days of losing Medi-Cal or medicaid eligibility.

(4) Counseling services may be available in your area to provide advice concerning your purchase of Medicare supplement coverage and concerning Medi-Cal or medicaid. Information regarding counseling services may be obtained from the State Department of Aging.

[Questions]

To the best of your knowledge:

(1) Do you have another Medicare supplement insurance policy or health care service plan contract in force?

If so, with which company?

(2) Do you have any other health coverage that provides benefits that this Medicare supplement contract would duplicate?
(A) If so, with which company?
(B) What kind of coverage?
(3) If the answer to question 1 or 2 is yes, do you intend to replace these medical or health insurance coverages with this contract?
(4) Are you covered by Medi-Cal or medicaid?
(c) Solicitors shall list any other health insurance policies or plan contracts they have sold to the applicant. The list shall include a list of policies and plan contracts sold that are still in force, and a list of policies and plan contracts sold in the past five years that are no longer in force.
(d) Plans issuing Medicare supplement contracts without a solicitor or solicitor firm shall return to the applicant, upon delivery of the contract, a copy of the application or supplemental form, signed by the applicant and acknowledged by the plan.
(e) Upon determining that a sale will involve replacement of Medicare supplement coverage, a plan described in subdivision (a), other than a plan selling as a result of direct response solicitation, as described below, or its agent shall furnish the applicant, prior to issuance or delivery of the Medicare supplement contract, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the plan. However, a plan described in subdivision (a) that is selling as a result of direct response solicitation, that is, solicitation through the news media or the mail shall deliver to the applicant at the time of issuance of the contract a notice regarding replacement of Medicare supplement coverage. The notice required by this subdivision shall be provided in substantially the form set forth in subdivision (f).
(f) The notice required by this subdivision shall be provided in substantially the following form in no less than 10-point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT COVERAGE

(Company name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate an existing Medicare supplement policy or plan contract and replace it with a contract to be issued by [Plan Name]. Your plan contract to be issued by [Plan Name] will provide 30 days within which you may decide without cost whether you desire to keep the contract. You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy or plan contract only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.
STATEMENT TO APPLICANT BY PLAN, SOLICITOR, SOLICITOR FIRM, OR OTHER REPRESENTATIVE:

(1) I have reviewed your current medical or health coverage. The replacement of coverage involved in this transaction does not duplicate coverage, to the best of my knowledge. The replacement contract is being purchased for the following reason (check one):
   ____Additional benefits.
   ____No change in benefits, but lower premiums.
   ____Fewer benefits and lower premiums.
   ____Other. (please specify) ____________________________

(2) You may not be immediately eligible for full coverage under the new contract. This could result in denial or delay of a claim for benefits under the new contract, whereas a similar claim might have been payable under your present policy or contract.

(3) State law provides that your replacement Medicare supplement contract may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The plan will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new coverage for similar benefits to the extent that time was spent (depleted) under the original contract.

(4) If you still wish to terminate your present policy or contract and replace it with new coverage, be certain to truthfully and completely answer any and all questions on the application concerning your medical and health history. Failure to include all material medical information on an application requesting that information may provide a basis for the plan to deny any future claims and to refund your prepaid or periodic payment as though your contract had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded.

(5) Do not cancel your present Medicare supplement coverage until you have received your new contract and are sure you want to keep it.

(Signature of Solicitor, Solicitor Firm, or Other Representative)
[Typed Name and Address of Plan, Solicitor, or Solicitor Firm]

(Applicant’s Signature)

(Date)

(g) Notwithstanding the provisions of this section, a plan shall not be required to comply with the provisions of this section with respect to any group contract that is any of the following:
(1) A group contract with one or more employers or labor organizations, or trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees or combination thereof, or for members or former members, or combination thereof, of the labor organizations.

(2) A group contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation, has been maintained in good faith for purposes other than obtaining health coverage, and has been in existence for at least two years prior to the date of its initial offering of the contract to its members.

1358.4. (a) In the interest of full and fair disclosure, and to assure the availability of necessary consumer information to potential subscribers or enrollees not possessing a special knowledge of Medicare, health care service plans, and Medicare supplement contracts, a health care service plan offering contracts to supplement Medicare shall comply with the provisions of subdivision (b).

(b) The application form or other consumer information for persons eligible for Medicare and used by a plan described in subdivision (a) shall contain as an attachment a Medicare supplement buyer’s guide in the form approved by the commissioner. The application or other consumer information, containing as an attachment the buyer’s guide, shall be mailed or delivered to each person applying for that coverage at or before the time of application and, to establish compliance with this subdivision, the plan shall obtain an acknowledgment of receipt of the attached buyer’s guide from each applicant. No plan shall make use of or otherwise disseminate any buyer’s guide that does not accurately outline current Medicare benefits. No plan shall be required to provide more than one copy of the buyer’s guide to any applicant.

(c) A plan may comply with the requirement of this section in the case of group contracts by causing the group contractholder (1) to disseminate copies of the disclosure form containing as an attachment the buyer’s guide to all persons eligible under the group contract at the time those persons are offered the plan, and (2) collecting and forwarding to the plan an acknowledgment of receipt of the disclosure form containing as an attachment the buyer’s guide from each person described in paragraph (1).

(d) Notwithstanding the provisions of this section, a plan shall not be required to comply with the provisions of this section with respect to any group contract that is any of the following:

(1) A group contract with one or more employers or labor organizations, or trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees, or former employees or combination thereof, or for members or former members, or combination thereof, of the labor
A group contract with any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association is composed of individuals all of whom are actively engaged in the same profession, trade or occupation, has been maintained in good faith for purposes other than obtaining health coverage, and has been in existence for at least two years prior to the date of its initial offering of the contract to its members.

1358.5. (a) A health care service plan offering contracts to supplement Medicare shall do all of the following:

1. Establish marketing procedures to assure that any comparison of Medicare supplement coverage by its agents or other producers will be fair and accurate.

2. Establish marketing procedures to assure excessive coverage is not sold or issued.

3. Establish marketing procedures that set forth a mechanism or formula for determining whether replacement coverage contains benefits clearly and substantially greater than the benefits under the replaced coverage.

4. Display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and plan contract the following: “Notice to buyer: This plan contract may not cover all of your medical expenses.”

5. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement coverage already has accident and sickness coverage and the types and amounts of any such coverage.

6. Establish auditable procedures for verifying compliance with this subdivision.

(b) The following acts and practices are prohibited:

1. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any accident and sickness coverage for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any coverage or to take out coverage with another plan or contract.

2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of coverage through force, fright, threat whether explicit or implied, or undue pressure to purchase or recommend the purchase of coverage.

3. Cold-lead advertising. Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of Medicare supplement coverage and that contact will be made by a health care service plan or its representative.

(c) In recommending the purchase or replacement of any Medicare supplement coverage a plan or its representative shall make reasonable efforts to determine the appropriateness of a
recommended purchase or replacement.

(d) Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy certificate or contract is prohibited.

1358.6. (a) On or before March 1 of each year, a health care service plan offering contracts to supplement Medicare, shall report to the commissioner the following information for every individual resident of this state for which the plan has in force more than one Medicare supplement contract:

(1) Contract name.
(2) Date of Issuance.
(b) The items set forth above shall be grouped by enrollee.

1358.8. (a) If a Medicare supplement contract replaces other Medicare supplement coverage, the replacing plan shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement contract to the extent that time was spent under the original coverage.
(b) If a Medicare supplement contract replaces another Medicare supplement contract that has been in effect for at least six months, the replacing contract shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods.

1358.8. (a) A health care service plan offering contracts to supplement Medicare may provide commission or other compensation to a solicitor or solicitor firm for the sale of a Medicare supplement contract only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the contract in the second year or period.
(b) The commission or other compensation provided in subsequent renewal years shall be the same as that provided in the second year or period, and shall be provided for at least five years.
(c) For purposes of this section, “commission” or “compensation” includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the contract, including, but not limited to, bonuses, gifts, prizes, awards, and finder’s fees.

1358.9. (a) A contract offered to supplement Medicare shall be deemed not to be fair, just, or consistent with the objectives of the Knox-Keene Health Care Service Plan Act of 1975 at all times, and shall not be advertised, solicited for, entered, or renewed at any time, except during that period of time, if any, beginning with the date of receipt by the plan of notification by the commissioner that the provisions of the contract are deemed to be fair, just, and consistent with the objectives of this chapter, and ending with the earlier to occur of the events indicated in subdivision (b).
(b) The period of time indicated in subdivision (a) shall terminate at the earlier to occur of (1) receipt by the plan of written revocation by the commissioner of the immediate past notification referred to
in subdivision (a) specifying the basis for the revocation, (2) the last
day of the prepaid or periodic charge calculation period, that in no
event may exceed one year, or (3) June 30, of the next succeeding
calendar year.

(c) A plan shall secure the commissioner's review of a plan
contract subject to this article by submitting, not less than 30 days
prior to any proposed advertising or other use of the plan contract
not already protected by a currently effective notice under
subdivision (a), the following for the commissioner's review:

1. A copy of the plan contract.
2. A copy of the disclosure form.
3. A representation that the plan contract complies with the
provisions of this chapter and the rules adopted thereunder.
4. A completed copy of the "Medicare Supplement Health Care
Service Plan Contract Experience Exhibit" set forth in Section
1358.17.
5. A copy of the calculations for the actual or expected loss ratio.
6. Supporting data used in calculating the actual or expected loss
ratio as indicated in Section 1358.11.
7. An actuarial certification, as specified in Section 1358.11 of the
loss ratio computations.
8. If required by the commissioner, actuarial certification, as
specified in Section 1358.11, of the loss ratio computations by one or
more unaffiliated actuaries acceptable to the commissioner.
9. An undertaking by the plan to notify the subscribers in writing
within 60 days of decertification, if the contract is identified as a
certified contract at the time of sale and later decertified.
10. A signed statement of the president of the plan or other
officer of the plan designated by that person attesting that the
information submitted for review is accurate and complete and does
not misrepresent any material fact.

(d) A plan that submits information pursuant to subdivision (c)
shall provide such additional information as may be requested by the
commissioner to enable the commissioner to conclude that the plan
contract complies with the provisions of this chapter and rules
adopted thereunder.

(e) For the purposes of this section, the term "decertified," as
applied to a plan contract, means that the commissioner by written
notice has found that the contract no longer complies with the
provisions of this chapter and the rules adopted thereunder and has
revoked the prior authorization to display on the plan contract the
emblem indicating certification.

(f) Notwithstanding the other provisions of the section, this
section shall not apply to any group contract that is all of the
following:

1. A group contract with one or more employers or labor
organizations, or of the trustee of a fund established by one or more
employers or labor organizations, or combination thereof, for
employees, or former employees, or combination thereof, or for
members or former members, or combination thereof, of the labor organization.

(2) A group contract with any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation, has been maintained in good faith for purposes other than obtaining health coverage, and has been in existence for at least two years prior to the date of its initial offering of the contract to its members.

1358.10. (a) No plan subject to this article may advertise, solicit for, enter, or renew any plan contract that primarily or solely supplements Medicare, or is advertised or represented as a supplement to Medicare, with hospital or medical coverage if the contract contains any of the prohibited provisions described in subdivision (b), does not contain any of the mandatory provisions described in subdivision (c), or does not conform to the requirements set forth in subdivision (d). No plan contract that primarily or solely supplements Medicare shall contain benefits that duplicate benefits provided by Medicare.

(b) The following provisions shall be deemed to be unfair, unreasonable, and inconsistent with the objectives of this chapter and shall not be contained in any plan contract subject to subdivision (a):

(1) Any waiver, exclusion, limitation, or reduction based on or relating to a preexisting disease or physical condition, unless that waiver, exclusion, limitation, or reduction (A) applies only to coverage for specified services rendered not more than six months from the effective date of coverage, (B) is based on or relates only to a preexisting disease or physical condition defined no more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage, (C) does not apply to any coverage under any group contract, and (D) is approved in advance by the commissioner. Any limitations with respect to a preexisting condition shall appear as a separate paragraph of the contract and be labeled "Preexisting Condition Limitations."

(2) Any provision delaying the effective date of coverage beyond the first day of the month following the date of receipt by the plan of the applicant’s properly completed application, except that the effective date of coverage may be delayed until the 65th birthday of an applicant who is to become eligible for Medicare by reason of age if the application is received any time during the three months immediately preceding the applicant’s 65th birthday.

(3) Any distinction in coverage based on whether health care services are provided because of illness or injury.

(4) The terms “Medicare supplement,” “medigap,” “Medicare Wrap-Around,” or terms of similar import to characterize a plan contract, unless the contract is in compliance with the provisions of
this chapter and this article.

(5) Any provision allowing termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the subscriber, other than the nonpayment of the prepaid or periodic charge.

(6) Except with respect to a group contract subject to and in compliance with Section 1399.62, any provision denying coverage, after termination of the contract, for services provided continuously beginning while the contract was in effect, during the continuous total disability of the subscriber or enrollee, except that the coverage may be limited to a reasonable period of time not less than the duration of the contract benefit period, if any, and may be limited to the maximum benefits provided under the contract.

(7) Any definition, condition, limitation, exclusion, reduction, or other provision that is inconsistent with or more restrictive or limiting than that term as officially used in Medicare, except as expressly authorized in this chapter.

(c) A plan contract shall be deemed to be unfair, unreasonable, and inconsistent with the objectives of this chapter and shall not be advertised, solicited for, entered, or renewed unless it contains the following mandatory provisions:

(1) Prominently printed on the first page of the contract, a notice stating in substance that the subscriber or enrollee shall have the right to return the contract within 30 days of its delivery and to have the prepaid or periodic charge refunded if, after examination of the contract, the covered person is not satisfied for any reason.

(2) Appropriately captioned, and appearing on the first page of the contract, a provision regarding renewal or continuation. The provision shall be consistent with subdivision (a) of Section 1365 and the rules adopted thereunder and shall include any reservation by the plan of the right to change prepaid or periodic charges and any automatic renewal increases based on the enrollee’s age.

(3) Benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors and the amount of prepaid charges may be modified, as indicated in paragraph (6) of subdivision (a) of Section 1300.67.4 of the California Code of Regulations, to correspond with those changes.

(4) The health care service plan shall not in any way reduce or eliminate any benefit or coverage under a Medicare supplement contract at any time after the date of entering the contract, including dates of reinstatement or renewal, unless and until the change is voluntarily agreed to in writing signed by the subscriber or enrollee, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits. The health care service plan shall not increase benefits or coverage with a concomitant increase in prepaid or periodic charges during the term of the contract unless and until the change is voluntarily agreed to in writing signed by the subscriber.
or enrollee or unless the increased benefits or coverage is required by law or regulation.

(5) A plan contract shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import.

(6) The plan contract shall contain the provisions required to be set forth in the plan contract by Section 1300.67.4 of the California Code of Regulations.

(d) A plan contract subject to subdivision (a) shall be deemed to be unfair, unreasonable, and inconsistent with the objectives of this chapter and shall not be advertised, solicited for, entered, or renewed unless the contract contains definitions of terms in compliance with the following requirements:

(1) "Accident," "accidental injury," or "accidental means," if defined, shall be defined without including words that establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization. The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided," means accidental bodily injury sustained by the covered person.

(2) "Benefit period" or "Medicare benefit period" shall not be defined more restrictively than as defined in the Medicare program.

(3) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the federal Medicare program.

(4) "Health care expenses" may include expenses associated with the delivery of health care services, but shall not include (A) home office and overhead costs, (B) advertising costs, (C) commissions and other acquisition costs, (D) taxes, (E) capital costs, (F) administrative costs, or (G) claims processing costs.

(5) "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals but not more restrictively than as defined in the federal Medicare program.

(6) "Medicare" shall be defined in the contract. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended," or "Title I, Part I of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

(7) "Medicare eligible expenses" shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(8) "Physician" shall not be defined more restrictively than as defined in the federal Medicare program.

(9) "Sickness," if defined, shall not be defined to be more restrictive than the following: "Sickness means illness or disease of a
covered person."

(e) Nothing in this section shall be construed as prohibiting any plan contract, by definitions or express provisions, from limiting or restricting any or all of the benefits provided under the contract, except in-area and out-of-area emergency services, to those health care services that are delivered by plan employed, owned, or contracting providers and provider facilities, so long as the plan contract complies with the provisions of Sections 1367 and 1358.11 and with Section 1300.67 of the California Code of Regulations.

(f) Nothing in this section shall be construed as prohibiting any plan contract that limits or restricts any or all of the benefits provided under the contract in the manner contemplated in subdivision (e) from limiting its obligation to deliver services, and disclaiming any liability from any delay or failure to provide those services (1) in the event of a major disaster or epidemic or (2) in the event of circumstances not reasonably within the control of the plan, such as the partial or total destruction of facilities, war, riot, civil insurrection, disability of a significant part of its health personnel, or similar circumstances so long as the provisions comply with the provisions of subdivision (h) of Section 1367.

1358.11. (a) No plan subject to this article may advertise, solicit for, enter, or renew any plan contract that primarily or solely supplements Medicare, or is advertised or represented as a supplement to Medicare, with hospital or medical coverage unless the contract returns to the subscribers and enrollees in the form of aggregate benefits under the contract, not including anticipated refunds or credits, as estimated for the entire period for which prepaid or periodic charges are computed to provide coverage, on the basis of incurred claims or costs of health care services experience and earned prepaid or periodic charges for that period and in accordance with accepted actuarial principles and practices:

(1) At least 75 percent of the aggregate amount of prepaid or periodic charges collected in the case of group contracts.

(2) At least 65 percent of the aggregate amount of prepaid or periodic charges collected in the case of individual contracts.

(b) The calculation of actual or expected loss ratios shall be pursuant to that formula, definitions, procedures, and other provisions as may be deemed by the commissioner, with due consideration of the circumstances of the particular plan, to be fair, reasonable, and consistent with the objectives of this chapter.

(c) Each plan subject to subdivision (a) shall submit to the department a copy of the calculations for the actual or expected loss ratio as required by Section 1358.9. The calculations shall include the following data: the actual loss ratio for the entire period in which the plan contract has been in force, as well as for the immediate past three years and for each year in which the plan contract has been in force; the scale of prepaid or periodic charges for the loss ratio calculation period, a description of all assumptions, the formula used to calculate gross prepaid or periodic charges, the expected level of
earned prepaid or periodic charges in the loss ratio calculation period, and the expected level of incurred claims for reimbursement, including paid claims and incurred but not paid claims, in the loss ratio calculation period. The calculations shall be accompanied by an actuarial certification, consisting of a signed declaration of an actuary who is a member in good standing of the American Academy of Actuaries in which the actuary states that the assumptions used in calculating the expected loss ratio are appropriate and reasonable, taking into account that the calculations are in accordance with the provisions of subdivision (c) and the provisions referred to therein. In addition, the commissioner may require the plan to submit actuarial certification, as described above, by one or more unaffiliated actuaries acceptable to the commissioner.

(d) Notwithstanding the calculations required by subdivision (c), plan contracts shall be deemed to comply with the loss ratio standards if, and shall be deemed not to comply with the loss standards unless: (1) for the most recent year, the ratio of the incurred losses to earned prepaid charges for contracts that have been in force for three years or more is greater than or equal to the applicable percentages contained in this section; and (2) the expected losses in relation to premiums over the entire period for which the contract is rated comply with the requirements of this section. An expected third-year loss ratio that is greater than or equal to the applicable percentage shall be demonstrated for contracts in force less than three years.

(e) Notwithstanding the provisions of this section, this section shall not apply to any group contract that is either:

(1) A group contract with one or more employers or labor organizations, or trustees of a fund established by one or more employers or organizations, or combination thereof, for employees or former employees or combination thereof or for members or former members, or combination thereof, of the labor organizations.

(2) A group contract with any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association is composed of individuals all of whom are actively engaged in the same profession, trade or occupation, has been maintained in good faith for purposes other than obtaining health coverage, and has been in existence for at least two years prior to the date of its initial offering of the contract to its members.

1358.12. (a) To comply with federal law (P.L. 101-508, Section 4351) a plan shall, for each Medicare supplement contract it offers, collect and file with the commissioner by May 31, of each year the data contained in the reporting form contained in Appendix A of the Model Regulation to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, as adopted by the National Association of Insurance Commissioners on July 30, 1991.

(b) If on the basis of the experience as reported the bench mark ratio since inception (ratio 1) exceeds the adjusted experience ratio
since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each Medicare supplement contract offered by the plan. For purposes of the refund or credit calculation, experience on contracts issued within the reporting year shall be excluded.

(c) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds ten dollars ($10). The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week Treasury Notes. A refund or credit against prepaid or periodic charges due shall be made by September 30 following the experience year upon which the refund or credit is based.

(d) The commissioner may conduct a public hearing to gather information if the experience of the form filed under subdivision (a) for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for such reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the commissioner.

1358.13. (a) If a group Medicare supplement contract is terminated by the group subscriber and not replaced as provided in subdivision (c), the plan shall offer enrollees an individual Medicare supplement contract. The plan shall offer the enrollee at least all of the following choices:

1. An individual Medicare supplement contract that provides for continuation of the benefits contained in the terminated group Medicare supplement contract.

2. An individual Medicare supplement contract that provides the benefits that are required under any of the standardized plans, as defined in Section 1358.18, that the plan is currently offering.

(b) If membership in a group is terminated, the plan shall do one or more of the following:

1. Offer the enrollee those conversion opportunities that are described in subdivision (a).

2. At the option of the group contract holder, offer the enrollee continuation of coverage under the group contract.

(c) If a group Medicare supplement contract is replaced by another group Medicare supplement contract purchased by the same contract holder, the succeeding plan shall offer coverage to all persons covered under the old group contract on its date of termination. Coverage under the new group contract shall not result in any exclusion for preexisting conditions that would have been covered under the group contract being replaced.

1358.14. (a) Every plan shall, by June 30 of each year, file with the commissioner a list of its Medicare supplement plan contracts offered or issued or outstanding in this state as of the end of the
previous calendar year.

(b) The list shall identify the filing plan by name and address, shall identify each type of contract it offers by name and form number, if one is used, and shall differentiate between contracts filed with and approved by the commissioner in years prior to the previous calendar year, and those filed and approved in the previous calendar year.

(c) The list shall specifically identify all of the following:

1. Contracts that are issued and outstanding in this state but are no longer offered for sale.

2. Contracts that, for any reason, were not filed and approved by the commissioner.

3. Contracts for which the commissioner’s approval was withdrawn within the previous calendar year.

(d) The commissioner shall, on or before the first day of September of each year provide the Secretary of Health and Human Services with a list identifying each plan contract by name and address and the information required to be submitted by this section.

1358.15. (a) Within 30 days prior to the effective date of any Medicare benefit changes, a plan providing Medicare supplement contracts to a resident of this state shall file with the commissioner, and notify its contract holders of, modifications it has made to Medicare supplement contracts.

1. The notice shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement contract.

2. The notice shall inform each subscriber and enrollee as to when any adjustment in the prepaid or periodic charges will be made due to changes in Medicare benefits.

3. The notice of benefit modifications and any adjustments to the prepaid or periodic charges shall be in outline form and in clear and simple terms so as to facilitate comprehension. The notice shall not contain or be accompanied by any solicitation.

(b) No modifications to existing Medicare supplement coverage shall be made at the time of, or in connection with the notice requirements of this regulation except to the extent necessary to eliminate duplication of Medicare benefits and any modifications necessary under the contract to provide indexed benefit adjustment.

(c) As soon as practicable, but prior to the effective date of changes in Medicare benefits a plan providing Medicare supplement contracts in this state shall file the following with the commissioner:

1. Appropriate prepaid or periodic charge adjustments necessary to produce loss ratios as anticipated for the current prepaid or periodic charges for the applicable contracts. Those supporting documents as are necessary to justify the adjustment shall accompany the filing.

2. Any appropriate contract amendments needed to accomplish the Medicare supplement coverage modifications necessary to eliminate benefit duplications with Medicare. Any such contract
amendments shall provide a clear description of the Medicare supplement benefits provided by the contract.

(d) Upon satisfying the filing and approval requirements of the commissioner, a plan providing Medicare supplement coverage in this state shall provide each subscriber or enrollee with any contract amendment necessary to eliminate any benefit duplications under the contract with benefits provided by Medicare.

(e) Every plan providing Medicare supplement coverage to a resident of this state shall make those prepaid or periodic charge adjustments as are necessary to produce an expected loss ratio under the contract as will conform with minimum loss ratio standards for Medicare supplement contracts and that is expected to result in a loss ratio at least as great as that originally anticipated. No prepaid or periodic charge adjustment that would modify loss ratio experience, other than the adjustments described herein, shall be made at any time other than upon the renewal date.

1358.16. (a) A plan offering Medicare supplement coverage shall, as a condition precedent to the commissioner’s approval or continued approval of Medicare supplement contracts offered in this state, agree to accept and shall accept a notice under Section 1842(h)(3)(B) of the Social Security Act (42 U.S.C. Sec. 1395u(h)(3)(B)) as a claim form for benefits under those contracts in lieu of any claim form otherwise required, and shall agree to make a payment determination and shall make that determination on the basis of the information contained in or accompanying the notice.

(b) As further conditions precedent to the approval or continued approval of Medicare supplement contracts, a plan offering Medicare supplement coverage in this state shall do all of the following:

(1) When a notice under Section 1842(h)(3)(B) of the Social Security Act (42 U.S.C. Sec. 1395u(h)(3)(B)) is received:

(A) Provide written notice of the payment determination to the participating physician or supplier and assignor.

(B) Provide any payment due directly to the participating physician or supplier involved.

(2) Provide each subscriber and enrollee at the time coverage is initiated, a card listing the contract name and number and a single mailing address to which notices under Section 1842(h)(3)(B) of the Social Security Act (42 U.S.C. Sec. 1395u(h)(3)(B)) respecting coverage are to be sent.

(3) Pay any user fees established under Section 1842(h)(3)(B) of the Social Security Act (42 1395u(h)(3)(B)).

(4) Provide the Secretary of Health and Human Services at least annually, a single mailing address to which notices under Section 1842(h)(3)(B) (42 U.S.C. Sec. 1395u(h)(3)(B)) are to be sent.

1358.17. The following format shall be used for reporting loss ratio experience:
MEDICARE SUPPLEMENT
HEALTH CARE SERVICE PLAN
CONTRACT EXPERIENCE EXHIBIT

For the year ended December 31, 19__.
For the State of California.

Of the ______ health care service plan.
Address (City, State, and Zip Code) ______
Person Completing this Exhibit ______
To be filed by June 30th following the filing under Section 1358.14 of the Health and Safety Code.

<table>
<thead>
<tr>
<th>Costs for Health Care Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Classification</td>
</tr>
<tr>
<td>Experience on Individual Plan Contracts</td>
</tr>
<tr>
<td>1. Contracts issued through 19__</td>
</tr>
<tr>
<td>Reporting State</td>
</tr>
<tr>
<td>Nationwide</td>
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<tr>
<td>2. Contracts issued after 19__</td>
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<tr>
<td>Reporting State</td>
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<tr>
<td>Nationwide</td>
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</tbody>
</table>

Experience on Group Plan Contracts

| 1. Contracts Issued through 19__ |
| Reporting State | | | |
| Nationwide | | | |

| 2. Contracts Issued After 19__ |
| Reporting State | | | |

40660
The undersigned officer hereby certifies that the company named above has complied with the requirements contained in the federal Omnibus Budget Reconciliation Act of 1987, Section 4081.

Signature

Title and name (please type)

INSTRUCTIONS FOR COMPLETING
MEDICARE SUPPLEMENT HEALTH CARE SERVICE PLAN
CONTRACT EXPERIENCE EXHIBIT

1. Experience on plan contracts issued more than three years prior to the reporting year should be shown separately as indicated on the form. For example, for the reporting year ended 12/31/88 (filed on June 30, 1989), experience on plan contracts issued in 1985 and prior should be shown separately from that of plan contracts issued in 1986 and later. For group coverage, the year of issue should be based on when the contract was issued if available; otherwise use the master plan contract year of issue.

2. Allocation of reserves on a state-by-state basis should be on sound actuarial principles and be consistent from year to year.

3. Membership or plan contract fees, if any, constitute, and should be included with, prepaid or periodic charges earned. Earned prepaid or periodic charges may be shown on an annual basis net of loadings for nonannual modes.

4. Mass marketing group coverage subject to individual loss ratio standards should be included with individual plan contracts.

5. Any dividends paid to subscribers should be included with costs for health care.

6. Neither costs for health care services nor earned prepaid or periodic charges should be adjusted for changes in plan contract (additional) reserves.

DEFINITIONS

For purposes of this form:

1. "Costs for health care services" means payment for health care services plus the increase in claim reserves. Claim reserves include only those unpaid liabilities for claims that have already been incurred. Costs for health care services in this exhibit do not include plan contract additional reserves.

1358.18. In compliance with the Medicare supplement coverage standardization requirements of Section 1882 of the Social Security Act (42 U.S.C.A. Sec. 1395ss), as added by the Omnibus Reconciliation Act of 1990 (P.L. 101-508), the following standards are
applicable to all Medicare supplement contracts subject to this article delivered or issued for delivery on or after the effective date of this section. No contract may be advertised, solicited, offered, or issued for delivery in this state as a Medicare supplement contract unless it complies with these benefit standards, as well as all other requirements under this chapter. The basic health care services required to be provided pursuant to Sections 1345 and 1367 of this chapter shall not be included in Medicare supplement contracts subject to this article, to the extent that California is required to disallow coverage for these health care services under the federal Medicare supplement standardization requirements set forth in Section 1882 of the Social Security Act (42 U.S.C.A. 1395ss).

(a) (1) All Medicare supplement contracts shall be guaranteed renewable. A plan shall not cancel or nonrenew a contract solely on the ground of the health status of the individual. A plan shall not cancel or nonrenew a contract for any reason other than nonpayment of the prepaid or periodic charge or misrepresentation of the risk by the applicant that is shown by the plan to be material to the acceptance for coverage. The contestability period for Medicare supplement contracts shall be two years.

(2) Termination of a Medicare supplement contract shall be without prejudice to any continuous loss that commenced while the contract was in force, but the extension of benefits beyond the period during which the contract was in force may be conditioned upon the continuous total disability of the subscriber or enrollee, limited to the duration of the contract benefit period, if any, or limited to the maximum benefits provided under the contract.

(3) A Medicare supplement contract shall provide that benefits and prepaid or periodic charges under the contract shall be suspended at the request of the subscriber or enrollee for the period (not to exceed 24 months) in which the subscriber or enrollee has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the subscriber or enrollee notifies the plan of that contract within 90 days after the date the individual becomes entitled to that assistance. Upon receipt of timely notice, the plan shall return to the subscriber or enrollee that portion of the prepaid or periodic charge attributable to the period of medicaid eligibility.

If the suspension occurs and if the subscriber or enrollee loses entitlement to that medical assistance, the contract shall be automatically reinstated, effective as of the date of termination of entitlement, if the subscriber or enrollee provides notice of loss of the entitlement within 90 days after the date of the loss and pays the prepaid or periodic charge attributable to the period, effective as of the date of termination of entitlement. Reinstatement of coverage shall not provide for any waiting period with respect to treatment of preexisting conditions. The reinstatement coverage shall be substantially equivalent to coverage in effect before the date of the suspension. When coverage is reinstated the classification of
prepaid or periodic charges shall be on terms at least as favorable to
the subscriber or enrollee as the prepaid or periodic charge
classification terms that would have applied to the subscriber or
enrollee had the coverage not been suspended.

(b) Any plan contract that primarily or solely supplements
Medicare, or is advertised or represented as a supplement to
Medicare, shall include the following "core" package of benefits.
This "core" package of benefits shall be referred to as standardized
Medicare supplement benefit plan "A". A plan may make available
to prospective subscribers and enrollees any of the other
standardized Medicare supplement benefit plans in addition to the
basic "core" package, but not in lieu thereof.

(1) Coverage of Part A Medicare Eligible Expenses for incurred
hospitalization to the extent not covered by Medicare from the 61st
day through the 90th day in any Medicare benefit period.

(2) Coverage of Part A Medicare Eligible Expenses incurred for
hospitalization to the extent not covered by Medicare for each
Medicare lifetime inpatient reserve day used.

(3) Upon exhaustion of the Medicare hospital inpatient coverage
including the lifetime reserve days, coverage of the Medicare Part
A Eligible Expenses for hospitalization not covered by Medicare,
subject to a lifetime maximum benefit of an additional 365 days.

(4) Coverage under Medicare Parts A and B for the reasonable
cost of the first three pints of blood, or equivalent quantities of
packed red blood cells, as defined under federal regulations, unless
replaced in accordance with federal regulations.

(5) Coverage for the coinsurance amount of Medicare Eligible
Expenses under Part B regardless of hospital confinement, subject to
the Medicare Part B deductible.

(c) Plans may also make available any of the other standardized
Medicare supplement benefit plans set forth below in addition to the
basic "core" package, but not in lieu thereof. No groups, packages,
or combinations of Medicare supplement benefits other than the
standardized Medicare supplement benefit plans listed in this
subdivision shall be offered for sale in this state, except as may be
permitted. Benefit plans shall conform in structure, language,
designation, and format to the standard benefit plans "A" through
"J" listed in this section. The benefits shall be listed in the order
shown in this section. For purposes of this section, "structure,
language, and format" mean style, arrangement, and overall content
of a benefit.

(d) In addition to the standardized Medicare supplement benefit
plan "A", the nine other standardized benefit plans that may be
offered are defined as follows:

(1) Standardized Medicare supplement benefit plan "B" shall
include only the following: the Core Benefit as defined in subdivision
(b) plus the Medicare Part A Deductible as defined in paragraph (1)
of subdivision (e).

(2) Standardized Medicare supplement benefit plan "C" shall
include only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible and Medically Necessary Emergency Care in a Foreign Country as defined in paragraphs (1), (2), (3), and (8) of subdivision (e), respectively.

(3) Standardized Medicare supplement benefit plan "D" shall include only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country and the At-Home Recovery Benefit as defined in paragraphs (1), (2), (8), and (10) of subdivision (e), respectively.

(4) Standardized Medicare supplement benefit plan "E" shall include only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country and Preventive Medical Care as defined in paragraphs (1), (2), (8), and (9) of subdivision (e), respectively.

(5) Standardized Medicare supplement benefit plan "F" shall include only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, the Skilled Nursing Facility Care, the Part B Deductible, 100 Percent of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country, as defined in paragraphs (1), (2), (3), (5), and (8) of subdivision (e), respectively.

(6) Standardized Medicare supplement benefit plan "G" shall include only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, Skilled Nursing Facility Care, 80 Percent of the Medicare Part B Excess Charges, Medically Necessary Emergency Care in a Foreign Country, and the At-Home Recovery Benefit as defined in paragraphs (1), (2), (4), (8), and (10) of subdivision (e), respectively.

(7) Standardized Medicare supplement benefit plan "H" shall consist of only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Basic Outpatient Prescription Drug Benefit and Medically Necessary Emergency Care in a Foreign Country, as defined in paragraphs (1), (2), (6), and (8) of subdivision (e), respectively.

(8) Standardized Medicare supplement benefit plan "I" shall consist of only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, Skilled Nursing Facility Care, 100 Percent of the Medicare Part B Excess Charges, Basic Outpatient Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country and At-Home Recovery Benefit, as defined in paragraphs (1), (2), (5), (6), (8), and (10) of subdivision (e), respectively.

(9) Standardized Medicare supplement benefit plan "J" shall consist of only the following: the Core Benefit as defined in subdivision (b) plus the Medicare Part A Deductible, Skilled Nursing
Facility Care, Medicare Part B Deductible, 100 Percent of the Medicare Part B Excess Charges, Extended Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country, Preventive Medical Care and At-Home Recovery Benefit, as defined in paragraphs (1), (2), (3), (5), (7), (8), (9), and (10) of subdivision (e), respectively.

(e) The terms used in the standardized Medicare supplement benefit plans described in subdivision (d) are defined as follows:

(1) "Medicare Part A Deductible" means coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(2) "Skilled nursing facility care" means coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(3) "Medicare Part B Deductible" means coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(4) "Eighty Percent of the Medicare Part B Excess Charges" means coverage for 80 percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(5) "One Hundred Percent of the Medicare Part B Excess Charges" means coverage for all of the differences between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(6) "Basic Outpatient Prescription Drug Benefit" means coverage for 50 percent of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars ($1,250) in benefits received by the enrollee per calendar year, to the extent not covered by Medicare.

(7) "Extended Outpatient Prescription Drug Benefit" means coverage for 50 percent of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible to a maximum of three thousand dollars ($3,000) in benefits received by the enrollee per calendar year, to the extent not covered by Medicare.

(8) "Medically Necessary Emergency Care in a Foreign Country" means coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars ($250), and a lifetime maximum benefit of fifty thousand
dollars ($50,000).

(9) "Preventive Medical Care Benefit" means coverage for the following preventive health services:
   (A) An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph (B) and patient education to address preventive health care measures.
   (B) Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:
      (i) Fecal occult blood test or digital rectal examination or both.
      (ii) Mammogram.
      (iii) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria.
      (iv) Pure tone, air only, hearing screening test, administered or ordered by a physician.
      (v) Serum cholesterol screening every five years.
      (vi) Thyroid function test.
      (vii) Diabetes screening.
   (C) Influenza vaccine administered at any appropriate time during the year and tetanus and diphtheria booster every 10 years.
   (D) Any other tests or preventive measures determined appropriate by the attending physician. Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars ($120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(10) "At-Home Recovery Benefit" means coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.
   (A) For purposes of this benefit, the following definitions shall apply:
      (i) "Activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.
      (ii) "Care provider" means a home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.
      (iii) "Home" means any place used by the enrollee as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the enrollee’s place of residence.
      (iv) "At-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of
the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit.

(B) The following coverage limitations apply to this benefit:

(i) The actual charges for each visit up to a maximum reimbursement of forty dollars ($40) per visit, not to exceed one thousand six hundred dollars ($1,600) per calendar year.

(ii) A plan may require that the at-home recovery services, including the number of visits, frequency and the type of services, be certified by an attending physician as necessary for a condition for which Medicare has approved a home health care plan. The total number of at-home recovery visits may be limited to the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment. The number of visits per week may be limited to seven visits.

(iii) A plan may require that all at-home recovery visits for a particular Medicare benefit period must be used within an eight-week period following the last Medicare-approved home health care visit.

(C) Coverage is excluded for any of the following:

(i) Home care visits paid for by Medicare or other government programs.

(ii) Care provided by family members, unpaid volunteers or providers who are not care providers.

(f) A plan may, with the prior approval of the commissioner, offer Medicare supplement contracts with new or innovative benefits in addition to the benefits required under this section. The benefits may include benefits that are appropriate to Medicare supplement coverage, not otherwise available, cost-effective, and offered in a manner that is consistent with the goal of simplification of Medicare supplement contracts consistent with this chapter.

1358.19. The commissioner may authorize a plan to offer Medicare Select contracts pursuant to Section 4358 of the Omnibus Budget Reconciliation Act ("OBRA") of 1990 if the commissioner finds that the plan's Medicare supplement contracts are in compliance with the Knox-Keene Act, including the following additional requirements for Medicare Select contracts:

(a) A Medicare Select plan shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare Select contract to each applicant. This disclosure shall include at least the following:

(1) An outline of coverage sufficient to permit the applicant to compare the coverage and charges of the Medicare Select contract with the following:

(A) Other Medicare supplement contracts, policies, or certificates offered by the plan and its affiliates.

(B) Medicare select policies, contracts, and certificates offered by other companies.

(2) A description, including address, phone number and hours of operation, of the providers contracting with the plan, including
primary care physicians, specialty physicians, hospitals, and pharmacies.

(3) A description of the restricted provider provisions, including charges when providers other than those contracting with the plan are utilized.

(4) A description of coverage for emergency and urgently needed care and out-of-service area coverage.

(5) A description of covered services that require a referral by a plan provider or plan preauthorization.

(6) A description of the subscriber or enrollees' rights to purchase any other Medicare supplement contract otherwise offered by the plan.

(7) A description of the Medicare Select plan's quality of care review program and grievance procedure.

(b) Prior to the sale of a Medicare Select contract, a plan shall obtain from the applicant a signed and dated form stating that the applicant has received the information required to be provided pursuant to subdivision (a) and that the applicant understands the restrictions of the Medicare Select contract.

(c) At the time of initial purchase, a Medicare Select plan shall make available to each applicant for a Medicare Select contract the opportunity to purchase any Medicare supplement contract, policy, or certificate otherwise offered by the plan or its affiliates.

(1) At the request of an enrollee under a Medicare Select contract, a Medicare Select plan shall make available to the enrollee the opportunity to purchase a Medicare supplement contract offered by the plan which has comparable or lesser benefits and which does not contain a restricted provider network provision, if any such Medicare Select contract is offered by the plan. The plan shall make those contracts available without regard to the health status of the enrollee after the Medicare supplement contract has been in force for six months.

(2) For the purposes of this subdivision, a Medicare supplement contract will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select contract being replaced. For the purposes of this paragraph "significant benefit" means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

(d) Medicare Select contracts shall provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare Select contracts, policies, and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare Select program to be reauthorized under law or its substantial amendment.

(1) Each Medicare Select issuer shall make available to each enrollee under a Medicare Select plan the opportunity to purchase a Medicare supplement contract offered by the plan which has comparable or lesser benefits and which does not contain a restricted
provider network provision, if any such Medicare supplement contract is offered by the plan. The plan shall make those contracts available without regard to the health status of the enrollee after the Medicare supplement contract has been in force for six months.

(2) For the purposes of this subdivision, a Medicare supplement contract will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select contract being replaced. For the purposes of this paragraph "significant benefit" means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

(e) A plan offering Medicare Select contracts shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select program. A Medicare Select plan shall not issue a Medicare Select contract in this state until the contract has been approved by the commissioner.

1358.20. No plan shall deny or condition the offering or effectiveness of any Medicare supplement contract, nor discriminate in the pricing of the contract, because of the health status, claims experience, receipt of health care, or medical condition of an applicant where an application for that contract is submitted during the six-month period beginning with the first month in which an individual, who is 65 years of age or older, first enrolled for benefits under Medicare Part B. Each Medicare supplement contract currently available from a plan shall be made available to all applicants who qualify under this section. This section shall not be construed as preventing the exclusion of benefits under a contract, during the first six months, based on a preexisting condition for which the subscriber or enrollee received treatment or was otherwise diagnosed during the six months before it became effective. An individual enrolled in Medicare Part B by reason of disability shall be entitled to open enrollment described in this section for six months after he or she reaches age 65. Sales during the open enrollment period shall not be discouraged by any means, including the altering of the commission structure.

1358.21. (a) A plan may discontinue the availability of a Medicare supplement contract if the plan provides to the commissioner in writing its decision at least 60 days prior to discontinuing the availability of the contract. After receipt of the notice by the commissioner, the plan shall no longer offer for sale the contract in this state. A contract shall not be considered to be available for purchase unless the plan has actively offered it for sale in the previous 12 months.

(b) A plan that discontinues the availability of a contract pursuant to subdivision (a) shall not file for approval a new contract of the same type for the same standardized Medicare supplement benefit plan as the discontinued contract for a period of five years after the plan provides notice to the commissioner of the discontinuance. The
period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(c) The sale or other transfer of Medicare supplement business to another company shall be considered a discontinuance for the purpose of this section.

SEC. 5.5. Section 10192.05 of the Insurance Code is amended to read:

10192.05. (a) This article applies to all Medicare supplement policies and nonprofit hospital service plan agreements delivered or issued for delivery in California and all certificates delivered in California pursuant to a group master policy agreement issued in any state.

(b) This article shall not apply to a policy of one or more employers or labor organizations or of the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for a member or former members, or a combination thereof, of the labor organizations.

(c) The commissioner may, from time to time, promulgate regulations to implement this article.

SEC. 6. Section 10192.1 of the Insurance Code is amended to read:

10192.1. For purposes of this article:

(a) "Applicant" means the person who seeks to contract for insurance benefits or, in the case of a group Medicare supplement policy, the proposed certificate holder.

(b) "Medicare supplement policy" means a group or individual policy of disability insurance or nonprofit hospital service plan agreement which is advertised, marketed, designed primarily, or otherwise purported to provide health care benefits as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of a person eligible for Medicare.

(c) "Insurer" means insurer, nonprofit hospital service plan, or any other entity, within the jurisdiction of the department, which provides Medicare supplement insurance coverage.

(d) "Medicare" means the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, Title I, Part I of Public Law 89-97, enacted by the 89th United States Congress; as then constituted or as later amended.

SEC. 7. Section 10192.2 of the Insurance Code is amended to read:

10192.2. No insurance policy may be advertised, solicited, or issued for delivery in California as a Medicare supplement policy unless the policy contains definitions or terms that conform to the requirements of this section.

(a) "Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or
characterization.

(1) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs when insurance coverage is in force."

(2) The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employers' liability, or similar law, unless prohibited by law.

(b) "Benefit period" or "Medicare benefit period" shall not be defined more restrictively than the definition in the Medicare program.

(c) "Convalescent nursing home," "nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

(d) "Hospital" shall not be defined more restrictively than as defined in the Medicare program.

(e) "Medicare eligible expenses" shall be defined as expenses of the kind covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(f) "Physician" shall mean a licensed practitioner of the healing arts practicing within the scope of his or her license, and shall include all practitioners described in Section 10176.

(g) "Medicare" shall be defined in the policy and certificate. It may be defined as in subdivision (d) of Section 10192.1.

(h) "Sickness" means illness or disease of an insured person.

SEC. 8. Section 10194 of the Insurance Code is repealed.

SEC. 9. Section 10194 is added to the Insurance Code, to read:

10194. Every insurer shall offer the following core package of benefits to each prospective insured. An insurer may offer any of the other standardized plans in addition to the core package, but not in lieu thereof. However, the benefits described in subdivisions (f) and (g) shall not be offered so long as California is required to disallow these benefits for Medicare beneficiaries by the Health Care Financing Administration or other agent of the federal government under 42 U.S.C. Section 1395s.

(a) Coverage for Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare, from the 61st day through the 90th day in any Medicare benefit period.

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used.

(c) Upon exhaustion of the Medicare hospital inpatient coverage, including lifetime reserve days, coverage of the Part A Medicare eligible expenses incurred for hospitalization not covered by Medicare, subject to a lifetime maximum benefit of an additional 365 days.

(d) Coverage under Medicare Parts A and B for the reasonable
cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulation, unless replaced in accordance with federal regulation.

(e) Coverage for the coinsurance amount of Medicare eligible expenses under Part B, regardless of hospital confinement, subject to the Medicare Part B deductible.

(f) Coverage of the actual cost, up to the legally billed amount, of an annual mammogram as provided in Section 10123.81, to the extent not paid by Medicare.

(g) Coverage of the actual cost, up to the legally billed amount, of an annual cervical cancer screening test as provided in Section 10123.18, to the extent not paid by Medicare.

SEC. 10. Section 10194.1 of the Insurance Code is repealed.
SEC. 11. Section 10194.2 of the Insurance Code is repealed.
SEC. 12. Section 10194.2 is added to the Insurance Code, to read:
   10194.2. The following additional benefits shall be included in the Standardized Medicare Supplement Plans "B" through "J" only as provided in Section 10194.3:
   (a) Medicare Part A Deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.
   (b) Skilled Nursing Facility Coinsurance: Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for the posthospital skilled nursing facility care that is eligible under Medicare Part A.
   (c) Medicare Part B Deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.
   (d) Part B Excess Charges: 80 percent: Coverage for 80 percent of the difference between the actual Medicare Part B charge as legally billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. If the insurer limits payment to a limiting charge, the insurer has the burden to establish that amount as the legal limit.
   (e) Part B Excess Charges: 100 percent: Coverage for all of the difference between the actual Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. If the insurer limits payment to a limiting charge, the insurer has the burden to establish that amount as the legal limit.
   (f) Basic Prescription Drug Benefit: Coverage for 50 percent of outpatient prescription drug charges not covered by Medicare, after a calendar year deductible of two hundred fifty dollars ($250), up to a maximum benefit of one thousand two hundred fifty dollars ($1,250) received by the insured during a calendar year.
   (g) Extended Prescription Drug Benefit: Coverage for 50 percent of outpatient prescription drug charges not covered by Medicare, after a calendar year deductible of two hundred fifty dollars ($250), up to a maximum benefit of three thousand dollars ($3,000) received
by the insured during a calendar year.

(h) Foreign Travel Benefit: Coverage for 80 percent of the actual billed charges not paid by Medicare for medically necessary, emergency hospital, physician and other medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States, so long as the care began during the first 60 consecutive days of each and any trip outside the United States. The benefit is subject to a calendar year deductible of two hundred fifty dollars ($250) and a lifetime maximum benefit of fifty thousand dollars ($50,000). For purposes of this benefit, "emergency care" means care needed immediately because of an injury or illness of sudden and unexpected onset.

(i) Preventive Medical Care: Coverage for the actual charges up to one hundred twenty dollars ($120) per year, for any of the following services not covered by Medicare. An insurer may limit the coverage for each service to the amount approved by Medicare for the diagnostic version of that service. If an insurer chooses to do so, the insurer has the burden to establish that limit as the Medicare-approved amount.

1. An annual clinical preventive medical history and physical examination that may include tests and services from paragraph (2) and patient education to address preventive health care.

2. Any of the following at a frequency that is considered medically appropriate:
   (A) Fecal occult blood test or digital rectal examination or both.
   (B) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria.
   (C) Pure tone hearing screening test, administered or ordered by a physician.
   (D) Serum cholesterol screening every five years.
   (E) Thyroid function test.
   (F) Diabetes screening.
   (G) Mammogram.
   (3) Influenza vaccine.
   (4) Tetanus and Diphtheria boosters every 10 years.
   (5) Any other tests or preventive measures determined appropriate by an attending physician.

(j) At-Home Recovery Benefit: Coverage for the actual charges up to forty dollars ($40) per visit and an annual maximum of one thousand six hundred dollars ($1,600) per year for short term at-home assistance with "activities of daily living" for insureds recovering from an illness, injury, or surgery.

1. For purposes of this subdivision:
   (A) "Activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, and ambulating. Assistance with the activities of daily living includes assistance with drugs that are normally self-administered and with the changing of bandages and other dressings.
   (B) "Care provider" means a home health aide, homemaker,
personal care aide, or nurse provided through a licensed home health agency or referred by a licensed referral agency or licensed nurses registry.

(C) "Home" shall mean any place used by the insured as a place of residence, other than a hospital or skilled nursing facility, if it would be recognized by the Medicare program as a residence for purposes of receiving home health care services.

(D) One "at-home recovery visit" may continue for a maximum of four consecutive hours during a 24-hour period.

(2) Benefit limitations:

(A) An insurer may require that the at-home recovery services, including the number of visits and the type of services, must be certified by an attending physician as necessary for a condition for which Medicare has approved a home health care plan.

(B) An insurer may require that the maximum number of at-home recovery visits per Medicare benefit period may not exceed the number of visits under a Medicare-approved home health care plan and the maximum number of visits per week may not exceed seven.

(C) An insurer may require that all at-home recovery visits for a particular Medicare benefit period must be used within an eight week period following the last Medicare approved home health care visit.

(D) An insurer may exclude coverage for services provided by family members or unpaid volunteers.

(k) New or Innovative Benefits: An insurer may, with prior approval of the commissioner, offer plans with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits or plans shall be appropriate to Medicare supplement insurance and consistent with the goal of simplification of Medicare supplement policies.

SEC. 13. Section 10194.3 of the Insurance Code is repealed.

SEC. 14. Section 10194.3 is added to the Insurance Code, to read:

10194.3. (a) Every insurer shall offer to each prospective insured Plan A, which contains only the core benefits, as defined in Section 10194. Insurers may offer any or all of the other plans described below as Plans B through J.

(b) No combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in California except as authorized by the commissioner as new or innovative under subdivision (k) of Section 10194.2 or as Medicare Select under Section 10194.4.

(c) No Medicare supplement policy or certificate may be issued or delivered in California unless it conforms to one of the standardized plans listed below as Plans A through J or complies with the minimum standards in subdivision (a) of Section 10195 and is authorized by the commissioner as new and innovative under subdivision (k) of Section 10194.2. Each benefit shall be structured
and defined as in Sections 10194 and 10194.2 and shall be listed in the order set forth below.

(d) Construction of the standardized benefit plans:

(1) Plan A shall be limited to the core benefits as defined in Section 10194.

(2) Plan B shall include only the core benefits as defined in Section 10194 and the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2.

(3) Plan C shall include only the core benefits as defined in Section 10194, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Medicare Part B Deductible as defined in subdivision (c) of Section 10194.2, and Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2.

(4) Plan D shall include only the core benefits as defined in Section 10194, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2, and the At-Home Recovery Benefit as defined in subdivision (j) of Section 10194.2.

(5) Plan E shall include only the core benefits as defined in Section 10194, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2, and Preventive Services as defined in subdivision (i) of Section 10194.2.

(6) Plan F shall include only the core benefits as defined in Section 10194, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Medicare Part B Deductible as defined in subdivision (c) of Section 10194.2, Medicare Part B Excess Charges at 100 percent as defined in subdivision (e) of Section 10194.2, and Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2.

(7) Plan G shall include only the core benefits as defined in Section 10194, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Medicare Part B Excess Charges at 80 percent as defined in subdivision (e) of Section 10194.2, Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2, and the At-Home Recovery Benefit as defined in subdivision (j) of Section 10194.2.

(8) Plan H shall include only the core benefits as defined in Section 10194, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Basic Prescription Drug Benefit as defined in subdivision (f) of Section
10194.2, and Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2.

(9) Plan I shall include only the core benefits as defined in Section 10194, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Medicare Part B Excess Charges at 100 percent as defined in subdivision (e) of Section 10194.2, Basic Prescription Drug Benefit as defined in subdivision (f) of Section 10194.2, Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2, and the At-Home Recovery Benefit as defined in subdivision (j) of Section 10194.2.

(10) Plan J shall include the core benefits as defined in Section 10194.1, the Medicare Part A Deductible as defined in subdivision (a) of Section 10194.2, Skilled Nursing Facility Coinsurance as defined in subdivision (b) of Section 10194.2, Medicare Part B Deductible as defined in subdivision (c) of Section 10194.2, Medicare Part B Excess Charges at 100 percent as defined in subdivision (e) of Section 10194.2, Extended Prescription Drug Benefit as defined in subdivision (g) of Section 10194.2, Foreign Travel Benefit as defined in subdivision (h) of Section 10194.2, Preventive Services as defined in subdivision (i) of Section 10194.2, and the At-Home Recovery Benefit as defined in subdivision (j) of Section 10194.2.

SEC. 15. Section 10194.4 is added to the Insurance Code, to read:

10194.4. (a) Every insurer issuing Medicare supplement coverage through a preferred provider organization after the effective date of this section shall be a Medicare Select insurer and shall meet the requirements of this section. Insurers that have issued Medicare supplement coverage through a preferred provider organization before the effective date of this section shall apply to the commissioner for special Medicare Select status within one year of the effective date by completing the procedure set forth in subdivision (n).

(b) No policy or certificate may be marketed, solicited, or sold as Medicare Select coverage unless it meets the requirements of this section and unless the commissioner has approved the plan of operation. No insurer may issue, and no agent or other entity may offer, Medicare supplement coverage through a preferred provider organization, or market, solicit, or sell any product as Medicare Select unless it meets the requirements of this section and unless the commissioner has approved the plan of operation.

(c) For purposes of this section, the following definitions apply:

(1) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare Select insurer or its network providers.

(2) "Grievance" means a written complaint registered by an insured for resolution under the formal grievance procedure, which may involve, but is not limited to, the administration, claims practices or provision of services by the insurer or its network providers.
(3) "Medicare Select" means the coverage described in Section 4358 of the federal Omnibus Budget Reconciliation Act of 1990.

(4) "Medicare Select insurer" means any insurer offering, advertising, marketing, soliciting, or issuing a Medicare Select policy or certificate.

(5) "Medicare Select coverage" means Medicare supplement coverage through a preferred provider organization, which coverage has been approved by the commissioner under this section.

(6) "Preferred provider organization" means a health care provider or an entity contracting with health care providers that (A) establishes alternative or discounted rates of payment, (B) offers the insureds certain advantages for selecting the member providers, or (C) withholds from the insureds certain advantages if they choose providers other than the member providers. Organizations regulated as Medicare Select include, but are not limited to, provider groups, hospital marketing plans, and organizations that are formed or operated by insurers or third-party administrators.

(7) "Network provider" means a health care provider that has entered into a written agreement with an insurer or other entity to provide benefits under a Medicare Select policy or certificate.

(8) "Service area" means the geographic area approved by the commissioner within which an insurer is authorized to offer a Medicare Select policy.

(d) A Medicare Select insurer shall file a proposed plan of operation with the commissioner in a format prescribed by the commissioner. The plan of operation shall contain at least the following:

(1) Evidence that all in-network services are available and accessible through network providers, including a demonstration that:

(A) Services can be provided with reasonable promptness with respect to geographic location, hours of operation and after-hours care. The hours of operation and availability of after-hours care shall reflect at minimum, the usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

(B) The number of network providers in the service area is sufficient for prompt service to current and anticipated insureds by either:

(i) Providing adequate in-network services.

(ii) Making appropriate referrals.

(C) There are written agreements with network providers describing specific responsibilities.

(D) Emergency care is available 24 hours every day.

(E) In the case of plans operating on a prepaid basis, there are written agreements with network providers prohibiting requests for payment or taking recourse against an individual insured, except in the case of uncovered services or coinsurance amounts for services covered under the Medicare Select policy or certificate.

(2) A statement or map describing the service area.
(3) A description of the grievance procedure.
(4) A description of the quality assurance program, including:
   (A) The formal organizational structure;
   (B) The written criteria for selection, retention and removal of
       network providers; and
   (C) Procedures for evaluating quality of care and the process to
       initiate corrective action when warranted.
(5) A list and description, by specialty, of network providers.
(6) The written disclosures required by subdivision (h).
(7) Any other information requested by the commissioner.

(e) Thirty days prior to implementing changes in the plan of
   operation, the insurer shall file with the commissioner for approval
   any proposed changes in the plan of operation, except for changes
   in the list of network providers. If the commissioner does not
   disapprove the changes after 30 days, the insurer may implement the
   changes subject to disapproval by the commissioner.

An updated list of network providers shall be filed with the
commissioner at the commissioner's request but at least quarterly.

(f) A Medicare Select plan shall pay full coverage for covered
   services provided by out-of-network providers if:
   (1) Emergency care is required or if services are immediately
       required for an unforeseen illness, injury, or condition; and
   (2) It is not reasonable to obtain the services from a network
       provider.

(g) A Medicare Select plan shall pay full coverage under the
   policy for covered services that are not available through network
   providers.

(h) A Medicare Select insurer shall fully disclose in writing to each
   applicant all the provisions, restrictions and limitations on coverage.
   Disclosure shall include at least the following:
   (1) An outline of coverage in a format that allows for easy
       comparison of the benefits and premiums to those of other Medicare
       supplement policies and other Medicare Select policies.
   (2) A directory, including address, telephone number, and hours
       of operation, of the network providers, including primary care
       physicians, specialty physicians and hospitals.
   (3) A summary of the policy provisions related to the use of
       in-network providers and a summary of the limitations related to the
       use of out-of-network providers, including an explanation of
       coinsurance or deductibles.
   (4) A description of coverage for emergencies, urgently needed
       care and out-of-service area care.
   (5) An explanation of the limitations on referrals to providers,
       both in-network and out-of-network.
   (6) A disclosure of the insured's right to purchase other Medicare
       supplement coverage.
   (7) A summary of the insurer's quality assurance program and
       grievance procedure.

(i) Medicare Select insurers shall provide the written disclosures
required in subdivision (h) to all applicants at the time the policy or certificate is presented for examination or sale, and in no case, later than the time application is made. Insurers shall obtain a written acknowledgment of receipt including the date, the applicant's signature, and a statement that the applicant understands the restrictions on the coverage. Acknowledgments shall be maintained by the insurer for at least five years in accordance with Section 10508.

(j) Every Medicare Select insurer shall have a grievance procedure, which shall include processes for reaching a mutually agreeable resolution and which may also include arbitration.

(1) The grievance procedure shall be described in the policy, certificate and the outline of coverage and shall include a procedure for submitting complaints that may be resolved in an informal manner and, if a complaint is not resolved to the insured's satisfaction, a procedure for registering a grievance.

(2) Grievances shall be considered in a timely manner by the appropriate decision maker who has the authority to fully investigate the issue and take corrective action. Corrective action shall be taken promptly. All concerned parties shall be notified about the results of the grievance.

(3) Detailed information describing in writing how to register a grievance shall be provided to the insured prior to, or simultaneously with, the issuance of the policy or certificate.

(4) The insurer shall maintain records of each grievance for at least five years and shall report to the commissioner annually, no later than March 31, the number of grievances registered in the last year and a summary of the subject, nature, and resolution of each grievance.

(k) At the time of presentation for examination or sale, and in no case later than the time application is made, the Medicare Select insurer shall notify the applicant that other Medicare supplement coverage is available and shall offer the applicant any other Medicare supplement policy or certificate available from the insurer.

(l) (1) At the request of any Medicare Select insured, the insurer shall make available for purchase any other Medicare supplement coverage offered by that insurer that has identical, comparable, or greater benefits and that does not contain preferred provider restrictions.

(2) The insurer shall not require evidence of insurability if the Medicare Select coverage has been in place six months or longer, unless the replacement policy or certificate includes prescription drug coverage or at-home recovery benefits that were not included in the Medicare Select coverage.

(3) The offer of continuation coverage set forth in paragraphs (1) and (2) above shall be made to every Medicare Select insured in the event that the Secretary of Health and Human Services determines that Medicare Select coverage should be discontinued due to the failure or substantial modification of the Medicare Select program.

(m) Medicare Select insurers shall comply with reasonable
requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select program.

(n) The commissioner may grant special Medicare Select status to plans of guaranteed renewable Medicare supplement coverage provided through a preferred provider organization, which plans were offered to the public or in force before the effective date of this section, if the commissioner determines that the insureds will receive benefits and consumer protections that are substantially equivalent to those in other Medicare Select plans identified in this section, and if the insurer satisfies the following requirements:

(1) The insurer shall apply within one year of the effective date of this section by submitting to the commissioner the following items:
   (A) The current plan of operation as defined in subdivision (d).
   (B) If the written disclosures of subdivision (h) have not been delivered to each applicant as required, the insurer's plan to accomplish full disclosure to every insured and to achieve substantial compliance with subdivision (i).
   (C) The insurer's statement of intent to comply with subdivision (e).
   (D) If the plan of operation does not comply with the standards of subdivision (f), (g), (j), (k), or (l), the insurer's plan for achieving substantial compliance with these subdivisions for every insured.

(2) The insurer shall alter the plan as requested by the commissioner in order to bring the plan into substantial compliance with Medicare Select standards.

(3) The insurer shall issue disclosures or other notices to its insureds regarding its status as Medicare Select as ordered by the commissioner.

(4) The insurer shall provide data as provided in subdivision (m).

SEC. 16. Section 10194.5 of the Insurance Code is repealed.

SEC. 17. Section 10194.5 is added to the Insurance Code, to read: 10194.5. An insurer shall comply with Section 1882(c) (3) of the Social Security Act, as enacted by Section 4081(b) (2) (c) of the Omnibus Budget Reconciliation Act (OBRA) of 1987, Public Law No. 100-203, by fulfilling the following requirements and by certifying compliance on the Medicare supplement insurance experience reporting form. Those requirements are as follows:

(a) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice.

(b) Notifying the participating physician or supplier and the beneficiary of the payment determination.

(c) Paying the participating physician or supplier directly.

(d) Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central mailing address to which notices from a Medicare carrier may be sent.
(e) Paying user fees for claim notices that are transmitted electronically or otherwise.

(f) Providing to the Secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

(g) Every insurer shall, by June 30 of each year, file with the commissioner a list of its Medicare supplement policies and certificates offered or issued or in force in California as of the end of the previous year.

(1) The list shall identify the insurer by name and address, shall identify each type of form it offers by name and form number, and shall differentiate between forms approved in the previous calendar year and those approved before the previous calendar year.

(2) The list shall identify all of the following:

(A) Forms issued and in force but no longer offered in California.

(B) Forms that, for any reason, were not filed and approved by the commissioner.

(C) Forms for which the commissioner’s approval was withdrawn within the previous calendar year.

(D) The number of forms issued in California in the previous calendar year, and the number of forms in force in California on December 31 of the previous calendar year.

(h) The commissioner shall, by September 1 of each year, provide the secretary with a list identifying each insurer by name and address and provide the information requested in this section.

SEC. 18. Section 10194.7 is added to the Insurance Code, to read:

10194.7. (a) (1) Every Medicare supplement policy and certificate shall contain, on the first page, the applicable provision or provisions on renewability, continuation and conversion, appropriately captioned. This disclosure shall include any reservation by the insurer of the right to change premium and any automatic renewal premium increases based on the insured’s age.

(2) Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured, exercises a specially reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits; all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement insurance policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

(3) If a Medicare supplement policy contains any limitations with
respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(4) Every medicare supplement policy and certificate shall prominently disclose, in no less than 10-point upper case type, on the first page of the policy, certificate, and the outline of coverage, that the applicant has the right to return the policy or certificate, via regular mail, within 30 days after receiving it, if the insured is not satisfied for any reason, and that the full premium will be refunded.

(b) (1) (A) As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, every insurer providing Medicare supplement insurance to a resident of California shall notify its insureds of modifications it has made to Medicare supplement forms in a format acceptable to the commissioner.

The notice shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the policy, and inform each covered person as to when any premium adjustment is to be made due to changes in Medicare.

(B) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(C) The notices shall not contain or be accompanied by any solicitation.

(2) Insurers issuing disability policies, certificates, or contracts that provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person eligible for Medicare by reason of age, shall provide to all applicants a Medicare Supplement Buyer’s Guide in the form developed jointly by the National Association of Insurance Commissioner and the Health Care Financing Administration. Delivery of the buyer’s guide shall be made whether or not the policies, certificates, or contracts are advertised, solicited, or issued as Medicare supplement policies. Except in the case of direct response insurers, delivery of the buyer’s guide shall be made to the applicant at the time of application and acknowledgement of receipt of the buyer’s guide shall be obtained by the insurer. Direct response insurers shall deliver the buyer’s guide to the applicant upon request, but not later than at the time the policy is delivered.

(3) Any disability insurance policy, including a disability income policy, a basic, catastrophic or major medical expense policy, or single premium nonrenewal policy or certificate issued to persons eligible for Medicare by reasons of age, that is not a Medicare supplement policy or a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) shall notify insureds under the policy that it is not a Medicare supplement policy. The notice shall either be printed or attached to the first page of the outline of coverage. The notice shall be in no less
than 12-point type and shall contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CERTIFICATE]. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company."

(c) (1) Insurers issuing Medicare supplement policies or certificates for delivery in California shall provide an outline of coverage to all applicants at the time of presentation for examination or sale as provided in Section 10605, and in no case later than at the time the application is made. Except for direct response policies, insurers shall obtain a written acknowledgment of receipt of the outline from the applicant.

Any advertisement that is not a presentation for examination or sale as defined in subdivision (e) of Section 10601 shall contain a notice in no less than 10-point upper case type that an outline of coverage is available upon request. The insurer or agent that receives any request for an outline of coverage shall provide an outline of coverage to the person making the request within 14 days of receipt of the request.

(2) If an outline of coverage is provided at or before the time of application and the Medicare supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12-point type, immediately above the name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

(3) The outline of coverage shall be in the language and format prescribed in this subdivision in no less than 12-point type, and shall include the following items in the order prescribed below. Titles, as set forth below in paragraphs (B) through (H), shall be capitalized, centered and printed in boldface type. The outline of coverage shall include the items, and in the same order, specified in the chart set forth in paragraph (4) of subdivision (C) of Section 16 of the Model Regulation to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, as adopted by the National Association of Insurance Commissioners on July 30, 1991.

(A) The cover page shall contain the 10-plan (A through J) chart. The plans offered by the insurer shall be clearly identified. Innovative benefits shall be explained in a manner approved by the commissioner. The text shall read:

"Medicare supplement insurance can be sold in only 10 standard plans. This chart shows the benefits included in each plan. Every insurance company must offer Plan A. Some plans may not be available."
The BASIC BENEFITS included in ALL plans are:
Hospitalization: Medicare Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
Medical expenses: Medicare Part B coinsurance (usually 20 percent of the Medicare approved amount).
Blood: First three pints of blood each year.
Mammogram: One annual screening to the extent not covered by Medicare.
Cervical cancer test: One annual screening."
[Reference to the mammogram and cervical cancer test shall not be included so long as California is required to disallow them for Medicare beneficiaries by the Health Care Financing Administration or other agent of the federal government under 42 U.S.C. Sec. 1395ss.]

(B) PREMIUM INFORMATION. Premium information for plans that are offered by the insurer shall be shown on, or immediately following, the cover page and shall be clearly and prominently displayed. The premium and mode shall be stated for all offered plans. All possible premiums for the prospective applicant shall be illustrated in writing. If the premium is based on the increasing age of the insured, information specifying when and how premiums will change shall be clearly illustrated in writing. The text shall state: "We [the insurer’s name] can only raise your premium if we raise the premium for all policies like yours in California."

(C) The text shall state: "Use this outline to compare benefits and premiums among policies."

(D) READ YOUR POLICY VERY CAREFULLY. The text shall state: "This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company."

(E) THIRTY-DAY RIGHT TO RETURN THIS POLICY. The text shall state: "If you find that you are not satisfied with your policy, you may return it to [insert the insurer’s address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it has never been issued and return all of your payments."

(F) POLICY REPLACEMENT. The text shall read: "If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it."

(G) DISCLOSURES. The text shall read: "This policy may not fully cover all of your medical costs." "Neither this company nor any of its agents are connected with Medicare." "This outline of coverage does not give all the details of Medicare coverage. Contact your local social security office or consult "The Medicare Handbook" for more details." "If you want to discuss buying Medicare supplement insurance with a trained insurance counselor, call the California Department of Insurance’s toll-free number 1-800-927-HELP and ask how to contact your local Health Insurance and Counseling Program.
(HICAP) office. HICAP is a service provided free of charge by the State of California.”

(H) [For policies that are not guaranteed issue] COMPLETE ANSWERS ARE IMPORTANT. The text shall read: “When you fill out the application for a new policy, to be sure to answer truthfully and completely all questions about your medical and health history. The company may have the right to cancel your policy and refuse to pay any claims if you leave out or falsify important medical information.

Review the application carefully before you sign it. Be certain that all information has been properly recorded.”

(I) An example showing a physician's charge, which is equal to or less than the allowable limiting charge for the current year, of two thousand dollars ($2,000), the amount that Medicare would approve, the amount that Medicare would pay, the amount that the policy or certificate would pay, and any amount that would be owed by the insured, assuming that the annual deductible has already been paid. The statement shall be prominently displayed and in type no smaller than other type on the page.

(J) One chart for each benefit plan offered by the insurer showing the services, Medicare payments, payments under the policy and payments expected from the insured; using the same uniform format and language. No more than four plans may be shown on one page. Include an explanation of any innovative benefits in a manner approved by the commissioner.

SEC. 19. Section 10194.8 is added to the Insurance Code, to read:

10194.8. (a) No Medicare supplement insurer shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care or medical condition of an applicant if the application is submitted within six months after the applicant, who is 65 years of age or older, first enrolls for benefits under Medicare Part B. This section shall not be construed as preventing the exclusion of benefits for preexisting conditions as defined in paragraph (1) of subdivision (a) of Section 10195.

(b) An individual enrolled in Medicare Part B by reason of disability will be entitled to open enrollment described in this section for six months after he or she reaches age 65. Every insurer shall make available to every applicant qualified for open enrollment all policies and certificates offered by that insurer at the time of application. Insurers shall not discourage sales during the open enrollment period by any means, including the altering of the commission structure.

SEC. 20. Section 10195 of the Insurance Code is amended to read:

10195. (a) No insurance policy or certificate may be advertised, solicited, issued, or delivered in California as Medicare supplement insurance that does not meet the following requirements:

(1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the
effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by a physician within six months before the effective date of coverage.

(2) A Medicare supplement policy or certificate may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors.

(4) No Medicare supplement policy or certificate shall provide for, and no insurer may effect, termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium.

(5) Every Medicare supplement policy shall be guaranteed renewable or noncancelable.

(A) An insurer shall not cancel or nonrenew a policy solely on the grounds of health status of the individual.

(B) An insurer shall not cancel or nonrenew a policy for any reason other than nonpayment of premium or misrepresentation of the risk by the applicant which is shown by the insurer to be material to the acceptance for coverage. The contestability period for Medicare supplement insurance shall be two years.

(6) If a group Medicare supplement policy is terminated by the master policyholder and is not replaced as provided under paragraph (8), the insurer shall offer certificate holders an individual policy or other continuation coverage that, at the option of the insured, either:

(A) Provides for continuation of the benefits contained in the group policy.

(B) Provides for coverage by one of the standardized policies defined in this article.

(7) If an individual is a certificate holder in a group Medicare supplement policy and membership in the group is terminated, the insurer shall offer the certificate holder either:

(A) An individual policy providing the following:

(i) Continuation of the benefits contained in the group policy.

(ii) Coverage under one of the standardized plans defined in this article.

(B) At the option of the master policyholder, continuation of coverage under the group policy.

(8) If a group Medicare supplement policy is replaced by another policy purchased by the same master policyholder, the succeeding insurer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions
would have been covered under the group policy being replaced.

(9) Termination of a Medicare supplement policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(10) No Medicare supplement policy may limit coverage exclusively to a single disease or affliction.

(11) A Medicare supplement policy or certificate shall provide that benefits and premiums shall be suspended at the request of the insured for the period, not to exceed 24 months, during which the insured has applied for and is eligible for medical assistance under Medi-Cal or Medicaid, as long as the insured notifies the insurer within 90 days after the date of entitlement. Upon receipt of timely notice, the insurer shall return directly to the insured that portion of the premium attributable to the period of Medi-Cal or Medicaid eligibility, subject to adjustment for paid claims.

(A) If the suspension occurs and if the insured loses entitlement to Medi-Cal or Medicaid, the Medicare supplement insurance, or equivalent coverage if that form is no longer available, shall be automatically reinstated, effective on the date of termination of entitlement, so long as the insured provides notice of loss of the entitlement within 90 days and pays the premium for the period beginning on the date of termination of entitlement.

(B) Reinstitution of coverage shall be as follows:

(i) Shall not include a waiting period with respect to treatment of preexisting conditions.

(ii) Shall provide for classification of premium on terms at least as favorable to the insured as would have applied had the coverage not been suspended.

(12) No Medicare supplement policy or certificate may contain limitations or exclusions on coverage that are more restrictive than those of the Medicare program.

(13) No Medicare supplement policy or certificate may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or conditions.

(14) No Medicare supplement policy or certificate in force in California shall contain benefits that duplicate Medicare benefits.

(15) No Medicare supplement policy or certificate shall provide for payment of benefits based on a standard described as “usual and customary,” “reasonable and customary,” or words of similar import.

(16) All Medicare supplement policies and certificates shall provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the applicant may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully
refunded to the applicant by the insurer in a timely manner.

(A) Each policy or certificate shall have a notice prominently printed in no less than 10-point upper case type, on the cover page of the policy or certificate or attached thereto, and on the cover page of the outline of coverage or attached thereto, stating that the applicant has the right to return the policy or certificate within 30 days after its receipt via regular mail, and to have the full premium refunded.

(B) For purposes of this section a timely manner shall be no later than 30 days after the insurer issuing the policy or certificate receives the returned policy or certificate.

(C) If the insurer issuing the policy or certificate fails to refund all premiums paid, in a timely manner, then the applicant shall receive interest on the paid premium at the legal rate of interest on judgments as provided in Section 685.010 of the Code of Civil Procedure. The interest shall be paid from the date the insurer received the returned policy or certificate.

(D) In the case of field issued policies or certificates, or other instances in which the policy or certificate is not first delivered to the insured by mail the insurer shall notify the insured by regular mail that the 30-day review period shall begin to run upon receipt of the notice required by this paragraph.

(b) All Medicare supplement policies and certificates shall comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) Upon a Medicare benefit change, every insurer that provides Medicare supplement insurance to a resident of this state shall make premium adjustments necessary to produce an expected loss ratio as will conform to the minimum loss ratio standards for Medicare supplement policies, and that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer. No premium adjustment that would modify loss ratio experience under the policy, other than the adjustments described in this subdivision, shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(d) As soon as practicable, but prior to the effective date of Medicare benefit changes, every insurer shall file the following with the commissioner:

1) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies, along with supporting documents necessary to justify the adjustment.

2) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplication with Medicare. The riders, endorsements, or policy forms shall provide a clear description of the benefits provided by the policy.

(e) The commissioner may prescribe by regulation a standard
form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

SEC. 21. Section 10195.1 is added to the Insurance Code, to read:

10195.1. (a) A Medicare supplement policy or certificate form shall not be issued unless the form can be expected to return to the insured aggregate benefits, not including anticipated refunds or credits, of at least 75 percent of the aggregate amount of premiums earned in the case of group policies, or at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

(1) Loss ratio experience shall be calculated as incurred claims for each calendar year, by year of issue, excluding administrative expenses or policy reserves, divided by premiums earned from all payment modes, including policy fees.

(2) The minimum loss ratio in this subdivision shall apply to all forms that have been in force three years or more. In the case of forms that have been in force less than three years, the commissioner shall determine whether the expected third-year loss ratio will meet the appropriate minimum standard.

(b) (1) Every insurer of Medicare supplement insurance shall file annually, for each form in force in California, its rates, rating schedule, and supporting documentation. The filings shall include an actuarial memorandum describing the historical experience and expected costs relative to any premium changes, premium income, rates or rating schedules, claims reports, including claims lag reports, and other documentation as prescribed or requested by the commissioner. The filings shall demonstrate that unpaid claims reserves and renewal rate filings are based on acceptable actuarial principles that will result in the required minimum loss ratio standards over the renewal period.

(2) The combined filings shall include appropriate riders, endorsements, and outlines of coverage, and shall be submitted prior to the effective date of changes, or announcement that no changes will occur, in Medicare benefits, and shall clearly describe the revised policy benefits.

(3) An insurer shall not use or change premium rates unless the rates, rating schedule, and supporting documentation have been approved by the commissioner in writing.

(4) If a rate filing or other information received by the
commissioner indicates that a loss ratio fails to meet the minimum standard established in this section, the commissioner may order premium adjustments, refunds, or premium credits deemed necessary to achieve the appropriate loss ratio. The commissioner may require the insurer to file and implement a corrective plan, which may include premium adjustments, dividends, benefit increases, refunds, premium credits, or any combination of methods reasonably calculated to achieve the minimum loss ratio. The corrective plan shall be approved by the commissioner before implementation.

(5) If the commissioner determines that a failure to meet the minimum loss ratio requirements is due to unusual experience fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the form from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for granting the exemption.

(6) If an insurer fails to file or implement the corrective plan in paragraph (4) in a timely manner, the commissioner shall withdraw approval of the form as provided in Section 10293. This remedy shall be in addition to any other remedy available under law. Any plan, report, exemption, or other document prepared pursuant to this subdivision shall be accessible as a public record.

(c) (1) An insurer shall collect and file for approval by the commissioner, by May 31 of each year, the data contained in the reporting form set forth in Appendix A of the Model Regulation to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, as adopted by the National Association of Insurance Commissioners on July 30, 1991, for each type in a standard Medicare supplement benefit plan.

(2) If on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since exception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in the standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(3) A refund or credit shall be made when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level.

(4) A refund or credit shall be made on or before September 30 in the year following the year upon which the refund or credit is based. The refund or credit shall include interest from the end of the calendar year to the date of the refund at a rate no less than the average for 13-week Treasury notes.

(d) The commissioner shall adopt regulations by July 30, 1993, that shall set forth specific data and documentation required for submission in annual rate filings pursuant to subdivisions (a), (b), and (c), and specify those minimum standards necessary for approval of those rate filings.
(e) The commissioner may conduct a public hearing to gather information concerning a request for a rate increase on any form in force in California if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance may be made without consideration of any corrective plan implemented for the reporting period. Public notice of the hearing shall be furnished as deemed appropriate by the commissioner.

SEC. 22.  Section 10195.45 of the Insurance Code is repealed.

SEC. 23.  Section 10195.45 is added to the Insurance Code, to read:

10195.45.  (a) Every Medicare supplement policy form and certificate form must be filed with and approved by the commissioner before being issued or delivered in California. Master policies issued outside California shall be filed for informational purposes along with the certificates.

(b) No Medicare supplement insurer shall use or change premium rates unless the rates, rating schedule, and supporting documentation have been filed and approved by the commissioner.

(c) Paragraph (1) of subdivision (b) of Section 10290 shall not apply to Medicare supplement insurance forms or rates. However, the commissioner may authorize in writing, for good cause only, the limited use of a form or rates after that form or the rates have been filed with the commissioner for 60 days and have not otherwise been acted upon.

(d) An insurer shall not file more than one policy or certificate form of each type for each standard benefit plan except that the commissioner may approve four policy or certificate forms of the same type for the same standard benefit plan, one for each of the following cases:

(1) The inclusion of new or innovative benefits.

(2) The addition of direct response or agent marketing methods.

(3) The addition of either guaranteed issue or underwritten coverage.

(4) The offering of coverage to individuals eligible for Medicare by reason of disability.

For purposes of this section, a type means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.

SEC. 24.  Section 10195.46 is added to the Insurance Code, to read:

10195.46.  (a) No Medicare supplement policy form or certificate form that is first issued or delivered in California after the effective date of this section, may be withdrawn from the market unless the insurer has provided 60 days written notice to the commissioner and unless the commissioner has authorized the withdrawal in writing.

(b) If a policy form or certificate form is withdrawn from the market, the insurer shall not submit for approval or issue another policy form or certificate form of the same standardized plan for at least five years. The commissioner may authorize in writing, for good cause only, that the withdrawal period for a particular insurer and
plan may be shorter than five years.

(c) The sale or other transfer of Medicare supplement business to another insurer, or other Medicare supplement issuer, shall be considered a withdrawal from the market by the transferring insurer for purposes of this section.

(d) A change in the rating structure or methodology shall be considered a withdrawal from the market under this section unless the commissioner approves the change in writing.

(1) To seek approval, the insurer shall file an actuarial memorandum describing the differences between the existing and revised rating structures or methodologies and the resulting rates. The commissioner may approve the change if it is in the public interest.

(2) The insurer shall not subsequently effect a change in rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates, as described in the actuarial memorandum, to change. The commissioner may approve a change to the differential if it is in the public interest.

SEC. 25. Section 10196.1 of the Insurance Code is repealed.
SEC. 26. Section 10197 of the Insurance Code is amended to read: 10197. (a) No insurer, broker, agent, or other person shall cause an insured to replace a Medicare supplement insurance policy unnecessarily. In recommending replacement of any Medicare supplement insurance, an agent shall make reasonable efforts to determine the appropriateness to the potential insured.

(b) Application forms shall include the following statements and questions designed to elicit information as to whether, as of the date of the application, the applicant has other Medicare supplement insurance in force, or whether the Medicare supplement policy or certificate is intended to replace any other disability coverage presently in force. A supplementary application or other form to be signed by the applicant and agent containing those questions may be used unless the coverage is sold without an agent.

(1) Statements:

(A) You do not need more than one Medicare supplement policy.

(B) If you are 65 or older, you may be eligible for benefits under Medi-Cal or Medicaid and may not need a Medicare supplement policy.

(C) Benefits and premiums under your Medicare supplement policy will be suspended during your entitlement to Medi-Cal or Medicaid for up to 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal or Medicaid. Once you are no longer eligible for Medi-Cal or Medicaid, your insurance policy will be reinstated if you request it within 90 days after losing entitlement.

(D) “If you want to discuss buying Medicare supplement insurance with a trained insurance counselor, call the California Department of Insurance’s toll-free number 1-800-927-HELP and ask
how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California."

(2) Questions:
(A) Do you have any other Medicare supplement insurance coverage, including an HMO contract? If so, with what company?
(B) Do you have any other health or disability insurance coverage? If so, what company? What kind of policy? Would the benefits duplicate the benefits in this Medicare supplement policy?
(C) Do you intend to replace any health or disability insurance coverage with this policy?
(D) Are you eligible for or receiving benefits from Medi-Cal?

(c) Each agent shall list, on the same form, any other disability insurance policies he or she or his or her agency has sold to the applicant. The list shall include all policies that are still in force and all policies sold in the last five years that may no longer be in force.

(d) In the case of the direct response insurer, a copy of the application, signed by the applicant and acknowledged by the insurer, shall be returned to the applicant upon or before delivery of the policy.

(e) Upon determining that a sale will involve replacement, an insurer or its agent, shall furnish the applicant, prior to issuing or delivering the Medicare supplement policy or certificate, a replacement notice. Direct response insurers shall deliver the replacement notice along with the policy or certificate. One copy of the notice signed by the applicant and the agent or insurer shall be provided to the applicant and an additional signed copy shall be retained by the insurer as provided in Section 10508. The replacement notice shall be printed in no less than 10-point type in substantially the following form:

[Insurer’s name and address]
NOTICE TO APPLICANT PLANNING TO REPLACE MEDICARE SUPPLEMENT COVERAGE

SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE FUTURE.

If you intend to cancel or terminate existing Medicare supplement insurance and replace it with coverage issued by [company name], please review the new coverage carefully and replace the existing coverage ONLY if the new coverage materially improves your position. DO NOT CANCEL YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

If you decide to purchase the new coverage, you will have 30 days after you receive the policy to return it to the insurer, for any reason, and receive a refund of your money.
If you want to discuss buying Medicare supplement insurance with a trained insurance counselor, call the California Department of Insurance's toll-free number 1-800-927-HELP, and ask how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California.

STATEMENT TO APPLICANT FROM THE INSURER AND AGENT: I have reviewed your current health insurance coverage. To the best of my knowledge, the replacement of insurance involved in this transaction does not duplicate coverage. In addition, the replacement coverage contains benefits that are clearly and substantially greater than your current benefits for the following reasons:

____ Additional benefits that are: ________________
____ No change in benefits, but lower premiums.
____ Fewer benefits and lower premiums.
____ Other reasons specified here: ________________

DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

(Signature of Agent, Broker, or Other Representative)

(Signature of Applicant)

(Date)

SEC. 27. Section 10197.05 is added to the Insurance Code, to read:
10197.05. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing insurer shall waive any time period applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy or certificate to the extent the time was spent under the original coverage.

SEC. 28. Section 10197.1 of the Insurance Code is amended to read:
10197.1. (a) Every insurer marketing Medicare supplement insurance coverage in this state, directly or through its producers, shall do all of the following:

1. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.
2. Establish marketing procedures to assure excessive insurance is not sold or issued.
3. Establish marketing procedures which set forth a mechanism or formula for determining whether a replacement policy or certificate contains benefits that are of clearly and substantially greater benefit to the insured than the replaced coverage, for
purposes of triggering first-year commissions.

(4) Display prominently on the first page of the policy the following:

"Notice to buyer: This policy may not cover all of your medical costs."

(5) Inquire and otherwise make every reasonable effort to identify whether a prospective purchaser for Medicare supplement insurance already has insurance and the types and amounts of that insurance.

(6) Establish auditable procedures for verifying compliance with this subdivision.

(b) In addition to other unfair trade practices identified in this code, the following acts and practices are prohibited:

(1) Twisting: Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies of insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) High Pressure Tactics: Employing any method of marketing having the affect of or tending to induce the purchase of insurance through force, fright, threat whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold Lead Advertising: Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(c) The terms "Medicare Supplement" or "Medicare Wrap-Around" or words of similar import shall not be used unless the coverage and the forms have been approved by the commissioner in compliance with this article. The term "Medigap" shall not be used.

SEC. 29. Section 10197.2 of the Insurance Code is amended to read:

10197.2. Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

SEC. 30. Section 10197.4 of the Insurance Code is repealed.

SEC. 31. Section 10197.5 of the Insurance Code is repealed.

SEC. 32. Section 10197.6 of the Insurance Code is amended to read:

10197.6. (a) An insurer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first-year commission or other first-year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period. Every insurer shall file with the commissioner its commission
structure or an explanation of the insurer’s plan to comply with this
provision.
(b) The commission or other compensation provided in
subsequent renewal years shall be the same as that provided in the
second year or period, and shall be provided for at least five years.
(c) For purposes of this section, “commission” or “compensation”
includes pecuniary or nonpecuniary remuneration of any kind
relating to the sale or renewal of the policy or certificate including,
but not limited to, bonuses, gifts, prizes, awards, and finders fees.
(d) If coverage is replaced, no agent, subagent, or other producer
shall receive commission or compensation, and no insurer or other
entity shall pay commission or compensation, in a greater amount
than the renewal compensation for the original coverage unless the
insurer can show that the benefit to the insured is clearly and
substantially greater.
SEC. 33. Section 10198.4 of the Insurance Code is amended to
read:
10198.4. Any person who knowingly or intentionally violates any
provision of this article is guilty of a public offense punishable by
imprisonment in the county jail not exceeding one year or by
imprisonment in the state prison or by a fine not exceeding ten
thousand dollars ($10,000), or by both imprisonment and fine.
SEC. 34. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because the
only costs which may be incurred by a local agency or school district
will be incurred because this act creates a new crime or infracion,
changes the definition of a crime or infracion, changes the penalty
for a crime or infracion, or eliminates a crime or infracion. 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. 35. This act is an urgency statute necessary for the
immediate preservation of the public peace, health, or 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 continuation of coverage for Medicare
supplemental insurance policies in conformance with the
requirements of the federal certification requirements of the
Medicare supplement insurance provisions of the Federal Omnibus
Reconciliation Act of 1990, it is necessary for this act to take effect
immediately.
An act to amend Sections 366.2, 366.21, and 366.23 of, and to add Section 316.1 to, the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 22, 1992.]

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

SECTION 1. Section 316.1 is added to the Welfare and Institutions Code, to read:

316.1. (a) Upon his or her appearance before the court, each parent or guardian shall designate for the court his or her permanent mailing address. The court shall advise each parent or guardian that the designated mailing address will be used by the court and the social services agency for notice purposes unless and until the parent or guardian notifies the court or the social services agency of a new mailing address in writing.

(b) The Judicial Council may develop a form for the designation of a permanent mailing address by parents and guardians for use by the courts and social services agencies.

SEC. 2. Section 366.2 of the Welfare and Institutions Code is amended to read:

366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor’s parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally or by certified mail return receipt requested, or any other form of actual notice is equivalent to service by first-class mail.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her
recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer’s report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 232 of the Civil Code may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(f) This section shall apply only to minors made dependents of the court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

SEC. 3. Section 366.21 of the Welfare and Institutions Code is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the
hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally or by certified mail return receipt requested, or any other form of actual notice is equivalent to service by first-class mail.

The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parents to enable them to assume custody, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to such a hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any
(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report, shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.5, and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings pursuant to subdivision (a) of Section 366; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian, provided that the court may modify the terms and conditions of those services. If the child is not returned to his or her parent or parents, the court shall determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents overcome the problems which led to the initial removal and the continued custody of the minor. The court shall order that those services be initiated or continued.
(f) At the review hearing held 12 months after the initial dispositional hearing, the court 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 or detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents to overcome the problems which led to the initial removal and continued custody of the minor. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer’s report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. 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. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or parents. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not adoptable and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) 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 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.
(j) This section shall apply to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

SEC. 4. Section 366.23 of the Welfare and Institutions Code is amended to read:

366.23. (a) Whenever a juvenile court schedules a hearing pursuant to Section 366.26 regarding a minor, it shall direct that the fathers, presumed and alleged, and mother of the minor, the minor, if 10 years of age or older, and any counsel of record, shall be notified of the time and place of the proceedings and advised that they may appear. The notice shall also advise them of the right to counsel, the nature of the proceedings, and of the requirement that at the proceedings the court shall select and implement a plan of adoption, legal guardianship, or long-term foster care for the minor. In all cases where a parent has relinquished his or her child for the purpose of adoption, no notice need be given to that parent. Service of the notice shall be completed at least 45 days before the date of the hearing, except in those cases where notice by publication is ordered in which case the service of the notice shall be completed at least 30 days before the date of the hearing. If the petitioner is recommending termination of parental rights, notice of this recommendation shall be either included in the notice of a hearing scheduled pursuant to Section 366.26 and served within the time period specified in this subdivision or provided by separate notice to all persons entitled to receive notice by first-class mail at least 15 days.
before the scheduled hearing.

(b) Notice to the parent of the hearing may be given in any of the following manners:

(1) Personal service to the parent named in the notice.

(2) Delivery to a competent person who is at least 18 years of age at the parent's usual place of residence or business, and thereafter mailed to the parent named in the notice by first-class mail at the place where the notice was delivered.

(3) If the place of residence is outside the state, service may be made in the manner prescribed in paragraph (1) or (2), or by certified mail, return receipt requested.

(4) If the recommendation of the petitioner is limited to legal guardianship or long-term foster care, service may be made by first-class mail to the parent's usual place of residence or business.

(5) If the father or mother of the minor or any person alleged to be or claiming to be the father or mother cannot, with reasonable diligence, be served as provided for in paragraph (1), (2), (3), or (4) or if his or her place of residence is not known, the probation officer shall file an affidavit with the court at least 75 days before the date of the hearing, stating the name of the father or mother or alleged father or mother and his or her place of residence, if known, setting forth the efforts that have been made to locate and serve the parent.

(A) If the court determines that there has been due diligence in attempting to locate and serve the parent, and the petitioner limits the recommendation to legal guardianship or long-term foster care, the court shall order that notice be given to the grandparents of the minor, if there are any and if their residences and relationships to the minor are known, by first-class mail of the time and place of the proceedings and that they may appear. In any case where the residence of the parent or alleged parent becomes known, notice shall immediately be served upon the parent or alleged parent as set forth in paragraph (1), (2), (3), or (4).

(B) If the court determines that there has been due diligence in attempting to locate and serve the parent and the petitioner does not limit the recommendation to legal guardianship or long-term foster care, the court shall order that service to the parent be by certified mail, return receipt requested, to the parent's counsel of record, if any. If the parent does not have counsel of record, the court shall order that the service be made by publication of a citation requiring the father or mother, or alleged father or mother, to appear at the time and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the father or mother. Publication shall be made once a week for four successive weeks. In case of service to the parent by certified mail on the counsel of record or publication where the residence of a parent or alleged parent becomes known, notice shall immediately be served upon the parent or alleged parent as set forth in paragraph (1), (2), or (3). When service to the parent by certified mail on the counsel of record or publication is ordered, service of a copy of the
notice in the manner provided for in paragraph (1), (2), or (3) is equivalent to service by certified mail on the counsel of record or publication. In any case where service to the parent by certified mail on the counsel of record or publication is ordered, the court shall also order that notice be given to the grandparents of the minor, if there are any and if their residences and relationships to the minor are known, by first-class mail of the time and place of the proceedings and that they may appear.

If the identity of one or both of the parents or alleged parents of the minor is unknown or if the name of either or both of his or her parents or alleged parents is uncertain, then that fact shall be set forth in the affidavit and the court, if ordering publication, shall order the published citation to be directed to either the father or the mother, or both, of the minor, and to all persons claiming to be the father or mother of the minor naming and otherwise describing the minor. Personal service of a copy of the notice or any other form of actual notice to counsel of record is the equivalent of service to counsel of record by certified mail, return receipt requested.

(6) Notwithstanding paragraphs (1) to (5), inclusive, if the parent is present at the hearing at which the court schedules a hearing pursuant to Section 366.26 regarding the minor, the court shall advise the parent of the time and place of the proceedings, their right to counsel, the nature of the proceedings, and of the requirement that at the proceedings the court select and implement a plan of adoption, legal guardianship, or long-term foster care for the minor. The court shall order the parent to appear for the proceedings and then direct that the parent be noticed thereafter by first-class mail to the parent’s usual place of residence or business only.

(7) Notwithstanding paragraphs (1) to (5), inclusive, whenever the whereabouts of a parent is not known at the time the court schedules a hearing pursuant to Section 366.26 regarding a minor, and the petitioner presents to the court an affidavit setting forth the name of the parent and the efforts that have been made to locate the parent, the court shall order that the notice for the parent be as set forth in subparagraph (A) or (B) of paragraph (5).

(c) Notice to the minor, if 10 years of age or older of the hearing shall be by first-class mail.

(d) Service is deemed complete at the time the notice is personally delivered to the party named in the notice, or 10 days after the notice has been placed in the mail, or at the expiration of the time prescribed by the order for publication, whichever occurs first. Notwithstanding subdivision (a), if the counsel of record is present at the time that the court schedules a hearing pursuant to Section 366.26 no further notice to the counsel of record shall be required, except to notice counsel of a recommendation to termination parental rights as set forth in subdivision (a) or as required by subparagraph (B) of paragraph (5) of subdivision (b).
CHAPTER 289

An act to amend Sections 798.17 and 798.18 of the Civil Code, relating to mobilehome parks.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 22, 1992.]

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

SECTION 1. Section 798.17 of the Civil Code is amended to read: 798.17. (a) Rental agreements meeting the criteria of subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of such a rental agreement shall prevail over conflicting provisions of an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks, only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

In the first sentence of the first paragraph of a rental agreement entered into on or after January 1, 1993, pursuant to this section, there shall be set forth a provision in at least 12-point boldface type if the rental agreement is printed, or in capital letters if the rental agreement is typed, giving notice to the homeowner that the rental agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

(b) Rental agreements subject to this section shall meet all of the following criteria:

(1) The rental agreement shall be in excess of 12 months' duration.

(2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.

(3) The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the rental agreement.

(4) The homeowner who executes a rental agreement offered pursuant to this section may void the rental agreement by notifying management in writing within 72 hours of the homeowner's execution of the rental agreement.

(c) If, pursuant to paragraph (3) or (4) of subdivision (b), the
homeowner rejects the offered rental agreement or rescinds a signed rental agreement, the homeowner shall be entitled to instead accept, pursuant to Section 798.18, a rental agreement for a term of 12 months or less from the date the offered rental agreement was to have begun. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month-to-month rental agreement, the rental agreement shall contain the same rental charges, terms, and conditions as the rental agreement offered pursuant to subdivision (b), during the first 12 months, except for options, if any, contained in the offered rental agreement to extend or renew the rental agreement.

(d) Nothing in subdivision (c) shall be construed to prohibit the management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

(e) With respect to any space in a mobilehome park which is exempt under subdivision (a) from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the mobilehome park shall be exempt from any fee or other exaction imposed pursuant to such an ordinance, rule, regulation, or initiative measure or imposed for the purpose of defraying the cost of administration thereof.

(f) At the time the rental agreement is first offered to the homeowner, the management shall provide written notice to the homeowner of the homeowner's right (1) to have at least 30 days to inspect the rental agreement, and (2) to void the rental agreement by notifying management in writing within 72 hours of the acceptance of a rental agreement. The failure of the management to provide the written notice shall make the rental agreement voidable at the homeowner's option upon the homeowner's discovery of the failure. The receipt of any written notice provided pursuant to this subdivision shall be acknowledged in writing by the homeowner.

(g) No rental agreement subject to subdivision (a) that is first entered into on or after January 1, 1993, shall have a provision which authorizes automatic extension or renewal of, or automatically extends or renews, the rental agreement for a period beyond the initial stated term at the sole option of either the management or the homeowner.

(h) This section does not apply to or supersede other provisions of this part or other state law.

SEC. 2. Section 798.18 of the Civil Code is amended to read:

798.18. (a) A homeowner shall be offered a rental agreement for (1) a term of 12 months, or (2) a lesser period as the homeowner may request, or (3) a longer period as mutually agreed upon by both the homeowner and management.

(b) No rental agreement shall contain any terms or conditions with respect to charges for rent, utilities, or incidental reasonable service charges that would be different during the first 12 months of
the rental agreement from the corresponding terms or conditions that would be offered to the homeowners on a month-to-month basis.

(c) No rental agreement for a term of 12 months or less shall include any provision which authorizes automatic extension or renewal of, or automatically extends or renews, the rental agreement beyond the initial term for a term longer than 12 months at the sole option of either the management or the homeowner.

CHAPTER 290

An act to amend Sections 10500 and 10502 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 22, 1992 Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 10500 of the Vehicle Code is amended to read:

10500. (a) Every peace officer, upon receiving a report based on reliable information that any vehicle registered under this code has been stolen, taken, or driven in violation of Section 10851, or that a leased or rented vehicle has not been returned within five days after its owner has made written demand for its return, by certified or registered mail, following the expiration of the lease or rental agreement, or that license plates for any vehicle have been lost or stolen, shall, immediately after receiving that information, report the information to the Department of Justice Stolen Vehicle System. An officer, upon receiving information of the recovery of any vehicle described in this subdivision, or of the recovery of plates which have been previously reported as lost or stolen, shall immediately report the fact of the recovery to the Department of Justice Stolen Vehicle System. At the same time, the recovering officer shall advise the Department of Justice Stolen Vehicle System and the original reporting police agency of the location and condition of the vehicle or license plates recovered. The original reporting police agency, upon receipt of the information from the recovering officer, shall, within 48 hours, excluding weekends and holidays, notify the reporting party of the location and condition of the recovered vehicle.

(b) If the recovered vehicle is subject to parking or storage charges, Section 10652.5 applies.

SEC. 2. Section 10502 of the Vehicle Code is amended to read:

10502. (a) The owner or legal owner of a vehicle registered under this code which has been stolen or embezzled may notify the Department of the California Highway Patrol of the theft or embezzlement, but in the event of an embezzlement other than an
embezzlement as specified in Section 10855, may make the report only after having procured the issuance of a warrant for the arrest of the person charged with the embezzlement.

(b) Every owner or legal owner who has given any notice under subdivision (a) shall notify the Department of the California Highway Patrol of a recovery of the vehicle.

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 291

An act to amend Section 12810 of the Vehicle Code, relating to driving offenses.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident in violation of Section 20001 or 20002 shall be given a value of two points.

(b) Any conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) (1) Any conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) of Section 23109, subdivision (c) of Section 23109, or Section 31602 of this code, shall be given a value of two points.

(2) Any conviction of a violation of subdivision (a) or (b) of Section 23140 shall be given a value of two points.

(e) Except as provided in subdivision (g), any other traffic
conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(f) Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(2) Any conviction of a violation of subdivision (a) of Section 21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, or 26707 shall not be given a violation point count.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(i) Any conviction of a violation of Section 14601, 14601.1, 14601.2, or 14601.3 shall be given a value of two points.

(j) Any conviction of a violation of Section 27360 within a 37-month period shall be given a value of one point.

CHAPTER 292

An act to add Sections 34327.3 and 50506.5 to the Health and Safety Code, and to add Section 16517 to the Welfare and Institutions Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Section 34327.3 is added to the Health and Safety Code, to read:

34327.3. County public housing agencies may apply for, process, and distribute, to the extent that federal funds are available, housing certificates issued pursuant to Section 8 of the United States Housing Act of 1937 (Sec. 1437 et seq., Title 42, U.S.C.) to families deemed eligible pursuant to Section 16517 of the Welfare and Institutions Code.

SEC. 2. Section 50506.5 is added to the Health and Safety Code, to read:

50506.5. (a) It is the intent of the Legislature to accomplish both of the following:

(1) To prevent the unnecessary separation of children from their families because of homelessness or the lack of adequate shelter.

(2) To assist in the reunification of foster children and their families when housing remains a problem.

(b) The department may, upon the request of a local public entity, provide technical assistance for the purpose of developing
applications and plans from the local public entity for federal funding under the Section 8 housing certificate program created by Section 553 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625).

(c) As used in this section, "Section 8" means Section 8 of the United States Housing Act of 1937 (Sec. 1437 et seq., Title 42, U.S.C.).

SEC. 3. Section 16517 is added to the Welfare and Institutions Code, to read:

16517. (a) (1) It is the intent of the Legislature to accomplish both of the following:

(A) To prevent the unnecessary separation of children from their families because of homelessness or the lack of shelter.

(B) To assist in the reunification of foster children and their families when housing remains a problem.

(2) Through the Section 8 housing certificate program created by Section 553 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625), housing assistance may be made available to families eligible for assistance under this program.

(b) (1) For the purposes of the Section 8 housing certificate program created by Section 553 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625), the county department of social services is designated "the public child welfare agency."

(2) If a county chooses to participate in the Section 8 housing certificate program, all of the following shall occur:

(A) The county department of social services shall make the determination, pursuant to Section 553 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625), that an eligible child is at imminent risk of placement in out-of-home care or that an eligible child in out-of-home care under its supervision may be returned to his or her family.

(B) The county department of social services shall certify an eligible family as one for which the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or in the delayed discharge of a child or children to the family from out-of-home care.

(C) The county department of social services shall transmit, in writing, its certification pursuant to subparagraph (B) to the local public housing agency responsible, pursuant to Section 34327.3 of the Health and Safety Code, for administering assistance under the Section 8 housing certificate program.

(c) As used in this section, "Section 8" means Section 8 of the United States Housing Act of 1937 (Sec. 1437 et seq., Title 42, U.S.C.).

(d) The State Department of Social Services may, upon the request of a local public entity, provide technical assistance for the purpose of developing applications and plans from the local public entity for federal funding under the Section 8 housing certificate program created by Section 553 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625).

(e) The State Department of Social Services is authorized to
adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code in order to implement the purposes of this section.

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

In order to implement the housing certificate program created by Section 553 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625) in a timely manner in order to avoid the injustice of eligible families losing their children to foster care because of a lack of housing, it is necessary that this act take effect immediately.

CHAPTER 293

An act to amend Section 25123.3 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Section 25123.3 of the Health and Safety Code is amended to read:

25123.3. (a) "Storage facility" means a hazardous waste facility at which the hazardous waste meets any of the following requirements:

(1) The hazardous waste is held in containers or tanks for greater than 90 days at an onsite facility.

(2) The hazardous waste is held at an onsite facility in tanks for any period of time and the quantity of the hazardous waste in any individual tank exceeds 5,000 gallons or 45,000 pounds, whichever is greater, or the aggregate amount of hazardous waste stored in tanks at the facility exceeds 50,000 gallons. For purposes of this paragraph, these quantities do not include hazardous waste stored in a portable tank used for a period of not more than 60 calendar days at an onsite facility or hazardous waste accumulated onsite which has been generated from onsite maintenance operations which occur less frequently than annually or hazardous waste which is held, as part of the ongoing treatment of that waste, in a tank which is authorized by the department to perform that treatment for that waste.

(3) The hazardous waste is held in containers or tanks for any period of time at an offsite facility which is not a transfer facility.

(4) (A) Except as provided in subparagraph (B), the hazardous waste is held in containers or tanks at a transfer facility for periods greater than 144 hours.
(B) The department may extend the period of time specified in subparagraph (A) for hazardous waste which is generated as a result of an emergency release and which is collected and temporarily stored by emergency rescue personnel, as defined in Section 25501, or by a response action contractor, as defined in Section 25364.6, upon the request of emergency rescue personnel or the response action contractor. Notwithstanding any other provision of law, a transfer facility which holds hazardous waste for periods greater than 144 hours pursuant to this subparagraph shall not be classified as a storage facility.

(5) The hazardous waste is held at an onsite facility in any individual container of less than 5,000 gallons for any period of time, and the aggregate amount of hazardous waste stored in those containers, exclusive of tanks, at the facility exceeds 50,000 gallons. For purposes of this paragraph, this quantity does not include hazardous waste being accumulated at an initial accumulation point pursuant to subdivision (d).

(6) The hazardous waste is held at any facility for any period of time in a manner other than in a container or tank.

(b) The time period for calculating the 90-day period for purposes of paragraph (1) of subdivision (a) begins when the facility has accumulated 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste. However, if the facility generates more than 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste during any calendar month, the time period begins when any amount of hazardous waste first begins to accumulate in that month.

(c) For purposes of this section, "transfer facility" means any offsite facility which is related to the transportation of hazardous waste, including, but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(d) Notwithstanding paragraph (1) of subdivision (a), a generator of hazardous waste that accumulates waste onsite is not a storage facility if all of the following requirements are met:

(1) The generator accumulates a maximum of 55 gallons of hazardous waste, one quart of acutely hazardous waste, or one quart of extremely hazardous waste at an initial accumulation point which is at or near the area where the waste is generated and which is under the control of the operator of the process generating the waste.

(2) The generator accumulates the waste in containers other than tanks.

(3) The generator does not hold the hazardous waste onsite for more than one year from the initial date of accumulation, or 90 days from the date the quantity limitation specified in paragraph (1) of this subdivision is reached, whichever occurs first.

(4) The generator labels any container used for the accumulation of hazardous waste with the initial date of accumulation and with the
words "hazardous waste" or other words that identify the contents of the container.

(5) Within three days of reaching any applicable quantity limitation specified in paragraph (1), the generator labels the container holding the accumulated hazardous waste with the date the quantity limitation was reached and either transports the waste offsite or holds the waste onsite and complies with the regulations adopted by the department establishing requirements for personnel training, preparedness and prevention, and contingency plans and emergency procedures applicable to storage facilities.

(6) The generator complies with regulations adopted by the department pertaining to the use and management of containers and any other regulations adopted by the department to implement this subdivision.

(7) The generator does not otherwise meet the definition of a storage facility.

CHAPTER 294

An act to amend Sections 7028.15, 7071.8, 7099.10, and 7099.11 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. 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 20103.5 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.

SEC. 2. Section 7071.8 of the Business and Professions Code is amended to read:

7071.8. (a) This section applies to an application for a license, for restoration of a license, or for continued valid use of a license which has been disciplined, whether or not the disciplinary action has been stayed, made by any of the following persons or firms:

(1) Any person whose license has been suspended or revoked as a result of disciplinary action, or any person who was a qualifying individual for a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of the licensee’s license, whether or not the qualifying individual had knowledge or participated in the prohibited act or omission.

(2) Any person who was an officer, director, member, or partner of a licensee at any time during which cause for disciplinary action...
occurred resulting in suspension or revocation of the licensee’s license and who had knowledge of or participated in the act or omission which was the cause for the disciplinary action.

(3) Any partnership, corporation, firm or association of which any officer, director, member, partner or qualifying person has had the license suspended or revoked as a result of disciplinary action.

(4) Any partnership, corporation, firm or association of which any officer, director, member, or partner or qualifying person was a member, officer, director, or partner of a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of the license, and who had knowledge of or participated in the act or omission which was the cause for the disciplinary action.

(b) The board shall require as a condition precedent to the issuance, reissuance or restoration of a license to the applicant, or removal of suspension, or to the continued valid use of a license which has been suspended or revoked, but which suspension or revocation has been stayed, that the applicant or licensee file or have on file a contractor’s bond in a sum to be fixed by the registrar based upon the seriousness of the violation, but which sum shall not be less than fifteen thousand dollars ($15,000) nor more than 10 times that amount required by Section 7071.6.

(c) The bond is in addition to, may not be combined with, and does not replace any other type of bond required by this chapter. The bond shall remain on file with the registrar for a period of at least two years and for such additional time as the registrar may determine. The bond period shall run only while the license is current, active, and in good standing, and shall be extended until such time as the license has been current, active, and in good standing for the required period. Each applicant or licensee shall be required to file only one disciplinary contractor’s bond of the type described in this section for each application or license subject to this bond requirement.

SEC. 3. Section 7099.10 of the Business and Professions Code is amended to read:

7099.10. (a) If, upon investigation, the registrar has probable cause to believe that a licensee, an applicant for a license, or an unlicensed individual acting in the capacity of a contractor who is not otherwise exempted from the provisions of this chapter, has violated Section 7027.1 by advertising for construction or work of improvement covered by this chapter in an alphabetical or classified directory, without being properly licensed, the registrar may issue a citation under Section 7099 containing an order of correction which requires the violator to cease the unlawful advertising and to notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising, and that subsequent calls to that number shall not be referred by the telephone company to any new telephone number obtained by that person.
(b) If the person to whom a citation is issued under subdivision (a) notifies the registrar that he or she intends to contest the citation, the registrar shall afford an opportunity for a hearing, as specified in Section 7099.5, within 90 days after receiving the notification.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after the order is final, the registrar shall inform the Public Utilities Commission of the violation, and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

SEC. 4. Section 7099.11 of the Business and Professions Code is amended to read:

7099.11. (a) No person shall advertise, as that term is defined in Section 7027.1, to promote his or her services for the removal of asbestos unless he or she is certified to engage in asbestos-related work pursuant to Section 7058.5, and registered for that purpose pursuant to Section 6501.5 of the Labor Code. Each advertisement shall include that person's certification and registration numbers and shall use the same name under which that person is certified and registered.

(b) The registrar shall issue a notice to comply with the order of correction provisions of subdivision (a) of Section 7099.10, to any person who is certified and registered, as described in subdivision (a), and who fails to include in any advertisement his or her certification and registration numbers.

(c) The registrar shall issue a citation pursuant to Section 7099 to any person who fails to comply with the notice required by subdivision (b), or who advertises to promote his or her services for the removal of asbestos but does not possess valid certification and registration numbers as required by subdivision (a), or who fails to use in that advertisement the same name under which he or she is certified and registered.

Citations shall be issued and conducted pursuant to Sections 7099 to 7099.10, inclusive.
CHAPTER 295

An act to amend Sections 164.52, 2701.07, 2702.07, and 2703.07 of the Streets and Highways Code, relating to transportation.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 164.52 of the Streets and Highways Code is amended to read:

164.52. The urban rail transit projects eligible for funding pursuant to subdivision (f) of Section 164.50 include all of the following:

(a) Sacramento:
   (1) Roseville extension.
   (2) Hazel extension.
   (3) Meadowview extension.
   (4) Arena extension.

(b) San Francisco Bay Area Rapid Transit District:
   (1) Bayfair-East Livermore.
   (2) Concord-East Antioch.
   (3) Fremont-Warm Springs.
   (4) Daly City-San Francisco International Airport.
   (5) Coliseum-Oakland International Airport.
   (6) Richmond-Crockett.
   (7) Warm Springs-San Jose.

(c) Alameda and Contra Costa Counties:
   (1) Pleasanton-Concord.

(d) Santa Clara County:
   (1) Sunnyvale-Santa Clara.
   (2) San Jose-Vasona.
   (3) Route 237.

(e) San Francisco City and County:
   (1) Extensions, improvements, and additions to the San Francisco Municipal Railway.
   (f) Santa Cruz County:
      (1) Boardwalk area-University of California at Santa Cruz.
   (g) Los Angeles-Metro Rail:
      (1) Wilshire/Alvarado-Wilshire/Western.
      (2) Wilshire/Alvarado-Lankershim/Chandler.
      (3) Union Station-Routes 5 and 710.
      (4) Wilshire/Western/Wilshire Highway Route 405.

(h) Los Angeles County Rail corridors:
   (1) Lankershim/Chandler-Warner Center.
   (2) Pasadena-Los Angeles.
   (3) Coastal Corridor (Torrance to Santa Monica).
   (4) Santa Monica-Los Angeles.
(5) Route 5.
(6) Route 110.
(i) San Diego County:
(1) El Cajon-Santee.
(2) Downtown-Old Town.
(3) Airport-Point Loma.
(4) Old Town-Mission Valley.
(5) Mission Valley-La Mesa.
(6) La Jolla-Miramar.
(7) Old Town-Del Mar.
(8) Downtown-Encanto.
(9) Chula Vista-Otay Mesa.
(j) Fullerton-Irvine, with an extension from Santa Ana to Stanton, and an extension to Norwalk.

SEC. 2. Section 2701.07 of the Streets and Highways Code is amended to read:

2701.07. The appropriations for capital improvements and acquisition of rolling stock for intercity rail, commuter rail, and urban rail transit shall be used only on the following routes and corridors and those specified by statutes enacted by the Legislature:

(a) Intercity Rail.
(1) Los Angeles-San Diego.
(2) Santa Barbara County-Los Angeles.
(3) Los Angeles-Fresno-San Francisco Bay area and Sacramento.
(4) San Francisco Bay area-Sacramento-Auburn.
(5) San Francisco-Eureka.
(b) Commuter Rail.
(1) San Francisco-San Jose.
(2) San Jose-Gilroy.
(3) Gilroy-Monterey.
(4) Stockton-Livermore.
(5) Orange County-Los Angeles.
(6) Riverside County-Orange County.
(7) San Bernardino County-Los Angeles.
(8) Ventura County-San Fernando Valley-Los Angeles.
(9) Saugus-Los Angeles.
(10) Oceanside-San Diego.
(11) Escondido-Oceanside.
(12) Riverside-Coachella Valley.
(13) Riverside-Los Angeles.
(c) Urban Rail Transit.
(1) Sacramento.
(A) Roseville extension.
(B) Hazel extension.
(C) Meadowview extension.
(D) Arena extension.
(2) San Francisco Bay Area Rapid Transit District.
(A) Bayfair-East Livermore.
(B) Concord-East Antioch.
(C) Fremont-Warm Springs.
(D) Daly City-San Francisco International Airport.
(E) Coliseum-Oakland International Airport.
(F) Richmond-Crockett.
(G) Warm Springs-San Jose.
(3) Alameda and Contra Costa Counties.
(A) Pleasanton-Concord.
(4) Santa Clara County.
(A) Sunnyvale-Santa Clara.
(B) San Jose-Vasona.
(C) State Highway Route 237.
(5) San Francisco City and County.
(A) Extensions, improvements, and additions to the San Francisco Municipal Railway.
(6) San Francisco-Santa Rosa-Sonoma.
(7) Santa Cruz County.
(A) Boardwalk area-University of California at Santa Cruz.
(8) Los Angeles Metro Rail.
(A) Wilshire/Alvarado-Wilshire/Western.
(B) Wilshire/Alvarado-Lankershim/Chandler.
(C) San Fernando Valley extension.
(D) Union Station-State Highway Routes 5 and 710.
(E) Wilshire/Western-Wilshire/State Highway Route 405.
(9) Los Angeles County Rail Corridors.
(A) San Fernando Valley.
(B) Pasadena-Los Angeles.
(C) Coastal Corridor (Torrance to Santa Monica).
(D) Santa Monica-Los Angeles.
(E) State Highway Route 5.
(F) State Highway Route 110.
(10) San Diego County.
(A) El Cajon-Santee.
(B) Downtown-Old Town.
(C) Airport-Point Loma.
(D) Old Town-Mission Valley.
(E) Mission Valley-La Mesa.
(F) La Jolla-Miramar.
(G) Old Town-Del Mar.
(H) Downtown-Escondido.
(I) Chula Vista-Otay Mesa.
(11) Fullerton-Irvine, with an extension from Santa Ana to Stanton, and an extension to Norwalk.
(12) Riverside/San Bernardino to Orange County, including extensions to Redlands and Hemet.

SEC. 3. Section 2702.07 of the Streets and Highways Code, as proposed by Section 3 of Chapter 108 of the Statutes of 1989, is amended to read:

2702.07. The appropriations for capital improvements and acquisition of rolling stock for intercity rail, commuter rail, and
urban rail transit shall be used only on the following routes and corridors and those specified by statutes enacted by the Legislature:

(a) Intercity Rail.
(1) Los Angeles-San Diego.
(2) Santa Barbara County-Los Angeles.
(3) Los Angeles-Fresno-San Francisco Bay area and Sacramento.
(4) San Francisco Bay area-Sacramento-Auburn.
(5) San Francisco-Eureka.
(b) Commuter Rail.
(1) San Francisco-San Jose.
(2) San Jose-Gilroy.
(3) Gilroy-Monterey.
(4) Stockton-Livermore.
(5) Orange County-Los Angeles.
(6) Riverside County-Orange County.
(7) San Bernardino County-Los Angeles.
(8) Ventura County-San Fernando Valley-Los Angeles.
(9) Saugus-Los Angeles.
(10) Oceanside-San Diego.
(11) Escondido-Oceanside.
(12) Riverside-Coachella Valley.
(13) Riverside-Los Angeles.
(c) Urban Rail Transit.
(1) Sacramento.
(A) Roseville extension.
(B) Hazel extension.
(C) Meadowview extension.
(D) Arena extension.
(2) San Francisco Bay Area Rapid Transit District.
(A) Bayfair-East Livermore.
(B) Concord-East Antioch.
(C) Fremont-Warm Springs.
(D) Daly City-San Francisco International Airport.
(E) Coliseum-Oakland International Airport.
(F) Richmond-Crockett.
(G) Warm Springs-San Jose.
(3) Alameda and Contra Costa Counties.
(A) Pleasanton-Concord.
(4) Santa Clara County.
(A) Sunnyvale-Santa Clara.
(B) San Jose-Vasona.
(C) State Highway Route 237.
(5) San Francisco City and County.
(A) Extensions, improvements, and additions to the San Francisco Municipal Railway.
(6) San Francisco-Santa Rosa-Sonoma.
(7) Santa Cruz County.
(A) Boardwalk area-University of California at Santa Cruz.
(8) Los Angeles Metro Rail.
(A) Wilshire/Alvarado-Wilshire/Western.
(B) Wilshire/Alvarado-Lankershim/Chandler.
(C) San Fernando Valley extension.
(D) Union Station-State Highway Routes 5 and 710.
(E) Wilshire/Western-Wilshire/State Highway Route 405.
(9) Los Angeles County Rail Corridors.
(A) San Fernando Valley.
(B) Pasadena-Los Angeles.
(C) Coastal Corridor (Torrance to Santa Monica).
(D) Santa Monica-Los Angeles.
(E) State Highway Route 5.
(F) State Highway Route 110.
(10) San Diego County.
(A) El Cajon-Santee.
(B) Downtown-Old Town.
(C) Airport-Point Loma.
(D) Old Town-Mission Valley.
(E) Mission Valley-La Mesa.
(F) La Jolla-Miramar.
(G) Old Town-Del Mar.
(H) Downtown-Escondido.
(I) Chula Vista-Otay Mesa.
(11) Fullerton-Irvine, with an extension from Santa Ana to Stanton, and an extension to Norwalk.
(12) Riverside/San Bernardino to Orange County, including extensions to Redlands and Hemet.

SEC. 4. Section 2703.07 of the Streets and Highways Code, as proposed by Section 4 of Chapter 108 of the Statutes of 1989, is amended to read:

2703.07. The appropriations for capital improvements and acquisition of rolling stock for intercity rail, commuter rail, and urban rail transit shall be used only on the following routes and corridors and those specified by statutes enacted by the Legislature:

(a) Intercity Rail.
(1) Los Angeles-San Diego.
(2) Santa Barbara County-Los Angeles.
(3) Los Angeles-Fresno-San Francisco Bay area and Sacramento.
(4) San Francisco Bay area-Sacramento-Auburn.
(5) San Francisco-Eureka.
(b) Commuter Rail.
(1) San Francisco-San Jose.
(2) San Jose-Gilroy.
(3) Gilroy-Monterey.
(4) Stockton-Livermore.
(5) Orange County-Los Angeles.
(6) Riverside County-Orange County.
(7) San Bernardino County-Los Angeles.
(8) Ventura County-San Fernando Valley-Los Angeles.
(9) Saugus-Los Angeles.
(10) Oceanside-San Diego.
(11) Escondido-Oceanside.
(12) Riverside-Coachella Valley.
(13) Riverside-Los Angeles.
(c) Urban Rail Transit.
(1) Sacramento.
(A) Roseville extension.
(B) Hazel extension.
(C) Meadowview extension.
(D) Arena extension.
(2) San Francisco Bay Area Rapid Transit District.
(A) Bayfair-East Livermore.
(B) Concord-East Antioch.
(C) Fremont-Warm Springs.
(D) Daly City-San Francisco International Airport.
(E) Coliseum-Oakland International Airport.
(F) Richmond-Crockett.
(G) Warm Springs-San Jose.
(3) Alameda and Contra Costa Counties.
(A) Pleasanton-Concord.
(4) Santa Clara County.
(A) Sunnyvale-Santa Clara.
(B) San Jose-Union.
(C) State Highway Route 237.
(5) San Francisco City and County.
(A) Extensions, improvements, and additions to the San Francisco Municipal Railway.
(6) San Francisco-Santa Rosa-Sonoma.
(7) Santa Cruz County.
(A) Boardwalk area-University of California at Santa Cruz.
(8) Los Angeles Metro Rail.
(A) Wilshire-Alvarado-Wilshire/Western.
(B) Wilshire-Alvarado-Lankershim/Chandler.
(C) San Fernando Valley extension.
(D) Union Station-State Highway Routes 5 and 710.
(E) Wilshire/Western-Wilshire/State Highway Route 405.
(9) Los Angeles County Rail Corridors.
(A) San Fernando Valley.
(B) Pasadena-Los Angeles.
(C) Coastal Corridor (Torrance to Santa Monica).
(D) Santa Monica-Los Angeles.
(E) State Highway Route 5.
(F) State Highway Route 110.
(10) San Diego County.
(A) El Cajon-Santee.
(B) Downtown-Old Town.
(C) Airport-Point Loma.
(D) Old Town-Mission Valley.
(E) Mission Valley-La Mesa.
(F) La Jolla-Miramar.
(G) Old Town-Del Mar.
(H) Downtown-Escondido.
(I) Chula Vista-Otay Mesa.
(11) Fullerton-Irvine, with an extension from Santa Ana to Stanton, and an extension to Norwalk.
(12) Riverside/San Bernardino to Orange County, including extensions to Redlands and Hemet.

CHAPTER 296

An act to add Section 5075.5 to the Penal Code, relating to the Board of Prison Terms.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 5075.5 is added to the Penal Code, to read: 5075.5. All commissioners and deputy commissioners who conduct hearings for the purpose of considering the parole suitability of prisoners or the setting of a parole release date for prisoners, shall receive initial training on domestic violence cases and battered women’s syndrome.

CHAPTER 297

An act to amend Sections 12703, 12710, 12718, and 12726 of, and to repeal Chapter 6.6 (commencing with Section 12665) of Division 5 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Chapter 6.6 (commencing with Section 12665) of Division 5 of the Business and Professions Code is repealed.
SEC. 2. Section 12703 of the Business and Professions Code is amended to read:
12703. Except as provided in Section 12701, no person shall perform any acts described in Section 12700, unless licensed as a weighmaster pursuant to this chapter and unless the current license fee and any penalty has been paid. The weighmaster shall forward to the department the name or names of deputy weighmasters with
the appropriate fees required by Section 12704.

SEC. 3. Section 12710 of the Business and Professions Code is amended to read:

12710. A weighmaster may employ or designate any person to act for the weighmaster as a deputy weighmaster and shall be responsible for all acts performed by that person.

SEC. 4. Section 12718 of the Business and Professions Code is amended to read:

12718. Any person who does any of the following acts is guilty of a misdemeanor:
(a) Requests any person to weigh, measure, or count any commodity falsely or incorrectly.
(b) Requests a false or incorrect weighmaster certificate.
(c) Furnishes or gives false information to a weighmaster for use in the completion of a weighmaster certificate.
(d) Knowingly presents for payment a false weighmaster certificate.
(e) Knowingly issues a weighmaster certificate giving thereon a false weight, measure, or count.
(f) Alters a weighmaster certificate resulting in giving thereon a false weight, measure, or count.
(g) Possesses unfilled or unused weighmaster certificate forms, if he or she is not a weighmaster.
(h) Issues a weighmaster certificate that contains alterations or omissions of gross or tare weights, net only weights, or measurements.

SEC. 5. Section 12726 of the Business and Professions Code is amended to read:

12726. (a) If doubt or differences arise as to the accuracy of the weight, measure, or count of any amount or part of any commodity, unladen vehicle, or container for which a weighmaster certificate has been issued, a person having a financial interest may, upon complaint to the department, have the amount, or part thereof, verified by the department or a weighmaster designated by it, upon depositing a sufficient sum of money with the department to defray the actual cost of the verification.
(b) If, when verified, a difference from the original certified weight, measure, or count is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of the verification shall be borne by the weighmaster responsible for the issuance of the erroneous certificate.

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 298

An act to amend Sections 631, 632, 632.5, 632.6, 633, 633.1, 633.5, 634, and 637.2 of, and to add Section 632.7 to, the Penal Code, relating to invasion of privacy.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Section 631 of the Penal Code, as amended by Section 3 of Chapter 1373 of the Statutes of 1988, is amended to read:

631. (a) Any person who, by means of any machine, instrument, or contrivance, or in any other manner, intentionally taps, or makes any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any telegraph or telephone wire, line, cable, or instrument, including the wire, line, cable, or instrument of any internal telephonic communication system, or who willfully and without the consent of all parties to the communication, or in any unauthorized manner, reads, or attempts to read, or to learn the contents or meaning of any message, report, or communication while the same is in transit or passing over any wire, line, or cable, or is being sent from, or received at any place within this state; or who uses, or attempts to use, in any manner, or for any purpose, or to communicate in any way, any information so obtained, or who aids, agrees with, employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any of the acts or things mentioned above in this section, is punishable by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both a fine and imprisonment in the county jail or in the state prison. If such person has previously been convicted of a violation of this section or Section 632, 632.5, 632.6, 632.7, or 636, he or she is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both a fine and imprisonment in the county jail or in the state prison.

(b) This section shall not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited herein are for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility, or where the public utility is acting in good faith.
reliance on a court order issued under Chapter 1.3 (commencing with Section 629), or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of such a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) Except as proof in an action or prosecution for violation of this section, no evidence obtained in violation of this section shall be admissible in any judicial, administrative, legislative or other proceeding.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed.

SEC. 2. Section 631 of the Penal Code, as amended by Section 4 of Chapter 1373 of the Statutes of 1988, is amended to read:

631. (a) Any person who, by means of any machine, instrument, or contrivance, or in any other manner, intentionally taps, or makes any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any telegraph or telephone wire, line, cable, or instrument, including the wire, line, cable, or instrument of any internal telephonic communication system, or who willfully and without the consent of all parties to the communication, or in any unauthorized manner, reads, or attempts to read, or to learn the contents or meaning of any message, report, or communication while the same is in transit or passing over any wire, line, or cable, or is being sent from, or received at any place within this state; or who uses, or attempts to use, in any manner, or for any purpose, or to communicate in any way, any information so obtained, or who aids, agrees with, employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any of the acts or things mentioned above in this section, is punishable by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both a fine and imprisonment in the county jail or in the state prison. If the person has previously been convicted of a violation of this section or Section 632, 632.5, 632.6, 632.7, or 636, he or she is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both a fine and imprisonment in the county jail or in the state prison.

(b) This section shall not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited herein are for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county.
county, or city correctional facility.

(c) Except as proof in an action or prosecution for violation of this section, no evidence obtained in violation of this section shall be admissible in any judicial, administrative, legislative, or other proceeding.

(d) This section shall become operative on January 1, 1994.

SEC. 3. Section 632 of the Penal Code is amended to read:

632. (a) Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records the confidential communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section or Section 631, 632.5, 632.6, 632.7, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(b) The term "person" includes an individual, business association, partnership, corporation, or other legal entity, and an individual acting or purporting to act for or on behalf of any government or subdivision thereof, whether federal, state, or local, but excludes an individual known by all parties to a confidential communication to be overhearing or recording the communication.

(c) The term "confidential communication" includes any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

(d) Except as proof in an action or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or recording a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative, or other proceeding.

(e) This section does not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited by this section are for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the
tariffs of a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(f) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

SEC. 4. Section 632.5 of the Penal Code is amended to read:

632.5. (a) Every person who, maliciously and without the consent of all parties to the communication, intercepts, receives, or assists in intercepting or receiving a communication transmitted between cellular radio telephones or between any cellular radio telephone and a landline telephone shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment. If the person has been previously convicted of a violation of this section or Section 631, 632, 632.6, 632.7, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment.

(b) In the following instances, this section shall not apply:

(1) To any public utility engaged in the business of providing communications services and facilities, or to the officers, employees, or agents thereof, where the acts otherwise prohibited are for the purpose of construction, maintenance, conduct, or operation of the services and facilities of the public utility.

(2) To the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of the public utility.

(3) To any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) As used in this section and Section 635, “cellular radio telephone” means a wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular radio telephones.

SEC. 5. Section 632.6 of the Penal Code is amended to read:

632.6. (a) Every person who, maliciously and without the consent of all parties to the communication, intercepts, receives, or assists in intercepting or receiving a communication transmitted between cordless telephones as defined in subdivision (c), between any cordless telephone and a landline telephone, or between a cordless telephone and a cellular telephone shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has been convicted previously of a violation of Section 631, 632, 632.5, 632.7, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not
exceeding one year, or in the state prison, or by both that fine and imprisonment.

(b) This section shall not apply in any of the following instances:

1. To any public utility engaged in the business of providing communications services and facilities, or to the officers, employees, or agents thereof, where the acts otherwise prohibited are for the purpose of construction, maintenance, conduct, or operation of the services and facilities of the public utility.

2. To the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of the public utility.

3. To any telephonic communications system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) As used in this section and in Section 635, “cordless telephone” means a two-way low power communication system consisting of two parts—a “base” unit which connects to the public switched telephone network and a handset or “remote” unit—which are connected by a radio link and authorized by the Federal Communications Commission to operate in the frequency bandwidths reserved for cordless telephones.

SEC. 6. Section 632.7 is added to the Penal Code, to read:

632.7. (a) Every person who, without the consent of all parties to a communication, intercepts or receives, and intentionally records, or assists in the interception or reception, and intentional recordation of, a communication transmitted between two cellular telephones, a cellular telephone and a landline telephone, two cordless telephones, a cordless telephone and a landline telephone, or a cordless telephone and a cellular telephone, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has been previously convicted of a violation of this section or Section 631, 632, 632.5, 632.6, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(b) This section shall not apply:

1. To any public utility engaged in the business of providing communications services and facilities, or to the officers, employees, or agents thereof, where the acts otherwise prohibited are for the purpose of construction, maintenance, conduct, or operation of the services and facilities of the public utility.

2. To the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of the public utility.

3. To any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) As used in this section, each of the following terms have the following meaning:
(1) "Cellular radio telephone" means a wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular radio telephones exclusively within a state, county, city and county, or city correctional facility.

(2) "Cordless telephone" means a two-way low power communication system consisting of two parts, a "base" unit which connects to the public switched telephone network and a handset or "remote" unit, which are connected by a radio link and authorized by the Federal Communications Commission to operate in the frequency bandwidths reserved for cordless telephones.

(3) "Communication" includes, but is not limited to, communications transmitted by voice, data, or image, including facsimile.

SEC. 7. Section 633 of the Penal Code is amended to read:

633. Nothing in Section 631, 632, 632.5, 632.6, or 632.7 prohibits the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid in that capacity by a county, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of his or her authority, from overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders inadmissible any evidence obtained by the above-named persons by means of overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

SEC. 8. Section 633.1 of the Penal Code is amended to read:

633.1. (a) Nothing in Section 631, 632, 632.5, 632.6, or 632.7 prohibits any person regularly employed as an airport law enforcement officer, as described in subdivision (k) of Section 830.4, acting within the scope of his or her authority, from recording any communication which is received on an incoming telephone line, for which the person initiating the call utilized a telephone number known to the public to be a means of contacting airport law enforcement officers. In order for a telephone call to be recorded under this subdivision, a series of electronic tones shall be used, placing the caller on notice that his or her telephone call is being recorded.

(b) Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders inadmissible any evidence obtained by an officer described in subdivision (a) if the evidence was received by means of recording any communication which is received on an incoming public telephone line, for which the person initiating the call utilized a telephone number known to the public to be a means of contacting
airport law enforcement officers.

(c) This section shall only apply to airport law enforcement officers who are employed at an airport which maintains regularly scheduled international airport service and which maintains permanent facilities of the United States Customs Service.

SEC. 9. Section 633.5 of the Penal Code is amended to read:

633.5. Nothing in Section 631, 632, 632.5, 632.6, or 632.7 prohibits one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, any felony involving violence against the person, or a violation of Section 653m. Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders any evidence so obtained inadmissible in a prosecution for extortion, kidnapping, bribery, any felony involving violence against the person, a violation of Section 653m, or any crime in connection therewith.

SEC. 10. Section 634 of the Penal Code is amended to read:

634. Any person who trespasses on property for the purpose of committing any act, or attempting to commit any act, in violation of Section 631, 632, 632.5, 632.6, 632.7, or 636 shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section or Section 631, 632, 632.5, 632.6, 632.7, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment.

SEC. 11. Section 637.2 of the Penal Code is amended to read:

637.2. (a) Any person who has been injured by a violation of this chapter may bring an action against the person who committed the violation for the greater of the following amounts:

(1) Five thousand dollars ($5,000).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

(b) Any person may, in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin and restrain any violation of this chapter, and may in the same action seek damages as provided by subdivision (a).

(c) It is not a necessary prerequisite to an action pursuant to this section that the plaintiff has suffered, or be threatened with, actual damages.

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 299

An act to amend Sections 2937 and 2938 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 2937 of the Vehicle Code is amended to read:

2937. The fees specified in this article shall not be collected after December 31, 1997. However, the commissioner may continue to execute contracts and grants pursuant to Section 2932 with the remaining moneys in the fund.

SEC. 2. Section 2938 of the Vehicle Code is amended to read:

2938. This article 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 300

An act to add Chapter 7 (commencing with Section 34580) to Part 2 of Division 13 of the Water Code, to add Section 28.5 to the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), and to repeal the Madera Water District Act (Chapter 735 of the Statutes of 1987), relating to water.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Chapter 7 (commencing with Section 34580) is added to Part 2 of Division 13 of the Water Code, to read:

CHAPTER 7. MADERA WATER DISTRICT

34580. The Madera Water District created pursuant to the Madera Water District Act (Chapter 735 of the Statutes of 1987) is
hereby continued as a district under this division.

34581. (a) The first board of directors of the Madera Water District, as a district under this division, shall be appointed by the Board of Supervisors of the County of Madera.

(b) The board of directors of the Madera Water District, as a district created pursuant to the Madera Water District Act (Chapter 735 of the Statutes of 1987) serving on December 31, 1992, shall continue to serve on and after January 1, 1993, until the first board of directors of the Madera Water District, as a district under this division, is appointed pursuant to subdivision (a).

(c) The first board of directors of the Madera Water District, as a district under this division, that is appointed pursuant to subdivision (a) shall hold office until their successors are elected or appointed and qualified.

34582. The successors to three of the first directors of the Madera Water District, as a district under this division, chosen by lot, shall be elected at the general district election held on November 2, 1993, and the successors to the remaining two directors shall be elected at the general district election held on November 7, 1995.

34583. The Madera Water District, as a district under this division, succeeds to actions taken, rights acquired, and obligations undertaken by the Madera Water District created pursuant to the Madera Water District Act (Chapter 735 of the Statutes of 1987).

SEC. 2. The Madera Water District Act (Chapter 735 of the Statutes of 1987) is repealed.

SEC. 3. Section 28.5 is added to the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), to read:

Sec. 28.5. Improvement districts may be formed in the district for any authorized purpose of the district in the same manner as improvement districts are formed in irrigation districts. When formed, the improvement districts shall be governed under Part 7 (commencing with Section 23600) of Division 11 of the Water Code in the same manner as improvement districts in irrigation districts. The board has the same rights, powers, duties, and responsibilities with respect to the formation and government of improvement districts in the district that the board of directors of an irrigation district has with respect to improvement districts in irrigation districts. Assessments in an improvement district in the district shall be levied, collected, and enforced at the same time and as nearly in the same manner as practicable as annual taxes of the county, except that the assessment shall be made in the same manner as provided with respect to improvement districts in irrigation districts.

SEC. 4. The Legislature finds and declares that Sections 1 and 2 of this act, which are applicable only to the Madera Water District, are necessary because of the unique and special problems in the area included in the district. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and that the enactment of this special law is necessary for the control and
use of groundwater in the district for the public good.

SEC. 5. The Legislature finds and declares that Section 3 of this act, which is applicable only to the Kings River Conservation District, is necessary because of the unique and special problems in the area included in the district. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and that the enactment of this special law is necessary for the control and use of water in the district for the public good.

SEC. 6. 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 301

An act to amend and renumber Section 44102 of the Public Resources Code, relating to solid waste.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Section 44102 of the Public Resources Code is amended and renumbered to read:

40062. (a) Upon the request of any person furnishing any report, notice, application, plan, or other document required by this division, including any research or survey information requested by the board for implementing its programs, the enforcement agency or the board shall not make available for inspection by the public those portions of the report, notice, application, plan, or other document which contain trade secrets as defined in paragraph (9) of subdivision (a) of Section 499c of the Penal Code.

(b) Any person furnishing information to the enforcement agency or the board pursuant to this division shall, at the time of submission, identify all information which the person believes is a trade secret. Any information not identified by the person as a trade secret shall be made available to the public, unless exempted from disclosure by another provision of law.
(c) (1) With regard to information which has been identified as a trade secret pursuant to subdivision (b), the board, upon its own initiative, or upon receipt of a request for public information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, shall determine whether any or all of the information has been properly identified as a trade secret. If the board determines that the information is not a trade secret, the board shall notify the person who furnished the information by certified mail.

(2) The person who furnished the information shall have 30 days after receipt of the notice required by paragraph (1) to provide the board with a complete justification and statement of the grounds on which the trade secret privilege is claimed. The justification and statement shall be submitted to the board by certified mail.

(3) The board shall determine whether the information is protected as a trade secret within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the notice required by paragraph (1). The board shall notify the person who furnished the information and any party who has requested the information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code of that determination by certified mail. If the board has determined that the information is not protected as a trade secret, this final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the information shall be available to the public.

(d) Except as provided in subdivision (c), the enforcement agency or the board may release information submitted and designated as a trade secret only to the following under the following conditions:

(1) To other governmental agencies in connection with a local enforcement agency's or the board's responsibilities under this division or for use in making reports.

(2) To the state or any state agency in judicial review for enforcement proceedings involving the person furnishing the information.

(e) For the purpose of implementing this section, the disclosure of information shall be consistent with Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.
CHAPTER 302

An act to amend Sections 3045.1, 3045.3, and 3045.4 of the Civil Code, relating to hospital liens.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Section 3045.1 of the Civil Code is amended to read:
3045.1. Every person, partnership, association, corporation, public entity, or other institution or body maintaining a hospital licensed under the laws of this state which furnishes emergency and ongoing medical or other services to any person injured by reason of an accident or negligent or other wrongful act not covered by Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, shall, if the person has a claim against another for damages on account of his or her injuries, have a lien upon the damages recovered, or to be recovered, by the person, or by his or her heirs or personal representative in case of his or her death to the extent of the amount of the reasonable and necessary charges of the hospital and any hospital affiliated health facility, as defined in Section 1250 of the Health and Safety Code, in which services are provided for the treatment, care, and maintenance of the person in the hospital or health facility affiliated with the hospital resulting from that accident or negligent or other wrongful act.

SEC. 2. Section 3045.3 of the Civil Code is amended to read:
3045.3. A lien shall not be effective, however, unless a written notice containing the name and address of the injured person, the date of the accident, the name and location of the hospital, the amount claimed as reasonable and necessary charges, and the name of each person, firm, or corporation known to the hospital and alleged to be liable to the injured person for the injuries received, is delivered or is mailed by registered mail, return receipt requested, postage prepaid, to each person, firm, or corporation known to the hospital and alleged to be liable to the injured person for the injuries sustained prior to the payment of any moneys to the injured person, his attorney, or legal representative as compensation for the injuries.

The hospital shall, also, deliver or mail by registered mail, return receipt requested, postage prepaid, a copy of the notice to any insurance carrier known to the hospital which has insured the person, firm, or corporation alleged to be liable to the injured person against the liability. The person, firm, or corporation alleged to be liable to the injured person shall, upon request of the hospital, disclose to the hospital the name of the insurance carrier which has insured it against the liability.

SEC. 3. Section 3045.4 of the Civil Code is amended to read:
3045.4. Any person, firm, or corporation, including, but not limited to, an insurance carrier, making any payment to the injured person, or to his or her attorney, heirs, or legal representative, for the injuries he or she sustained, after the receipt of the notice as provided by Section 3045.3, without paying to the association, corporation, public entity, or other institution or body maintaining the hospital the amount of its lien claimed in the notice, or so much thereof as can be satisfied out of 50 percent of the moneys due under any final judgment, compromise, or settlement agreement after paying any prior liens shall be liable to the person, partnership, association, corporation, public entity, or other institution or body maintaining the hospital for the amount of its lien claimed in the notice which the hospital was entitled to receive as payment for the medical care and services rendered to the injured person.

CHAPTER 303

An act to amend Sections 45297, 45308, 88116, and 88127 of the Education Code, relating to employees.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 45297 of the Education Code is amended to read:

45297. (a) Whenever, during the absence of an employee of a school district, or student body association operating under Sections 48930 to 48937, inclusive, in the active military service of the United States of America during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, the position held by the employee at the time of his or her entrance into that military service is placed within the classified service of the district and an eligible list is established for the position through competitive examination, the employee shall, at his or her request made within six months after leaving that active military service under honorable conditions, be given forthwith an examination of substantially the same character and scope as the competitive examination through which the original eligibility list was established. The grade secured by the employee in that examination shall be deemed to be the grade he or she would have secured had he or she taken the competitive examination as a veteran, and the employee shall be placed on the original eligibility list accordingly with all the rights and privileges to which he or she would have been entitled had he or she had that place on the original eligibility list at the time of its establishment.

(b) Notwithstanding subdivision (a), any member of the Military
Reserve or the National Guard who is called to active duty, either voluntarily or involuntarily, during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, shall be entitled to any rights, in addition to the rights accorded under subdivision (a), that are accorded that member under the federal Veterans' Reemployment Rights Law or any other applicable provision of federal law.

SEC. 2. Section 45308 of the Education Code is amended to read:

45308. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of layoff.

For purposes of this section, in school districts with an average daily attendance below 400,000, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 45128. Nothing in this section shall preclude the governing board of a school district from entering into an agreement with the exclusive representative of the classified employees that defines "length of service" to mean the hire date. For purposes of this section, in school districts with an average daily attendance of 400,000 or more, for service commencing or continuing after January 1, 1986, "length of service" shall be determined by the date of hire.

If a governing board enters into an agreement with the exclusive representative of classified employees that defines "length of service" to mean the hire date, the governing board may define "length of service" to mean the hire date for a classification of employee not represented by any exclusive bargaining unit.

Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on unpaid illness leave, unpaid maternity leave, unpaid family care leave, or unpaid industrial accident leave. In addition, for military leave of absence, "length of service" credit shall be granted pursuant to Section 45297. In the event an employee returns to work following any other unpaid leave of absence, no further seniority shall be accrued for the time not worked.

"Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

SEC. 3. Section 88116 of the Education Code is amended to read:

88116. (a) Whenever during the absence of an employee of a community college district or student body association operating
under Sections 76060 to 76065, inclusive, in the active military service of the United States of America during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, the position held by that employee at the time of his or her entrance into that military service is placed within the classified service of the district and an eligible list is established for that position through competitive examination, the employee shall, at his or her request made within six months after his or her leaving the active military service under honorable conditions, be given forthwith an examination of substantially the same character and scope as the competitive examination through which the original eligibility list was established. The grade secured by that employee in that examination shall be deemed to be the grade he or she would have secured had he taken the competitive examination as a veteran and he or she shall be placed on the original eligibility list accordingly with all the rights and privileges to which he would have been entitled had he had such place on the original eligibility list at the time of its establishment.

(b) Notwithstanding subdivision (a), any member of the Military Reserve or the National Guard who is called to active duty, either voluntarily or involuntarily, during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, shall be entitled to any rights, in addition to the rights accorded under subdivision (a), that are accorded that member under the federal Veterans' Reemployment Rights Law or any other applicable provision of federal law.

SEC. 4. Section 88127 of the Education Code is amended to read:

88127. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of layoff.

For purposes of this section, for service commencing or continuing after July 1, 1971, “length of service” means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 88027. Nothing in this section shall preclude the governing board of a community college district from entering into an agreement with the exclusive representative of the classified employees that defines “length of service” to mean the hire date.

If a governing board enters into an agreement with the exclusive representative of classified employees that defines “length of service” to mean the hire date, the governing board may define “length of service” to mean hire date for a classification of employee not represented by any exclusive bargaining unit.
Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on unpaid illness leave, or unpaid industrial accident leave. In addition, for military leave of absence, "length of service" credit shall be granted pursuant to Section 88116.

"Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

SEC. 5. 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.

CHAPTER 304

An act to amend Section 1812.101 of the Civil Code, relating to sales.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 1812.101 of the Civil Code is amended to read:

1812.101. For the purpose of this title, the following definitions shall be used:

(a) "Discount buying organization" means any person or persons, corporation, unincorporated association, or other organization which, for a consideration, provides or purports to provide its clients or the clients or members of any other discount buying organization with the ability to purchase goods or services at discount prices, except that such an organization shall not include: (1) any discount buying organization in which the total consideration paid by each client or member in any manner whatsoever for the purchase of discount buying services from the organization (A) does not exceed a one-time fee of fifty dollars ($50) or an annual fee of twenty-five dollars ($25) to be paid on a yearly basis, or (B) does not exceed a one-time or annual fee of fifty dollars ($50) and the organization provides a majority of the goods and services through purchases by members who walk in to a fixed location operated by the organization; (2) any discount buying organization in which the total consideration paid by each client or member in any manner
whatever for the purchase of discount buying services from the organization does not exceed a one-time or annual fee of one hundred dollars ($100) and the organization (A) offers buying services to clients or members through toll-free telephone access, computer access, or video shopping terminals; (B) during the first year of membership of each member, upon the request of the member, provides a full refund of membership fees, exclusive of any fees, however designated, not exceeding ten dollars ($10) in the aggregate, without conditions other than the surrender of materials which allow the member to access or use the service; (C) provides at least 15 toll-free service lines to California customers devoted exclusively to customer service questions and complaints; and (D) maintains a bond which meets the requirements of Sections 1812.103 and 1812.104, except that the principal sum of the bond need only be twenty thousand dollars ($20,000); or (3) any discount buying organization in which persons receive discount buying services incidentally as part of a package of services provided to or available to the individual on account of his or her membership in the organization, which is not organized for the profit of any person or corporation, and which does not have as one of its primary purposes or businesses, the provision of discount buying services.

A discount buying organization does not include any person, corporation, unincorporated association, or other organization, which, for a consideration collected from another entity, provides or purports to provide the clients of the other entity with the ability to purchase goods or services at discount prices, if the clients of the other entity do not order from, or pay any money to, that person, corporation, unincorporated association, or other organization; however, the entity from which the customer purchases the right to obtain goods or services at discount prices, shall comply with the requirements of this title.

(b) "Contract for discount buying services" means a contract between one party (hereinafter referred to as the "buyer") who is purchasing the service for personal or family use, and a discount buying organization, whereby the buyer for a consideration receives the right to obtain goods or services from the discount buying organization, or to utilize the discount buying organization services in obtaining goods and services, at discount prices.

(c) "Discount prices" means prices which are represented to be lower on most or all offered goods or services than those generally charged for the items in the locality in which the representation is made.

This definition is not intended to affect the degree of savings which must be offered on an item or selection of items in order to truthfully and without misleading consumers represent an item, selection of items, or entire store as being "discount" or "discounted."
CHAPTER 305

An act to amend Sections 68071 and 68072 of the Government Code, relating to courts.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior, municipal, or justice court shall take effect until the January 1 or July 1, whichever comes first, following the 30th day after it has been filed with the Judicial Council and the clerk of the court, and made immediately available for public examination. The Judicial Council may establish, by rule, a procedure for exceptions to these effective dates.

SEC. 2. Section 68072 of the Government Code is amended to read:

68072. Rules adopted by the Judicial Council, the Supreme Court, or a court of appeal shall take effect on a date to be fixed in the order of adoption. If no effective date is fixed, those rules shall take effect 60 days after their adoption. Rules adopted by a superior, municipal, or justice court shall take effect as provided in Section 68071.

CHAPTER 306

An act to amend Sections 12635, 13130, 13144.3, and 41961 of, and to add Article 1.5 (commencing with Section 13137) to Chapter 1 of Part 2 of Division 12 of, the Health and Safety Code, relating to the State Fire Marshal.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 12635 of the Health and Safety Code is amended to read:

12635. All of the moneys collected pursuant to this part shall be deposited in the State Fire Marshal Licensing and Certification Fund established pursuant to Section 13137 and shall be available, when appropriated by the Legislature, to the State Fire Marshal to carry out this part.

SEC. 2. Section 13130 of the Health and Safety Code is amended to read:

13130. All money collected pursuant to this chapter shall be
deposited in the State Fire Marshal Licensing and Certification Fund established pursuant to Section 13137, and shall be available to the State Fire Marshal upon appropriation by the Legislature to carry out the purposes of this chapter.

SEC. 3. Article 1.5 (commencing with Section 13137) is added to Chapter 1 of Part 2 of Division 12 of the Health and Safety Code, to read:


13137. (a) The State Fire Marshal Licensing and Certification Fund is hereby created in the State Treasury. All money in the fund is available for the support of the State Fire Marshal upon appropriation by the Legislature. All moneys collected by the State Fire Marshal pursuant to this part, pursuant to Part 2 (commencing with Section 12500) of Division 11, and pursuant to Section 41961, shall be deposited in the fund and shall be available to the State Fire Marshal for expenditure upon appropriation by the Legislature for the purposes of this part, Part 2 (commencing with Section 12500) of Division 11, or Section 41961, respectively.

(b) Neither this article nor any provision of this part or Part 2 (commencing with Section 12500) of Division 11 or Section 41961 authorize fees to exceed the actual cost of administration of the programs administered by the State Fire Marshal, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.

SEC. 4. Section 13144.3 of the Health and Safety Code is amended to read:

13144.3. The annual and renewal listing established by Section 13144.2 shall be for the fiscal year period from July 1 to June 30 or for the remaining portion thereof. All moneys collected from original and annual renewal fees pursuant to Section 13144.2 shall be deposited in the State Fire Marshal Licensing and Certification Fund established pursuant to Section 13137, and shall be available to the State Fire Marshal upon appropriation by the Legislature for the purposes specified in Section 13144.2.

SEC. 5. Section 41961 of the Health and Safety Code is amended to read:

41961. The State Fire Marshal, the Division of Measurement Standards, and the Division of Occupational Safety and Health may charge a reasonable fee for certification of a gasoline vapor control system or a component thereof, not to exceed their respective estimated costs therefor. Payment of the fee may be made a condition of certification. All money collected by the State Fire Marshal pursuant to this section shall be deposited in the State Fire Marshal Licensing and Certification Fund established pursuant to Section 13137, and shall be available to the State Fire Marshal upon appropriation by the Legislature to carry out the purposes of this
article.
SEC. 6. Sections 1 to 5, inclusive, of this bill shall become operative on July 1, 1993.

CHAPTER 307

An act to amend Sections 8893.1, 8897, 8897.1, 8897.2, 8897.3, and 8897.5 of the Government Code, relating to seismic safety.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Section 8893.1 of the Government Code is amended to read:
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 2310 or Section 2336 of the 1991 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 include compliance with requirements for continuous ties or struts between diaphragm chords as specified in Section 2337 of the 1991 Edition of the Uniform Building Code of the International Conference of Building Officials.

SEC. 2. Section 8897 of the Government Code is amended to read:
8897. (a) The Legislature finds and declares all of the following:
(1) There exists a serious threat to homes in the State of California from damage during earthquakes. Over 23,000 homes were damaged or destroyed during the Loma Prieta earthquake of October 17, 1989, due to the lack of adequate foundation anchoring or as a result of cripple wall failure.
(2) The building codes used in the State of California did not require homes to be bolted 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) 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 also 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 anchored to their foundations, have adequately braced cripple walls, and have the water heaters braced, strapped, or anchored, and that deficiencies be disclosed by the seller to prospective buyers.

(c) The Legislature finds and declares that the disclosure of earthquake deficiencies should provide a prospective buyer with information on the possible vulnerability of 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.

SEC. 3. Section 8897.1 of the Government Code is amended to read:

8897.1. (a) After January 1, 1993, 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 Safety" 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.

SEC. 4. Section 8897.2 of the Government Code is amended to
read:

8897.2. (a) The transferor shall 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).

SEC. 5. Section 8897.3 of the Government Code is amended to
read:

8897.3. (a) For the purposes of this chapter, if it is determined
that retrofit work is appropriate to address potential deficiencies
listed in paragraph (1) or (2) of subdivision (a) of 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.

SEC. 6. Section 8897.5 of the Government Code is amended to read:

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 Safety for delivery to the prospective transferee pursuant to Section 2079.8 of the Civil Code.

CHAPTER 308

An act to amend Section 1010 of the Evidence Code, relating to privilege.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. The Legislature finds and declares that registered nurses who have a master's of science degree in psychiatric mental health nursing are an important resource for providing psychotherapeutic services to individuals, groups, and families throughout California, and particularly to impoverished, minority, and other underserved populations. These master's-level psychiatric mental health nurses have been eligible for private insurance reimbursement since 1982. They are currently providing psychotherapeutic services in a wide range of clinical settings, including hospitals, clinics, and private practices. However, they are not included within the current legal definition of "psychotherapist"
for purposes of the patient-psychotherapist evidentiary privilege. Because of this, their patients’ communications are not privileged, and these patients are thus treated differently from patients served by other psychotherapists. This creates difficulties for these patients in accessing the care provided by these competent and duly licensed mental health professionals.

In order for patients served by master’s-level psychiatric mental health nurses to be treated under the law on the same basis as other patients, it is necessary to identify these providers as “psychotherapists” for purposes of the patient-psychotherapist privilege.

SEC. 2. Section 1010 of the Evidence Code is amended to read:

1010. As used in this article, “psychotherapist” means:

(a) A person authorized, or reasonably believed by the patient to be authorized, to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

(b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(c) A person licensed as a clinical social worker under Article 4 (commencing with Section 9040) of Chapter 17 of Division 3 of the Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature.

(d) A person who is serving as a school psychologist and holds a credential authorizing that service issued by the state.

(e) A person licensed as a marriage, family, and child counselor under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code, or a person registered as a marriage, family, and child counselor intern who is under the supervision of a licensed marriage, family, and child counselor, a licensed clinical social worker, a licensed psychologist, or a licensed physician certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

(g) A person registered as an associate clinical social worker who is under the supervision of a licensed clinical social worker, a licensed psychologist, or a board certified psychiatrist as required by Section 4996.20 of the Business and Professions Code.

(h) A person exempt from the Psychology Licensing Law pursuant to subdivision (d) of Section 2909 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.

(i) A psychological intern as defined in Section 2911 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.
(j) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by subdivision (b) of Section 4980.40 of the Business and Professions Code and is supervised by a licensed psychologist, board certified psychiatrist, a licensed clinical social worker, or a licensed marriage, family, and child counselor.

(k) A person licensed as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, who possesses a master’s degree in psychiatric mental health nursing.

CHAPTER 309

An act to add Section 40516 to the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 40516 is added to the Health and Safety Code, to read:

40516. (a) The south coast district shall establish expedited permit review and project assistance mechanisms for facilities or projects which are directly related to research and development, demonstration, or commercialization of electric and other clean fuel vehicle technologies.

(b) The mechanisms shall include all of the following:

(1) The issuance of consolidated permits, serving the purpose of both the permit to construct and the permit to operate, to expedite the permitting process.

(2) The review and processing of permits on a facility or project basis rather than on an equipment basis to ensure a single point of contact for the applicant and to allow entire projects to be reviewed and evaluated on a single, consolidated schedule.

(3) The establishment of a “fast track” permitting procedure to approve permits in an average of 30 days from receipt of all information requested by the district, except for any of the following facilities:

(A) Facilities that may emit significant amounts of toxic air contaminants.

(B) Facilities that require public notice.

(C) Facilities that require additional review to meet the requirements of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988).
(4) The development and implementation of postconstruction enforcement procedures to ensure that new and modified sources are constructed according to permit requirements.

(5) The establishment of a liaison program in the office of public adviser to assist facilities participating in research and development, demonstration, or commercialization of electric and other clean fuel vehicle technologies with preparing permit applications, complying with other district administrative procedures, and identifying and applying for state, federal, district, or other available funds set aside for electric and other clean fuel vehicle-related projects.

(c) For purposes of this section, clean fuels are fuels designated by the state board for use in low, ultralow, or zero emission vehicles and include, but are not limited to, electricity, ethanol, hydrogen, liquefied petroleum gas, methanol, natural gas, and reformulated gasoline.

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 facilitate compliance with clean air requirements and deadlines, it is necessary that this act take effect immediately.

CHAPTER 310

An act to repeal and add Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code, relating to recreational vehicle parks.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code is repealed.

SEC. 2. Chapter 2.6 (commencing with Section 799.20) is added to Title 2 of Part 2 of Division 2 of the Civil Code, to read:
CHAPTER 2.6. RECREATIONAL VEHICLE PARK OCCUPANCY LAW

Article 1. Definitions

799.20. This chapter shall be known and may be cited as the Recreational Vehicle Park Occupancy Law.

799.21. Unless the provisions or context otherwise require, the following definitions shall govern the construction of this chapter.

799.22. "Defaulting occupant" means an occupant who fails to pay for his or her occupancy in a park or who fails to comply with reasonable written rules and regulations of the park given to the occupant upon registration.

799.23. "Defaulting resident" means a resident who fails to pay for his or her occupancy in a park, fails to comply with reasonable written rules and regulations of the park given to the resident upon registration or during the term of his or her occupancy in the park, or who violates any of the provisions contained in Article 5 (commencing with Section 799.70).

799.24. "Defaulting tenant" means a tenant who fails to pay for his or her occupancy in a park or fails to comply with reasonable written rules and regulations of the park given to the person upon registration or during the term of his or her occupancy in the park.

799.25. "Guest" means a person who is lawfully occupying a recreational vehicle located in a park but who is not an occupant, tenant, or resident. An occupant, tenant, or resident shall be responsible for the actions of his or her guests.

799.26. "Management" means the owner of a recreational vehicle park or an agent or representative authorized to act on his or her behalf in connection with matters relating to the park.

799.27. "Occupancy" and "occupy" refer to the use of a recreational vehicle park lot by an occupant, tenant, or resident.

799.28. "Occupant" means the owner or operator of a recreational vehicle who has occupied a lot in a park for 30 days or less.

799.29. "Recreational vehicle" has the same meaning as defined in Section 18010 of the Health and Safety Code.

799.30. "Recreational vehicle park" or "park" has the same meaning as defined in Section 18215 of the Health and Safety Code.

799.31. "Resident" means a tenant who has occupied a lot in a park for nine months or more.

799.32. "Tenant" means the owner or operator of a recreational vehicle who has occupied a lot in a park for more than 30 consecutive days.

Article 2. General Provisions

799.40. The rights created by this chapter shall be cumulative and in addition to any other legal rights the management of a park may have against a defaulting occupant, tenant, or resident, or that an
occupant, tenant, or resident may have against the management of a park.

799.41. Nothing in this chapter shall apply to a mobilehome as defined in Section 18008 of the Health and Safety Code or to a manufactured home as defined in Section 18007 of the Health and Safety Code.

799.42. No occupant registration agreement or tenant rental agreement shall contain a provision by which the occupant or tenant waives his or her rights under the provisions of this chapter, and any waiver of these rights shall be deemed contrary to public policy and void.

799.43. The registration agreement between a park and an occupant thereof shall be in writing and shall contain, in addition to the provisions otherwise required by law to be included, the term of the occupancy and the rent therefor, the fees, if any, to be charged for services which will be provided by the park, and a statement of the grounds for which a defaulting occupant’s recreational vehicle may be removed as specified in Section 799.22 without a judicial hearing after the service of a 72-hour notice pursuant to this chapter and the telephone number of the local traffic law enforcement agency.

799.44. At the time of registration, an occupant shall be given a copy of the rules and regulations of the park.

799.45. The management may offer a rental agreement to an occupant of the park who intends to remain in the park for a period in excess of 30 consecutive days.

799.46. At the entry to a recreational vehicle park, or within the separate designated section for recreational vehicles within a mobilehome park, there shall be displayed in plain view on the property a sign indicating that the recreational vehicle may be removed from the premises for the reasons specified in Section 799.22 and containing the telephone number of the local traffic law enforcement agency. Nothing in this section shall prevent management from additionally displaying the sign in other locations within the park.

Article 3. Defaulting Occupants

799.55. As a prerequisite to the right of management to have a defaulting occupant’s recreational vehicle removed from the lot which is the subject of the registration agreement between the park and the occupant pursuant to Section 799.57, the management shall serve a 72-hour written notice as prescribed in Section 799.56. A defaulting occupant may correct his or her payment deficiency within the 72-hour period during normal business hours.

799.56. (a) The 72-hour written notice shall be served by delivering a copy to the defaulting occupant personally or to a person of suitable age and discretion who is occupying the recreational vehicle located on the lot. In the latter event, a copy of the notice
shall also be affixed in a conspicuous place on the recreational vehicle and shall be sent through the mail addressed to the occupant at the place where the property is located and, if available, any other address which the occupant has provided to management in the registration agreement. Delivery of the 72-hour notice to a defaulting occupant who is incapable of removing the occupant’s recreational vehicle from the park because of a physical incapacity shall not be sufficient to satisfy the requirements of this section.

(b) In the event that the defaulting occupant is incapable of removing the occupant’s recreational vehicle from the park because of a physical incapacity or because the recreational vehicle is not motorized and cannot be moved by the occupant’s vehicle, the default shall be cured within 72 hours, but the date to quit shall be no less than seven days after service of the notice.

(c) The management shall also serve a copy of the notice to the city police if the park is located in a city, or, if the park is located in an unincorporated area, to the county sheriff.

799.57. The written 72-hour notice shall state that if the defaulting occupant does not remove the recreational vehicle from the premises of the park within 72 hours after receipt of the notice, the management has authority pursuant to Section 799.58 to have the recreational vehicle removed from the lot to the nearest secured storage facility.

799.58. Subsequent to serving a copy of the notice specified in this article to the city police or county sheriff, whichever is appropriate, and after the expiration of 72 hours following service of the notice on the defaulting occupant, the police or sheriff, shall remove or cause to be removed any person in the recreational vehicle. The management may then remove or cause the removal of a defaulting occupant’s recreational vehicle parked on the premises of the park to the nearest secured storage facility. The notice shall be void seven days after the date of service of the notice.

799.59. When the management removes or causes the removal of a defaulting occupant’s recreational vehicle, the management and the individual or entity that removes the recreational vehicle shall exercise reasonable and ordinary care in removing the recreational vehicle to the storage area.

Article 4. Defaulting Tenants

799.65. The management may terminate the tenancy of a defaulting tenant for nonpayment of rent, utilities, or reasonable incidental service charges, provided the amount due shall have been unpaid for a period of five days from its due date, and provided the tenant has been given a three-day written notice subsequent to that five-day period to pay the total amount due or to vacate the park. For purposes of this section, the five-day period does not include the date the payment is due. The three-day notice shall be given to the tenant in the manner prescribed by Section 1162 of the Code of Civil
Procedure. Any payment of the total charges due, prior to the expiration of the three-day period, shall cure any default of the tenant. In the event the tenant does not pay prior to the expiration of the three-day notice period, the tenant shall remain liable for all payments due up until the time the tenancy is vacated.

799.66. The management may terminate or refuse to renew the right of occupancy of a defaulting tenant for other than nonpayment of rent or other charges upon the giving of a written notice to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the recreational vehicle from the park. The notice need not state the cause for termination but shall provide not less than 30 days' notice of termination of the tenancy.

799.67. Evictions pursuant to this article shall be subject to the requirements set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except as otherwise provided in this article.

Article 5. Defaulting Residents

799.70. The management may terminate or refuse to renew the right of occupancy of a defaulting resident upon the giving of a written notice to the defaulting resident in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the recreational vehicle from the park. This notice shall provide not less than 60 days' notice of termination of the right of occupancy and shall specify one of the following reasons for the termination of the right of occupancy:

(a) Nonpayment of rent, utilities, or reasonable incidental service charges; provided, that the amount due has been unpaid for a period of five days from its due date, and provided that the resident shall be given a three-day written notice subsequent to that five-day period to pay the total amount due or to vacate the park. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day notice shall be given to the resident in the manner prescribed by Section 1162 of the Code of Civil Procedure. The three-day notice may be given at the same time as the 60-day notice required for termination of the right of occupancy; provided, however, that any payment of the total charges due, prior to the expiration of the three-day period, shall cure any default of the resident. In the event the resident does not pay prior to the expiration of the three-day notice period, the resident shall remain liable for all payments due up until the time the tenancy is vacated.

(b) Failure of the resident to comply with a local ordinance or state law or regulation relating to the recreational vehicle park or recreational vehicles within a reasonable time after the resident or the management receives a notice of noncompliance from the appropriate governmental agency and the resident has been provided with a copy of that notice.
(c) Conduct by the resident or guest, upon the park premises, which constitutes a substantial annoyance to other occupants, tenants, or residents.

(d) Conviction of the resident of prostitution, or a felony controlled substance offense, if the act resulting in the conviction was committed anywhere on the premises of the park, including, but not limited to, within the resident's recreational vehicle.

However, the right of occupancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the recreational vehicle.

(e) Failure of the resident or a guest to comply with a rule or regulation of the park which is part of the rental agreement or any amendment thereto.

No act or omission of the resident or guest shall constitute a failure to comply with a rule or regulation unless the resident has been notified in writing of the violation and has failed to correct the violation within seven days of the issuance of the written notification.

(f) Condemnation of the park.

(g) Change of use of the park or any portion thereof.

799.71. Evictions pursuant to this article shall be subject to the requirements set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except as otherwise provided in this article.

Article 6. Liens for Recreational Vehicles and Abandoned Possessions

799.75. The management shall have a lien upon the recreational vehicle and the contents therein for the proper charges due from a defaulting occupant, tenant, or resident. Such a lien shall be identical to that authorized by Section 1861, and shall be enforced as provided by Sections 1861 to 1861.28, inclusive. Disposition of any possessions abandoned by an occupant, tenant, or resident at a park shall be performed pursuant to Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3.

Article 7. Actions and Proceedings

799.78. In any action arising out of the provisions of this chapter, the prevailing party shall be entitled to reasonable attorney's fees and costs. A party shall be deemed a prevailing party for the purposes of this section if the judgment is rendered in his or her favor or where the litigation is dismissed in his or her favor prior to or during the trial, unless the parties otherwise agree in the settlement or compromise.

799.79. In the event that an occupant, tenant, or resident or a former occupant, tenant, or resident is the prevailing party in a civil action against the management to enforce his or her rights under this
chapter, the occupant, tenant, or resident, in addition to damages afforded by law, may, in the discretion of the court, be awarded an amount not to exceed five hundred dollars ($500) for each willful violation of any provision of this chapter by the management.

CHAPTER 311

An act to amend Sections 2089.5, 2101, 2102, 2103, 2183, and 2184 of, to add Sections 2067, 2106, and 2177 to, and to repeal Section 2177.5 of, the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 2067 is added to the Business and Professions Code, to read:

2067. An applicant for a physician's and surgeon's certificate who is found by the Division of Licensing to be deficient in the education and clinical instruction required by Sections 2089 and 2089.5 may engage in the practice of medicine in this state in any setting approved by the Division of Licensing for the period of time prescribed by the Division of Licensing.

SEC. 2. Section 2089.5 of the Business and Professions Code is amended to read:

2089.5. (a) Clinical instruction in the subjects listed in subdivision (b) of Section 2089 shall meet the requirements of this section and shall be considered adequate if the requirements of subdivision (a) of Section 2089 and the requirements of this section are satisfied.

(b) Instruction in the clinical courses shall total a minimum of 72 weeks in length.

(c) Instruction in the core clinical courses of surgery, medicine, pediatrics, obstetrics and gynecology, and psychiatry shall total a minimum of 36 weeks in length with a minimum of eight weeks instruction in surgery, eight weeks in medicine, six weeks in pediatrics, six weeks in obstetrics and gynecology, and four weeks in psychiatry.

(d) Of the instruction required by subdivision (b), including all of the instruction required by subdivision (c), 54 weeks shall be performed in a hospital that sponsors the instruction and shall meet one of the following:

(1) Is a formal part of the medical school.

(2) Has an approved residency program in family practice or in the clinical area of the instruction for which credit is being sought.

(3) Is formally affiliated with an approved medical school located
in the United States or Canada. If the affiliation is limited in nature, credit shall be given only in the subject areas covered by the affiliation agreement.

(4) Is formally affiliated with a medical school located outside the United States or Canada.

(e) If the institution, specified in subdivision (d), is formally affiliated with a medical school located outside the United States or Canada, it shall meet the following:

(1) The formal affiliation shall be documented by a written contract detailing the relationship between the medical school and hospital and the responsibilities of each.

(2) The school and hospital shall provide to the division a description of the clinical program. The description shall be in sufficient detail to enable the division to determine whether or not the program provides students an adequate medical education. The division shall approve the program if it determines that the program provides an adequate medical education. If the division does not approve the program, it shall provide its reasons for disapproval to the school and hospital in writing specifying its findings about each aspect of the program that it considers to be deficient and the changes required to obtain approval.

(3) The hospital, if located in the United States, shall be accredited by the Joint Commission on Accreditation of Hospitals, and if located in another country, shall be accredited in accordance with the law of that country.

(4) The clinical instruction shall be supervised by a full-time director of medical education, and the head of the department for each core clinical course shall hold a full-time faculty appointment of the medical school and shall be board certified or eligible, or have an equivalent credential in that specialty area appropriate to the country in which the hospital is located.

(5) The clinical instruction shall be conducted pursuant to a written program of instruction provided by the school.

(6) The school shall supervise the implementation of the program on a regular basis, documenting the level and extent of its supervision.

(7) The hospital-based faculty shall evaluate each student on a regular basis and shall document the completion of each aspect of the program for each student.

(8) The hospital shall ensure a minimum daily census adequate to meet the instructional needs of the number of students enrolled in each course area of clinical instruction, but not less than 15 patients in each course area of clinical instruction.

(9) The division, in reviewing the application of a foreign medical graduate, may require the applicant to submit a description of the clinical program, if the division has not previously approved the program, and may require the applicant to submit documentation to demonstrate that the applicant's clinical training met the requirements of this subdivision.
(10) The medical school shall bear the reasonable cost of any site inspection by the division or its agents necessary to determine whether the clinical program offered is in compliance with this subdivision.

SEC. 3. Section 2101 of the Business and Professions Code is amended to read:

2101. Any applicant who is not a citizen of the United States or otherwise does not qualify for licensure as a physician and surgeon under Section 2102 whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools a resident course of professional instruction equivalent to that required by Section 2089 and issuance to the applicant of a document acceptable to the division which shows final and successful completion of the course.

(b) Admission or licensure to practice medicine and surgery in a country or other state of the United States wherein licensure requirements are satisfactory to the division.

(c) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the provisions of this section and who have not taken and passed the written examination specified in subdivision (e) prior to June 1, 1986.

(d) Satisfactory completion of the postgraduate training required under Section 2096.

(e) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in subdivision (e) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed steps 1 and 2 of the written examination relating to biomedical and clinical sciences prior to commencing any postgraduate training in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

SEC. 4. Section 2102 of the Business and Professions Code is amended to read:

2102. Any applicant who either (1) is a United States citizen or (2) has filed a declaration of intention to become a United States citizen, a petition for naturalization, or a comparable document, whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements.
in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools of a resident course of professional instruction equivalent to that required by Section 2089 and issuance to the applicant of a document acceptable to the division which shows final and successful completion of the course.

(b) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the provisions of this section and who have not taken and passed the written examination specified in subdivision (d) prior to June 1, 1986.

(c) Satisfactory completion of the postgraduate training required under Section 2096.

(d) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in subdivision (b) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed steps 1 and 2 of the written examination relating to biomedical and clinical sciences prior to commencing any postgraduate training in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

SEC. 5. Section 2103 of the Business and Professions Code is amended to read:

2103. An applicant who is a citizen of the United States shall be eligible for a physician's and surgeon's certificate if he or she has completed the following requirements:

(a) Official transcripts or other official evidence satisfactory to the Division of Licensing of compliance with Section 2088.

(b) Official evidence satisfactory to the division of completion of a resident course or professional instruction equivalent to that required in Section 2089 in a medical school located outside the United States or Canada.

(c) Official evidence satisfactory to the division of completion of all formal requirements of the medical school for graduation, except the applicant shall not be required to have completed an internship or social service or be admitted or licensed to practice medicine in the country in which the professional instruction was completed.

(d) Attained a score satisfactory to an approved medical school on a qualifying examination acceptable to the division.

(e) Successful completion of one academic year of supervised clinical training in a program approved by the division pursuant to Section 2104. The division shall also recognize as compliance with this subdivision the successful completion of a one-year supervised clinical medical internship operated by a medical school pursuant to
Chapter 85 of the Statutes of 1972 and as amended by Chapter 888 of the Statutes of 1973 as the equivalent of the year of supervised clinical training required by this section.

(1) Training received in the academic year of supervised clinical training approved pursuant to Section 2104 shall be considered as part of the total academic curriculum for purposes of meeting the requirements of Sections 2089 and 2089.5.

(2) An applicant who has passed the basic science and English language examinations required for certification by the Educational Commission for Foreign Medical Graduates may present evidence of those passing scores along with a certificate of completion of one academic year of supervised clinical training in a program approved by the division pursuant to Section 2104 in satisfaction of the formal certification requirements of subdivision (c) of Section 2101 or subdivision (b) of Section 2102.

(f) Satisfactory completion of the postgraduate training required under Section 2096.

(g) Passed the written examination required for certification as a physician and surgeon in this chapter.

SEC. 6. Section 2106 is added to the Business and Professions Code, to read:

2106. On or before July 1, 1993, the board shall report to the appropriate policy committees of the Senate and Assembly both of the following:

(a) The number of foreign-trained and domestic-trained medical school graduates who have applied to the board for examination through the United States Medical Licensing Examination.

(b) The passage and failure rates for foreign-trained and domestic-trained medical school graduates who have taken the United States Medical Licensing Examination administered by the board.

SEC. 7. Section 2177 is added to the Business and Professions Code, to read:

2177. (a) A passing score is required for an entire examination or for each part of an examination, as established by resolution of the Division of Licensing.

(b) Applicants may elect to take the written examinations conducted or accepted by the division in separate parts.

SEC. 8. Section 2177.5 of the Business and Professions Code is repealed.

SEC. 9. Section 2183 of the Business and Professions Code is amended to read:

2183. Applicants for a physician's and surgeon's certificate shall pass an examination in biomedical sciences and clinical sciences, as determined by the Division of Licensing.

Such applicants shall also pass an examination designed to test biomedical sciences and clinical sciences determined by the Division of Licensing to be essential for the unsupervised practice of medicine.

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SEC. 10. Section 2184 of the Business and Professions Code is amended to read:

2184. (a) Each applicant shall obtain on the written examination a passing score, established by the division pursuant to Section 2177.

(b) Passing scores on a written examination shall be valid for a period of 10 years from the month of the examination for purposes of qualification for licensure in California.

This period of validity may be extended by the division for good cause and for time spent in a postgraduate training program, including, but not limited to, residency training, fellowship training, remedial or refresher training, or other training that is intended to maintain or improve medical skills.

Upon expiration of the 10-year period plus any extension granted by the division, the applicant shall pass the Special Purpose Examination of the Federation of State Medical Boards or a clinical competency written examination determined by the division to be equivalent.

This subdivision applies to all passing scores achieved in a written examination for a physician’s and surgeon’s certificate conducted by the division.

CHAPTER 312

An act to amend Section 7030 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 7030 of the Business and Professions Code is amended to read:

7030. Every person licensed pursuant to this chapter shall include the following statement in at least 10-point type on all written contracts with respect to which the person is a prime contractor:

"Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint is filed within three years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826."
An act to amend Section 2530.2 of the Business and Professions Code, relating to speech-language pathology.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Speech-Language Pathology and Audiology Examining Committee.

(b) "Person" means any individual, organization or corporate body except that only individuals can be licensed under this chapter.

(c) A "speech-language pathologist" is a person who practices speech-language pathology.

(d) "The practice of speech-language pathology" means the application of principles, methods, and procedures for measurement, testing, identification, prediction, counseling, or instruction related to the development and disorders of speech, voice, or language for the purpose of identifying, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals; conducting hearing screenings; and the planning, directing, conducting and supervision of programs for identification, evaluation, habilitation, and rehabilitation of disorders of speech, voice, or language.

(e) "Speech-language pathology aide" means any person meeting the minimum requirements established by the committee, who works directly under the supervision of a speech-language pathologist.

(f) An "audiologist" is one who practices audiology.

(g) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading.

(h) "Audiology aide" means any person, meeting the minimum
requirements established by the committee, who works directly under the supervision of an audiologist.

(i) "Board" means the Division of Allied Health Professions of the Medical Board of California.

(j) A "hearing screening" performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

CHAPTER 314

An act to amend Section 78550 of the Food and Agricultural Code, relating to fish.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. The Legislature finds and declares that the furtherance of the protection of the state's fishery resources and the well-being of its fishing industry requires the protection of the fishery resources and fish habitat in order to provide high quality seafood to the state's consumers. The Legislature further intends that the orderly marketing of seafood commodities by persons taking and processing fish for market be regulated to avoid the different and disparate treatment of persons engaging in the fishing industry and to avoid the boom and bust cycling of the wholesale market for seafood.

SEC. 2. Section 78550 of the Food and Agricultural Code is amended to read:

78550. In order to carry out the programs and administer the activities which are conducted pursuant to this chapter, except as specified in Section 78557, a fee shall be established by the director and, thereafter, shall be recommended to the director by the council, based on an amount which is four-tenths of 1 percent of the ex-vessel price per pound paid for each pound of fish or shellfish specified in subdivision (a) of Section 78407 sold to a receiver, or sold by a fisherman directly to the public pursuant to Section 8033.5 of the Fish and Game Code. The fee shall be paid by the receiver or the fisherman, or both, and remitted to the director as specified in Section 78552. The amount of the fee for each species shall be established annually by the council for recommendation to the director, calculated to the nearest \( \frac{1}{10,000} \) of one cent ($0.0001) based on the formulation in this section. Individual fees shall be established for species identified in subdivision (a) of Section 78407. The council, with assistance from the Department of Fish and Game, may determine the fee structure for individual species and may average
or consolidate fees for similar species to simplify landing fee reporting and accounting requirements. The amount of the fee shall be based on the landed weight of the fish or shellfish, as reported on the fish landing receipt made under Section 8043 of the Fish and Game Code. A fisherman selling to the public pursuant to Section 8033.5 of the Fish and Game Code shall remit the fee directly to the director as specified in Section 78552.

CHAPTER 315

An act to amend Section 10145 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. Section 10145 of the Business and Professions Code is amended to read:

10145. (a) (1) A real estate broker who accepts funds belonging to others in connection with any transaction subject to this part shall deposit all such funds which are not immediately placed into a neutral escrow depository or into the hands of the broker’s principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.

(2) Notwithstanding the provisions of paragraph (1), until January 1, 1996, a real estate broker collecting payments or performing services for investors or note owners in connection with loans secured by a first lien on real property may deposit funds received in trust in an out-of-state depository institution insured by the Federal Deposit Insurance Corporation, if the investor or note owner is any one 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, 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, 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.

(F) The California Housing Finance Agency or any local housing finance agency organized under the Health and Safety Code.

(G) A licensed real estate broker selling all or part of the loan, note, or contract to a lender or purchaser specified in subparagraphs (A) to (F), inclusive, of this subdivision.

(3) Until January 1, 1996, a real estate broker who deposits funds held in trust in an out-of-state depository institution in accordance with the provisions of paragraph (2) shall make available, in this state, the books, records, and files pertaining to such trust accounts to the commissioner or the commissioner's representatives, or pay the reasonable expenses for travel and lodging incurred by the commissioner or the commissioner's representatives in order to conduct an examination at any out-of-state location.

(4) The provisions of paragraphs (2) and (3) shall remain in effect only until January 1, 1996, and as of that date shall be of no force or effect unless a later enacted statute deletes or extends that date.

(b) A real estate broker acting as a principal pursuant to Section 10131.1 or Article 6 (commencing with Section 10237) of this part shall place all funds received from others for the purchase of real property sales contracts or promissory notes secured directly or collaterally by liens on real property in a neutral escrow depository unless delivery of the contract or note is made simultaneously with the receipt of the purchase funds.

(c) A real estate sales person who accepts trust funds from others on behalf of the broker under whom he or she is licensed shall immediately deliver the funds to the broker or, if so directed by the broker, shall place the funds into the hands of the broker's principal, into a neutral escrow depository, or shall deposit the funds into the broker's trust fund account.

(d) If not otherwise expressly prohibited by a provision of this part, a real estate broker may, at the request of the owner of trust funds or of the principals to a transaction or series of transactions from whom the broker has received trust funds, deposit the funds into an interest-bearing account in a bank, savings and loan association, credit union, or industrial loan company whose accounts are insured by the Federal Deposit Insurance Corporation, if all of
the following requirements are met:

(1) The account is in the name of the broker as trustee for the specified beneficiary or specified principal of a transaction or series of transactions.

(2) All of the funds in the account are covered by insurance provided by an agency of the federal government.

(3) The funds in the account are kept separate, distinct, and apart from funds belonging to the broker or to any other person for whom the broker holds funds in trust.

(4) The broker discloses to the person from whom the trust funds are received and to any beneficiary whose identity is known to the broker at the time of establishing the account the nature of the account, how interest will be calculated and paid under various circumstances, whether service charges will be paid to the depository and by whom, and possible notice requirements or penalties for withdrawal of funds from the account.

(5) No interest earned on funds in the account shall inure directly or indirectly to the benefit of the broker nor to any person licensed to the broker.

(6) In an executory sale, lease, or loan transaction in which the broker accepts funds in trust to be applied to the purchase, lease, or loan, the parties to the contract shall have specified in the contract or by collateral written agreement the person to whom interest earned on the funds is to be paid or credited.

(c) The broker shall have no obligation to place trust funds into an interest-bearing account unless requested to do so and unless all of the conditions in subdivision (d) are met; nor, in any event, if he or she advises the party making the request that the funds will not be placed in an interest-bearing account.

(f) Nothing in subdivision (d) shall preclude the commissioner from prescribing by regulation circumstances in which and conditions under which a real estate broker is authorized to deposit funds received in trust into an interest-bearing trust fund account.

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds.

(h) Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of any such trust fund accounts maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

(i) As used in this section "neutral escrow" means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by any person described in subdivision (a) of Section 17006 and subdivision (c) of Section 17006 of that code.
CHAPTER 316

An act to amend Section 11167 of the Penal Code, and to add Section 18961.5 to the Welfare and Institutions Code, relating to child abuse or neglect.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992.]

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

SECTION 1. (a) The Legislature finds and declares that the problem of child abuse and neglect persists, despite the efforts of many governmental agencies and private organizations to prevent, identify, and treat child abuse and neglect. Agencies and organizations which have as a stated purpose the prevention, identification, or treatment of child abuse, child neglect, or both, often provide multiple services to a child at risk for abuse or neglect, or both, without having knowledge of prior contacts between other provider agencies and organizations and the same child or family. This inability to share information regarding prior contacts hampers the ability of an agency or organization to accurately assess the true risk to a child, causes wasteful duplication of effort, and prevents fulfillment of the legislative mandate regarding the prevention and identification of child abuse and neglect.

(b) The Legislature further finds and declares that existing law permits members of a multidisciplinary personnel team which is engaged in the prevention, identification, and treatment of child abuse or neglect to disclose and exchange any information or writing that is kept or maintained in connection with any program of public social services or otherwise designated as confidential under state law which they reasonably believe is relevant to the prevention, identification, or treatment of child abuse or neglect.

(c) Therefore, it is the intent of the Legislature in adding Section 18961.5 to the Welfare and Institutions Code to permit the accumulation of data regarding contacts between family members and various social service, health, law enforcement, and educational agencies that is relevant to the identification, prevention, and treatment of child abuse and neglect, and to allow access to that information by the heads of provider agencies, representatives within those agencies, and members of multidisciplinary personnel teams, as defined in existing law.

SEC. 2. Section 11167 of the Penal Code is amended to read:

11167. (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.
(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) Information relevant to the incident of child abuse may be given to the licensing agency when it is investigating a known or suspected case of child abuse, including the investigation report, and other pertinent materials.

(d) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person’s employer, except with the employee’s consent or by court order.

(e) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names.

SEC. 3. Section 18961.5 is added to the Welfare and Institutions Code, to read:

18961.5. (a) Notwithstanding any other provision of law, any county may establish a computerized data base system within that county to allow provider agencies, as defined in subdivision (h), to share identifying information, as specified in subdivision (c), regarding families at risk for child abuse or neglect, for the purpose of forming multidisciplinary personnel teams, as defined in subdivision (d) of Section 18951, for the prevention, identification, management, or treatment of child abuse.

(b) Each county shall develop its own standards for defining “at risk” before joining this system. Only information about children or the families of children at risk for child abuse or neglect may be entered into a computerized data base system established pursuant to this section.

(c) With regard to a case in which a child or family has been identified as at risk for child abuse or neglect under this section, only the following information shall be entered into the system:

1. The name, address, telephone number, and date and place of birth of family members.

2. The number assigned to the case by each provider agency.

3. The name and telephone number of each employee assigned to the case from each provider agency.

4. The date or dates of contact between each provider agency and a family member or family members.
(d) The information may only be entered into the system by, or disclosed to, provider agency employees designated by the director of each participating provider agency. Members of the multidisciplinary personnel teams shall be drawn from these designated employees, or other persons, as specified in Section 18961. The heads of provider agencies shall establish a system by which unauthorized personnel cannot access the data contained in the system.

(e) The information obtained pursuant to this section shall be kept confidential and shall be used solely for the prevention, identification, management, or treatment of child abuse, child neglect, or both.

(f) This section shall not supplant any duties required by the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 3 of the Penal Code).

(g) No employee of a provider agency which serves children and their families shall be civilly or criminally liable for furnishing or sharing information as authorized by this section.

(h) For the purposes of this section, "provider agency" means any governmental or other agency which has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. The provider agencies serving children and their families which may share information under this section shall include, but not be limited to, the following entities or service agencies:

1. Social services.
2. Children's services.
3. Health services.
4. Mental health services.
5. Probation.
6. Law enforcement.
7. Schools.

CHAPTER 317

An act to add Sections 798.29.5 and 799.7 to the Civil Code, relating to mobilehomes.

[Approved by Governor July 22, 1992. Filed with Secretary of State July 23, 1992]

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

SECTION 1. Section 798.29.5 is added to the Civil Code, to read:
798.29.5. The management shall provide, by posting notice on the mobilehomes of all affected homeowners and residents, at least 72 hours' written advance notice of an interruption in utility service of more than two hours for the maintenance, repair, or replacement of facilities of utility systems over which the management has control
within the park, provided that the interruption is not due to an emergency. The management shall be liable only for actual damages sustained by a homeowner or resident for violation of this section.

"Emergency," for purposes of this section, means the interruption of utility service resulting from an accident or act of nature, or cessation of service caused by other than the management’s regular or planned maintenance, repair, or replacement of utility facilities.

SEC. 2. Section 799.7 is added to the Civil Code, to read:

799.7. The ownership or management shall provide, by posting notice on the mobilehomes of all affected homeowners and residents, at least 72 hours’ written advance notice of an interruption in utility service of more than two hours for the maintenance, repair, or replacement of facilities of utility systems over which the management has control within the subdivision, cooperative, or condominium, provided that the interruption is not due to an emergency. The ownership or management shall be liable only for actual damages sustained by a homeowner or resident for violation of this section.

"Emergency," for purposes of this section, means the interruption of utility service resulting from an accident or act of nature, or cessation of service caused by other than the management’s regular or planned maintenance, repair, or replacement of utility facilities.

CHAPTER 318

An act to amend Sections 4100, 4200, 4202, 4203, 4204, 4206, 4208, 4210, 4213, and 4216 of the Civil Code, to amend Sections 10030 and 10034 of, and to add Section 10034.1 to, the Health and Safety Code, and to amend Section 360 of the Penal Code, relating to vital statistics.

[Approved by Governor July 23, 1992 Filed with Secretary of State July 24, 1992]

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

SECTION 1. Section 4100 of the Civil Code is amended to read:

4100. Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of the parties capable of making that contract is necessary. Consent alone will not constitute marriage; it must be followed by the issuance of a license and solemnization as authorized by this code, except as provided by Sections 4210 and 4213.

SEC. 2. Section 4200 of the Civil Code is amended to read:

4200. A marriage shall be licensed, solemnized, authenticated, and the certificate of registry of marriage returned as provided in this article. However, noncompliance with this article by others than a party to a marriage does not invalidate the marriage.

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SEC. 3. Section 4202 of the Civil Code is amended to read:

4202. (a) All persons about to be joined in marriage shall obtain from the county clerk of the county in which the license is issued, in addition to the license therefor provided for in Section 4201, a certificate of registry of marriage as provided in Division 9 (commencing with Section 10000) of the Health and Safety Code containing the items therein listed which certificate of registry of marriage shall be filled out as provided, in the presence of the county clerk issuing the marriage license, and shall then be presented to the person performing the ceremony who shall complete the certificate thereon and shall cause to be entered thereon the signature and address of one witness to the marriage ceremony. The certificate of registry of marriage shall be returned by the person performing the ceremony to the county recorder of the county in which the license was issued within 30 days after the ceremony.

(b) As used in this article, "returned" means presented to the appropriate person in person, or postmarked, before the expiration of the specified time period.

SEC. 4. Section 4203 of the Civil Code is amended to read:

4203. Upon the loss or destruction of a certificate of registry of marriage subsequent to the marriage ceremony but before it is returned to the county recorder in order to comply with Section 4202, the person solemnizing the marriage shall obtain a duplicate certificate of registry of marriage by filing an affidavit setting forth the facts with the county clerk of the county in which the license was issued.

The fee for issuing the duplicate license and certificate is five dollars ($5). The duplicate certificate may be issued up to one year after issuance of the original license and shall be returned by the person solemnizing the marriage to the county recorder within 30 days after issuance.

SEC. 5. Section 4204 of the Civil Code is amended to read:

4204. A license issued pursuant to Section 4201 shall expire 90 days after its issuance and the calendar date of expiration shall be clearly noted on the face of each license.

The county clerk shall number each license issued, and shall transmit at periodic intervals to the county recorder a list or copies of the licenses issued. Not later than 60 days after the date of issuance the county recorder shall notify those parties whose certificates have not been returned of that fact and that the license will automatically expire on the date shown on the face of the license. The county recorder shall also notify the licenseholders of the obligation of the person marrying them to return the certificate of registry and endorsed license to the recorder's office within 30 days after the ceremony.

SEC. 6. Section 4206 of the Civil Code is amended to read:

4206. No particular form for the ceremony of marriage is required, but the parties shall declare, in the presence of the person solemnizing the marriage and necessary witnesses, that they take
each other as husband and wife.

SEC. 7. Section 4208 of the Civil Code is amended to read:

4208. (a) The person solemnizing a marriage shall make, sign, and endorse upon or attach to the license a statement, in the form prescribed by the State Department of Health Services showing all of the following:

(1) The fact, date (month, day, year), and place (city and county) of solemnization.

(2) The names and places of residence of one or more witnesses to the ceremony.

(3) A statement of the official position of the person solemnizing the marriage, or of the denomination of which that person is a priest, minister, or member of the clergy thereof. The person solemnizing the marriage shall also type or print his or her name and address.

(b) The marriage license, endorsed as required in subdivision (a), shall be returned to the county recorder of the county in which the license was issued within 30 days after the ceremony.

SEC. 8. Section 4210 of the Civil Code is amended to read:

4210. If no record of the solemnization of a marriage heretofore contracted, be known to exist, the parties may purchase a License and Certificate of Declaration of Marriage from the county clerk in the parties' county of residence. The license and certificate shall be returned in the manner specified in subdivision (b) of Section 4216.

SEC. 9. Section 4213 of the Civil Code is amended to read:

4213. (a) When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife they may be married by any person authorized to solemnize a marriage under Sections 4205, 4205.1, and 4205.5, without the necessity of first obtaining health certificates. Except as provided in Section 4213.1, a confidential marriage license shall be issued by the county clerk upon the personal appearance of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code. Any license issued pursuant to this section shall be valid only for a period of 90 days after its issuance and may only be used in the county in which it is issued. The license shall be presented to the person performing the ceremony. Upon performance of the ceremony, the confidential marriage certificate shall be filled out by the parties to the marriage and authenticated by the person performing the ceremony. The certificate shall be returned by the person performing the ceremony to the office of the county clerk in the county in which the license was issued within 30 days after the performance of the ceremony. Except as provided in Section 4213.2, the county clerk shall maintain the certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause.

Upon performance of the ceremony, the person performing the ceremony shall give a copy of the confidential marriage certificate
to the parties who were married. The person performing the
ceremony shall also provide the parties who were married with an
application for a certified copy of the confidential marriage
certificate which shall be filled out by the parties and sent by the
person performing the marriage to the county clerk.

The form of the confidential marriage license shall be prescribed
by the State Registrar of Vital Statistics. The form shall be designed
in a manner such that the parties to be married shall declare or affirm
that they meet all of the requirements of this section. The form also
shall contain a certificate of marriage, which shall be filled out by the
parties upon performance of the marriage and authenticated by the
person performing the marriage. The form shall include an affidavit
on the back, which the husband and wife shall sign, affirining that
they have received the brochure provided for in Section 4201.5.

(b) The county clerk shall issue a confidential marriage license
upon the request of a notary public approved by the county clerk to
authorize confidential marriages pursuant to subdivision (c) and his
or her payment of the fees specified in Sections 26840.1 and 26840.8
of the Government Code. The parties shall reimburse a notary public
who authorizes a confidential marriage for the amount of the fees.
A confidential marriage license issued by the county clerk to a notary
public shall be valid only for a period of 90 days after its issuance by
the county clerk and may only be used in the county in which it was
issued.

(c) (1) No notary public shall authorize a confidential marriage
pursuant to this section unless he or she is approved by the county
clerk to authorize such a marriage pursuant to this subdivision.

(2) An application for approval to authorize confidential
marriages pursuant to this section shall be submitted to the county
clerk in the county in which the notary public who is applying
therefor resides. The application shall include all of the following:

(A) The full name of applicant.

(B) His or her date of birth.

(C) His or her current residential address and telephone number.

(D) The address and telephone number of the place where the
applicant will issue authorizations for the performance of a marriage.

(E) The full name of his or her employer if the applicant is
employed by another party.

(F) Whether or not the applicant has engaged in any of the acts

(3) The application shall be accompanied by a fee of one hundred
seventy-five dollars ($175). An approval to authorize confidential
marriages pursuant to this section shall be valid for one year. The fee
for a renewal of an approval is one hundred seventy-five dollars
($175). Fees received pursuant to this section shall be deposited in
a trust fund established by the county clerk, the funds contained in
which shall be used exclusively for the administration of the program
described in this subdivision.

(4) If, after an approval to authorize confidential marriages is
granted pursuant to this subdivision, it is discovered that the notary public has engaged in any of the actions specified in Section 8214.1 of the Government Code, the approval shall be revoked. In such a case, any fees paid by the notary public may be retained by the county clerk.

(5) No approval shall be granted pursuant to this subdivision unless the notary public shows evidence of successful completion of a course of instruction concerning the authorization of confidential marriages that shall be conducted by the county clerk. The course of instruction shall not exceed two hours in duration.

(6) The county clerk shall maintain a list of the notaries public who are approved to authorize confidential marriages. The list shall be available for inspection by the public. It is the responsibility of a notary public approved to authorize confidential marriages pursuant to this subdivision to keep current the information required in subparagraphs (A), (C), (D), and (E) of paragraph (2). This information shall be used by the county clerk to update the list required to be maintained by this paragraph.

(7) If a notary public who is approved to authorize confidential marriages pursuant to this subdivision is alleged to have violated any of the provisions of this article, the county clerk shall conduct a hearing to determine if the approval of the notary public should be suspended or revoked. The notary public may present any evidence necessary in his or her defense. If the county clerk determines that the notary public has violated this article, the county clerk may place the notary public on probation or suspend or revoke his or her registration. The county clerk shall report the findings of the hearing to the Secretary of State for whatever action the Secretary of State deems appropriate.

(d) A violation of paragraph (1) of subdivision (c) is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or six months in jail.

(e) The county clerk shall, not less than quarterly, transmit copies of all confidential marriage certificates filed after January 1, 1982, to the State Registrar of Vital Statistics. The registrar may destroy the copies so transmitted after they have been indexed. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this section, but shall not disclose the date of the marriage.

(f) The county clerk may conduct a search for a confidential marriage certificate for the purpose of confirming the existence of a marriage. However, the date of the marriage and any other information contained in the certificate shall not be disclosed except upon order of the superior court.

(g) A party to a confidential marriage may obtain a certified copy of the confidential marriage certificate from the county clerk of the county in which the certificate is filed in any of the following ways:

(1) By submitting the application for a certified copy of the confidential marriage certificate provided to the parties at the time
of the marriage.

(2) By personally appearing before a notary public or at the county clerk's office in his or her county of residence, producing proper identification, obtaining a certificate attesting to his or her identity from the notary public or county clerk, and transmitting that certificate, together with a request for the certified copy of the confidential marriage certificate, to the county clerk of the county with which the certificate is filed.

(3) By personally appearing at the county clerk's office where the certificate is filed and producing proper identification.

Copies of a confidential marriage certificate may be issued to the parties to such a marriage upon the payment of a fee equivalent to that charged for copies of a certificate of marriage.

(h) In the event that a certificate furnished pursuant to this section is lost, damaged, or destroyed after the performance of the marriage and before it is returned, the county clerk may issue a replacement upon the payment of a fee of five dollars ($5). The duplicate license may be issued up to one year after issuance of the original license, and shall be returned by the person solemnizing the marriage to the county clerk within 30 days after issuance.

(i) The affidavit required by subdivision (a) shall state:

AFFIDAVIT

I acknowledge that I have received the brochure titled

__________________________________________
Signature of Wife                              Date

__________________________________________
Signature of Husband                           Date

SEC. 10. Section 4216 of the Civil Code is amended to read:

4216. This article, so far as it relates to the solemnizing of marriages, is not applicable to members of any particular religious society or denomination not having clergy for the purpose of solemnizing marriage, or entering the marriage relation, if all of the following requirements are met:

(a) The parties entering the marriage make, sign, and endorse upon, or attach to, the license a statement, in the form prescribed by the State Department of Health Services, showing all of the following:

(1) The fact, time, and place of entering into the marriage.

(2) The signature and place of residence of two witnesses to the ceremony.

(3) The religious society or denomination of the parties married, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement
of the parties entering the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true.

(b) The License and Certificate of Declaration of Marriage, endorsed pursuant to subdivision (a), is returned to the county recorder in which the license was issued within 30 days after the ceremony.

SEC. 11. Section 10030 of the Health and Safety Code is amended to read:

10030. The State Registrar shall prescribe and furnish all record forms for use in carrying out the purposes of this division, or shall prescribe the format, quality, and content of forms electronically produced in each county, and no record forms or formats other than those prescribed shall be used.

SEC. 12. Section 10034 of the Health and Safety Code is amended to read:

10034. The State Registrar shall carefully examine the certificates received from the local registrars of births, deaths, and fetal deaths, and if they are incomplete or unsatisfactory shall require any further information that may be necessary to make the record complete and satisfactory.

SEC. 13. Section 10034.1 is added to the Health and Safety Code, to read:

10034.1. The State Registrar shall carefully examine the marriage certificates received from the county recorders, and if they are incomplete or unsatisfactory shall require any further information that may be necessary to make the record complete and satisfactory. Any certificates that are determined to be incomplete or unsatisfactory shall be returned to the county recorder within 90 days after receipt by the State Registrar. If a certificate is not returned to the county recorder within 90 days, the State Registrar shall register the certificate as presented.

SEC. 14. Section 360 of the Penal Code is amended to read:

360. Every person authorized to solemnize any marriage, who solemnizes a marriage without first being presented with the marriage license, as required by Section 4207 of the Civil Code; or who solemnizes a marriage pursuant to Section 4213 of the Civil Code without the authorization required by that section; or who willfully makes a false return of any marriage or pretended marriage to the recorder or clerk; or who, having solemnized a marriage, fails to return to the recorder or clerk the marriage license with the certificate endorsed thereon, as required by Section 4208 of the Civil Code; or who having solemnized a marriage pursuant to Section 4213 of the Civil Code, fails to return the certificate as required by that section, and every person who willfully makes a false record of any marriage return, is guilty of a misdemeanor.
CHAPTER 319

An act to amend Sections 41201, 41201.5, 41205, 41205.5, 41207, 41207.5, 41252, and 41256 of, and to add Sections 41207.6, 41207.7, 41207.8, 41207.9, 41207.10, and 41207.11 to, the Food and Agricultural Code, relating to wine grapes.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992]

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

SECTION 1. Section 41201 of the Food and Agricultural Code is amended to read:

41201. There is in the department a Wine Grape Inspection Advisory Committee consisting of 10 wine producers and 10 wine grape growers appointed by the director. The director may appoint one additional member to the committee, who shall be a public member. The members of the committee shall receive no compensation.

In making appointments to the committee, the director shall appoint only one person to represent any one winery or growers' firm, and shall make every effort to ensure that there is geographical representation from the major wine grape production areas in the state.

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 41201.5 of the Food and Agricultural Code is amended to read:

41201.5. There is in the department a Wine Grape Inspection Advisory Committee consisting of eight wine producers and eight wine grape growers appointed by the director. The director shall appoint one additional member to the committee, who may be a public member. The members of the committee shall receive no compensation.

In making appointments to the committee, the director shall appoint only one person to represent any one winery or growers' firm, and shall make every effort to ensure that there is geographical representation from the major wine grape production areas in the state.

This section shall become operative on January 1, 1994.

SEC. 3. Section 41205 of the Food and Agricultural Code is amended to read:

41205. The members of the committee, or their voting alternates, consisting of at least six producers and six processors, shall constitute a quorum. Any action of the committee shall require not less than six affirmative votes of the processor members and six affirmative votes of the producer members.
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 41205.5 of the Food and Agricultural Code is amended to read:

41205.5. The members of the committee, or their voting alternates, consisting of at least five producers and five processors, shall constitute a quorum. Any action of the committee shall require not less than five affirmative votes of the processor members and five affirmative votes of the producer members.

This section shall become operative on January 1, 1994.

SEC. 5. Section 41207 of the Food and Agricultural Code is amended to read:

41207. (a) The committee shall be advisory to the director on all matters pertaining to this chapter and certification of the quality of grapes used for processing pursuant to Section 40531 and shall make recommendations concerning the inspection and certification services rendered, including the annual budget and fees necessary to provide adequate inspection services and varietal and appellation integrity. All recommendations for budgets and assessment fees shall be submitted to the director on or before May 1 of each year.

(b) The committee's primary goal shall be to recommend to the director objective criteria and inspection procedures for all quality conditions that have an effect on the acceptance of, or on the amount of the purchase price of, fresh grapes for wine and byproduct purposes.

(c) The committee may also recommend to the director the institution and promotion of scientific research pertaining to varietal and appellation integrity.

(d) On or before May 1 of each year, the committee shall receive and evaluate comments and report to the director concerning the performance of the varietal and appellation integrity program and the progress toward attaining the goals of the program. The committee shall, based upon their evaluation, make recommendations so that the program is as active or inactive as the committee deems appropriate.

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. 6. Section 41207.5 of the Food and Agricultural Code is amended to read:

41207.5. (a) The committee shall be advisory to the director on all matters pertaining to this chapter and certification of the quality of grapes used for processing pursuant to Section 40531 and shall make recommendations concerning the inspection and certification services rendered, including the annual budget and fees necessary to provide adequate inspection services. All recommendations for budgets and assessment fees shall be submitted to the director on or before May 1 of each year.
(b) The committee’s primary goal shall be to recommend to the
director objective criteria and inspection procedures for all quality
conditions that have an effect on the acceptance of, or on the amount
of the purchase price of, fresh grapes for wine and byproduct
purposes.

(c) This section shall become operative on January 1, 1994.

SEC. 7. Section 41207.6 is added to the Food and Agricultural
Code, to read:

41207.6. (a) In order to operate economically and reduce
expenses that may adversely impact persons subject to this chapter,
the committee may, on or before January 15 of any year, request the
director to utilize an appropriate entity, rather than personnel of the
department, to supply the field staff and supplies necessary to
provide inspection services.

(b) Notwithstanding subdivision (a), the director shall be
responsible for the enforcement of this chapter, the establishment of
enforcement procedures, and the uniformity, accuracy, and integrity
of inspection.

(c) This section is not subject to Chapter 3.5 (commencing with
Section 11340) of Part 1 of Division 3 of Title 2 of the Government
Code.

SEC. 8. Section 41207.7 is added to the Food and Agricultural
Code, to read:

41207.7. The director may provide rules and procedures to be
used by the entity in administering this chapter. The procedures may
include:

(a) Employment, training, supervision, and compensation of
inspectors.

(b) Use of existing, and acquisition of, additional equipment and
supplies.

SEC. 9. Section 41207.8 is added to the Food and Agricultural
Code, to read:

41207.8. The committee shall not recommend and the director
shall not utilize, an entity a majority of whose officers and employees
are persons regulated by this chapter.

SEC. 10. Section 41207.9 is added to the Food and Agricultural
Code, to read:

41207.9. The entity shall keep an accurate record of expenses
incurred in performing its responsibilities. Those records shall be
available for audit during regular business hours upon request of the
director.

SEC. 11. Section 41207.10 is added to the Food and Agricultural
Code, to read:

41207.10. The director may require an entity to correct or cease
any activity or function that is determined by the director not to be
in the public interest or in violation of this chapter, and shall notify
the entity in writing of these specific acts.

SEC. 12. Section 41207.11 is added to the Food and Agricultural
Code, to read:
41207.11. The director shall reimburse the entity for its actual and necessary expenses upon receipt of an approved invoice.

SEC. 13. Section 41252 of the Food and Agricultural Code is amended to read:

41252. The director may adopt a budget and establish necessary fee schedules to fund random varietal and appellation inspections. The budget and fee schedules shall be based on the approximate cost of providing the inspections. The fee schedules shall be calculated to provide, as close as practicable, one-half of the funds from the processors, to be paid by processor industry sources, and one-half of the funds from the producers, to be paid pursuant to Section 41253. The producer's fee shall not exceed five cents ($0.05) per ton of grapes produced annually.

SEC. 14. Section 41256 of the Food and Agricultural Code is amended to read:

41256. This article 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. 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 320

An act to add Section 18613.3 to the Health and Safety Code, relating to mobilehomes.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 18613.3 is added to the Health and Safety Code, to read:

18613.3. An application for a permit for initial installation of a manufactured home or mobilehome shall be accompanied by a dimensioned plot plan of the lot on which the manufactured home or mobilehome will be installed. The park owner or operator shall sign the plot plan to certify that the dimensions of the lot are correct if the manufactured home or mobilehome is to be located in a park. The applicant shall provide a copy of the plot plan to the
manufactured home or mobilehome owner, if the applicant is a contractor, and to the park owner or operator, if the manufactured home or mobilehome is to be located in a park.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime 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 321

An act to amend Sections 25161, 25178, 25197.1, 25334.7, 25354, 25354.5, and 25356.5 of, and to repeal Section 25358.8 of, the Health and Safety Code, to amend Sections 13466 and 13467 of the Water Code, and to repeal Section 2 of Chapter 1302 of the Statutes of 1982, relating to resources.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 25161 of the Health and Safety Code is amended to read:

25161. (a) The department shall adopt and enforce all rules and regulations necessary and appropriate to accomplish the purposes of Section 25160.

(b) The department shall develop a data base which tracks all hazardous waste shipped in and out of state for handling, treatment, storage, disposal, or any combination thereof, which includes all of the following information:

1. The state or country receiving the waste.
2. Month and year of shipment.
3. Type of hazardous waste shipped.
4. Mode or modes of transportation used.
5. The manner in which the waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

(c) The department shall include in the biennial report specified in Section 25178 all of the following information:

1. The total volume in tons of hazardous waste generated in the state and shipped offsite for handling, treatment, storage, disposal, or any combination thereof.
2. The total volume in tons of hazardous waste generated in the
state and shipped in and out of the state for handling, treatment, storage, disposal, or any combination thereof, including all of the following information:

(A) The state or country receiving the hazardous waste.
(B) Month and year of shipment.
(C) Type of hazardous waste shipped.
(D) Mode or modes of transportation used.
(E) The manner in which the waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

SEC. 2. Section 25178 of the Health and Safety Code is amended to read:

25178. On or before January 1 of each odd-numbered year, the department shall prepare and submit to the Legislature a report containing, but not limited to, the following:
(a) The status of the regulatory and program developments required pursuant to legislative mandates.
(b) The status of the hazardous waste facilities permit program which shall include all of the following information:
(1) A description of the final hazardous waste facilities permit applications received.
(2) The number of final hazardous waste facilities permits issued to date.
(3) The number of final hazardous waste facilities permits yet to be issued.
(4) A complete description of the reasons why the final hazardous waste facilities permits yet to be issued have not been issued.

For purposes of this subdivision, "hazardous waste facility" means a facility which uses a land disposal method, as defined in subdivision (h) of Section 25179.3, and which disposes of wastes regulated as hazardous waste pursuant to the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.).
(c) The status of the hazardous waste facilities siting program.
(d) The status of the hazardous waste abandoned sites program.
(e) A summary of enforcement actions taken pursuant to this chapter and any other actions relating to hazardous waste management.
(f) Summary data on annual quantities and types of hazardous waste generated, transported, treated, stored, and disposed.
(g) Summary data regarding onsite and offsite disposition of hazardous waste.
(h) Research activity initiated by the department.
(i) Regulatory action by other agencies relating to hazardous waste management.
(j) A revised listing of recyclable materials showing any additions or deletions to the list prepared pursuant to Section 25175 that have occurred since the last report.
(k) Any other data considered pertinent by the department to hazardous waste management.
(l) The information specified in subdivision (c) of Section 25161, paragraph (4) of subdivision (a) of Section 25197.1, subdivision (d) of Section 25354, and Sections 25334.7, 25354.5, and 25356.5.

(m) A status report on the cleanup of the McColl Hazardous Waste Disposal Site in Orange County.

SEC. 3. Section 25197.1 of the Health and Safety Code is amended to read:

25197.1. (a) The director shall establish a Hazardous Waste Enforcement Unit within the department and shall appoint an enforcement coordinator to administer that unit and carry out the duties specified in subdivision (b).

(b) The enforcement coordinator shall do all of the following:

(1) Require that information which the department receives concerning a violation of this chapter or any regulation or order issued pursuant to this chapter is routinely and expeditiously transmitted from the department to the appropriate city attorney or district attorney, and to the Attorney General.

(2) Make recommendations of persons to be awarded payment pursuant to Section 25191.7.

(3) Make annual recommendations to the Governor and the Legislature of statutory changes to increase the capability of city attorneys, district attorneys, and the Attorney General to prosecute violations of this chapter and any other law or regulation relating to hazardous waste, including needed training, assistance, and coordination programs.

(4) Report to the Governor and the Legislature, in the biennial report specified in Section 25178, on the actions taken by the enforcement coordinator and the Hazardous Waste Strike Force to carry out this article and the results obtained from those actions in increasing the effectiveness of local and state hazardous waste enforcement activities.

(5) Establish and maintain a toll-free telephone number, operating during the regular working hours of the department, which is available to the public to report information concerning violations of this chapter and any other hazardous waste statutes and regulations. The department shall screen calls for violations and shall refer information concerning potential violations within three working days to the regional office of the department, the office of the city attorney, the district attorney, or the Attorney General, as appropriate.

(6) Establish a program to publicize the toll-free telephone number.

(c) Nothing in this article limits the authority of a city attorney, a district attorney, or the Attorney General to investigate or prosecute violations of hazardous waste laws or regulations.

(d) Nothing in this article limits the authority of the department or any agency specified in subdivision (a) of Section 25197.2 to request that a civil or criminal action be brought by a city attorney, a district attorney, or the Attorney General under any other law or
regulation.

SEC. 4. Section 25334.7 of the Health and Safety Code is amended to read:

25334.7. The department shall report to the Governor and the Legislature on the progress of the cleanup of the San Gabriel Valley groundwater sites in Los Angeles County, and on the progress of enforcement actions relating to those sites, in the biennial report specified in Section 25178. The report shall include, but not be limited to, all of the following:

1. State expenditures and planned expenditures.
2. Actions accomplished at the sites.
3. Actions planned, including a time schedule for the accomplishment of planned actions.

The report may be prepared in cooperation with other state and federal agencies involved with the sites, and shall include a summary of the activities of those additional agencies.

SEC. 5. Section 25354 of the Health and Safety Code is amended to read:

25354. (a) There is hereby continuously appropriated from the state account to the department the sum of one million dollars ($1,000,000) for each fiscal year as a reserve account for emergencies, notwithstanding Section 13340 of the Government Code. The department shall expend moneys available in the reserve account only for the purpose of taking immediate corrective action necessary to remedy or prevent an emergency resulting from a fire or an explosion of, or human exposure to, hazardous substances caused by the release or threatened release of a hazardous substance.

(b) Notwithstanding any other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a), and may enter into oral contracts, not to exceed five thousand dollars ($5,000) in obligation, when, in the judgment of the department, immediate corrective action is necessary to remedy or prevent an emergency specified in subdivision (a). The contracts, whether written or oral, may include provisions for the rental of tools or equipment, either with or without operators furnished, and for the furnishing of labor and materials necessary to accomplish the work. If the department finds that the corrective action includes the relocation of individuals, the department may contract with those individuals for out-of-pocket expenses incurred in moving for an amount of not more than one thousand dollars ($1,000).

(c) Any disbursement made pursuant to subdivision (a) shall be reported to the Director of Finance within 72 hours of commencement of the corrective action taken.

(d) The department shall include in the biennial report specified in Section 25178 an accounting of the moneys expended pursuant to this section. Once the appropriation made pursuant to subdivision (a) is fully expended, the director may file a report with the Legislature if it is in session or, if it is not in session, with the
Committee on Rules of the Assembly and the Senate as to the moneys expended pursuant to this section. The Legislature may appropriate moneys from the state account, in addition to those moneys appropriated pursuant to subdivision (a), to the department for the purpose of taking corrective action pursuant to subdivision (a).

(e) Except as provided in subdivision (d), the amount deposited in the reserve account and appropriated pursuant to this section shall not exceed one million dollars ($1,000,000) in any fiscal year. On June 30 of each year, the unencumbered balance of the reserve account shall revert to and be deposited in the state account.

SEC. 6. Section 25354.5 of the Health and Safety Code is amended to read:

25354.5. Notwithstanding any other provision of law, for any hazardous substance that is an illegal controlled substance or a precursor of a controlled substance believed to have been used in the unlawful manufacture of controlled substances, upon notice that the hazardous substance has been disposed of contrary to law, the department shall take remedial action with respect to that hazardous substance. Further, the department may spend funds from the Hazardous Substances Account for costs incurred in taking remedial action under this section. The department shall include in the biennial report specified in Section 25178 an accounting of expenditures pursuant to this section.

SEC. 7. Section 25356.5 of the Health and Safety Code is amended to read:

25356.5. The department shall include in the biennial report specified in Section 25178 an accounting of all of the following:

(a) The actual funds expended for each site listed during the preceding two years pursuant to Section 25356.

(b) Removal and remedial actions at hazardous substance release sites pursuant to Section 25356.

(c) The state’s efforts to obtain available federal funds for the purposes of this chapter.

(d) Federal funds which have been obtained by, or committed to, the state for purposes of this chapter.

(e) The state’s efforts to obtain contributions to removal or remedial actions from potentially responsible parties.

SEC. 8. Section 25358.8 of the Health and Safety Code is repealed.

SEC. 9. Section 13466 of the Water Code is amended to read:

13466. For the 1987–88 fiscal year and each year thereafter, a loan may be made by the department only upon the specific approval of the Legislature, by an act enacted after the receipt of a report filed pursuant to Section 13467.

SEC. 10. Section 13467 of the Water Code is amended to read:

13467. The department shall annually submit a report to the Legislature on the status of the loan program authorized under Section 13458, including a prioritized list of projects eligible for funding, and the need for financial assistance for voluntary,
cost-effective capital outlay water conservation programs and groundwater recharge facilities.

SEC. 11. Section 2 of Chapter 1302 of the Statutes of 1982 is repealed.

CHAPTER 322

An act to amend Sections 13710 and 13711 of, to amend and renumber Sections 13706, 13707, and 13708 of, to repeal Sections 13701, 13702, 13703, 13704, and 13705 of, to repeal and add Section 13700 of, and to add Section 13741 to, the Business and Professions Code, relating to automotive products.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 13700 of the Business and Professions Code is repealed.

SEC. 2. Section 13700 is added to the Business and Professions Code, to read:

13700. (a) "Automotive product" means engine coolant or antifreeze, prediluted engine coolant or prediluted antifreeze, brake fluid, and automatic transmission fluid.

(b) "Automatic transmission fluid" means a product intended for use in a passenger vehicle, other than a bus, as either a lubricant, coolant, or liquid medium in any type of fluid automatic transmission, or any other type of unit through which or by which, force, energy, or power is transferred from a motor vehicle engine by hydraulic means to the driving assembly.

(c) "Brake fluid" means the fluid intended for use as the liquid medium through which force is transmitted in the hydraulic brake system of a vehicle operated upon the highways.

(d) "Carton" means the package or wrapping in which a number of containers are shipped or stored.

(e) "Container" means any receptacle in which a commodity is immediately contained when sold, but does not mean a carton or wrapping in which a number of receptacles are shipped or stored, or a tank car or truck.

(f) "Engine coolant" or "antifreeze" means any substance or preparation, regardless of its origin, intended to be diluted before use as the cooling medium in the cooling system of an internal combustion engine to provide protection against freezing, overheating, and corrosion of the cooling system, or any product intended to be diluted before use which is labeled to indicate or imply that it will prevent freezing or overheating of the cooling system of an internal combustion engine.
(g) "Label" means all written, printed, or graphic representations, in any form whatsoever, imprinted upon or affixed to any container or accompanying any product referred to in this chapter.

(h) "Prediluted engine coolant" or "prediluted antifreeze" means any substance or preparation, regardless of its origin, intended for use full strength as the cooling medium in the cooling system of an internal combustion engine to provide protection against freezing, overheating, and corrosion of the cooling system, or any substance or preparation intended for use full strength which is labeled to indicate or imply that it will prevent overheating or freezing of the cooling system of an internal combustion engine.

(i) "Principal display panel" means that part of the label that is designed to most likely be displayed, presented, shown, or examined under normal and customary conditions of display and purchase.

SEC. 3. Section 13701 of the Business and Professions Code is repealed.

SEC. 4. Section 13702 of the Business and Professions Code is repealed.

SEC. 5. Section 13703 of the Business and Professions Code is repealed.

SEC. 6. Section 13704 of the Business and Professions Code is repealed.

SEC. 7. Section 13705 of the Business and Professions Code is repealed.

SEC. 8. Section 13706 of the Business and Professions Code is amended and renumbered to read:

13713. Any product referred to in this chapter is adulterated if its characteristics fall below the specifications for that product established by the department as minimum standards.

SEC. 9. Section 13707 of the Business and Professions Code is amended and renumbered to read:

13701. Any material offered for sale or sold as an additive to automatic transmission fluids shall be compatible with the automatic transmission fluid to which it is added, and the resulting mixture shall not fall below the minimum specifications for automatic transmission fluids, as established by the department.

SEC. 10. Section 13708 of the Business and Professions Code is amended and renumbered to read:

13702. Any words and letters required to be displayed on a container by this chapter shall be in legible type.

SEC. 11. Section 13710 of the Business and Professions Code is amended to read:

13710. (a) The department shall establish specifications for engine coolants or antifreeze, and prediluted engine coolants or prediluted antifreeze, that promote the public safety in the operation of motor vehicles. The specifications for engine coolants or antifreeze and prediluted engine coolants or prediluted antifreeze shall not fall below the minimum specifications, if any, established by
the American Society for Testing and Materials. Engine coolant or antifreeze shall not contain, after dilution with 30 percent water and subsequent mixing, visually identifiable suspended matter or sediment. Prediluted engine coolant or prediluted antifreeze shall not contain, after mixing, visually identifiable suspended matter or sediment. Alcohol-based coolants or antifreeze, excluding glycols, are not suitable for use in automotive engines and shall not be sold or distributed for automotive use.

(b) Any automatic transmission fluid sold without limitation as to type of transmission for which it is intended, shall meet all automotive manufacturers' recommended requirements for transmissions in general use in the state. Automatic transmission fluids which are intended for use only in certain transmissions, as disclosed on the label of its container, shall meet the latest automotive manufacturers' recommended requirements for those transmissions.

(c) The department shall establish specifications for brake fluid which shall promote the public safety in the operation of automotive vehicles. The specifications for brake fluid shall not fall below the minimum specifications established by the National Highway Traffic Safety Administration, United States Department of Transportation.

(d) Any manufacturer or packager of any product regulated by this chapter and sold in the state shall provide, upon request to duly authorized representatives of the department, documentation of any claim made upon their products' label.

SEC. 12. Section 13711 of the Business and Professions Code is amended to read:

13711. (a) An engine coolant or antifreeze is mislabeled if any of the following occurs:

1. The container does not bear a label on which is printed the brand name, principal ingredient, intended application of the coolant or antifreeze, name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure.

2. The container does not bear a chart on the label showing appropriate amounts of engine coolant or antifreeze and water in terms of liquid measure to be used to provide protection from freezing at temperatures to at least 30 degrees below zero Fahrenheit.

3. The container does not bear a statement on the label showing the boiling point of a 50 percent by volume mixture of engine coolant or antifreeze and water in degrees Fahrenheit.

4. The container is one quart or less and does not bear a label on which is printed the words “engine coolant” or “antifreeze” in letters at least 1⁄4 inch high on the principal display panel. The container is greater than one quart and does not bear a label on which is printed the words “engine coolant” or “antifreeze” in letters at least 1⁄4 inch high on the principal display panel.

5. The principal ingredient is propylene glycol and the container
does not bear a statement on the label not to use an ethylene glycol hydrometer concentration tester for propylene glycol coolants.

(6) The container and carton do not bear a lot or batch number on the label identifying the container lot and date of packaging.

(b) A prediluted engine coolant or prediluted antifreeze is mislabeled if any of the following occurs:

1. The container does not bear a label on which is printed the brand name, principal ingredient, intended application of the coolant or antifreeze, name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure.

2. The container does not bear a statement on the label showing the protection from freezing in degrees Fahrenheit.

3. The container does not bear a statement on the label showing the boiling point in degrees Fahrenheit.

4. The container is one quart or less and does not bear a label on which is printed the words "prediluted engine coolant" or "prediluted antifreeze" in letters at least 1/8 inch high on the principal display panel. The container is greater than one quart and does not bear a label on which is printed the words "prediluted engine coolant" or "prediluted antifreeze" in letters at least 1/4 inch high on the principal display panel.

5. The container is one quart or less and does not bear a label on which is printed the words "DO NOT ADD WATER" in letters at least 1/8 inch high. The container is greater than one quart and does not bear a label on which is printed the words "DO NOT ADD WATER" in letters at least 1/4 inch high.

6. The principal ingredient is propylene glycol and the container does not bear a statement on the label not to use an ethylene glycol hydrometer concentration tester for propylene glycol coolants.

7. The container and carton do not bear a lot or batch number on the label identifying the container lot and date of packaging.

(c) Automatic transmission fluid shall be deemed to be mislabeled if any of the following occurs:

1. The container does not bear a label on which is printed the brand name, the name and place of business of the manufacturer, packer, seller, or distributor, the words "Automatic Transmission Fluid," and the duty type classification.

2. The container does not bear a label on which is printed an accurate statement of the quantity of the contents in terms of liquid measure.

3. The labeling on the container is false or misleading.

(d) Brake fluid is mislabeled if any of the following occurs:

1. The container does not bear a label which conforms to the requirements of the National Highway Traffic Safety Administration, United States Department of Transportation, and upon which is printed the brand name.

2. The container does not bear an accurate statement on the label of the quantity of the contents in terms of liquid measure.
(3) The labeling on the container is false or misleading.

SEC. 13. Section 13741 is added to the Business and Professions Code, to read:

13741. It is unlawful for any person or other legal entity to make any deceptive, false, or misleading statement by any means whatever regarding quality, quantity, performance, price, discount, or saving in the sale or selling of any commodity regulated pursuant to this chapter.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. 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 323

An act to amend Sections 1620, 1622, 1625, 1629, 42103, 42127, 42127.3, 42127.6, 42127.8, and 42132 of the Education Code, relating to school finance.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 1620 of the Education Code is amended to read:

1620. On or before July 1 of each fiscal year, the county board of education shall hold a public hearing on the proposed county school service fund budget for that fiscal year (the "budget year"). The public hearing shall be held prior to the adoption of the budget by the county board of education, and shall occur not less than three days following the availability of the proposed budget for public inspection. The agenda for that hearing shall be posted at least 72 hours prior to the hearing and shall include the location of where the budget will be available for inspection. At the hearing, any taxpayer directly affected by the county school service fund budget may appear before the county board of education and speak on the proposed budget or any item therein.

SEC. 2. Section 1622 of the Education Code is amended to read:

1622. (a) On or before July 1 of each fiscal year, the county board of education shall adopt an annual budget for the budget year and shall file that budget with the Superintendent of Public Instruction,
the county board of supervisors, and the county auditor. The budget, and supporting data, shall be maintained and made available for public review. The budget shall indicate the date, time, and location at which the county board of education held the public hearing required under Section 1620.

(b) The Superintendent of Public Instruction shall examine the budget to determine whether it (1) complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets, (2) allows the district to meet its financial obligations during the fiscal year, and (3) is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments. In addition, the Superintendent shall identify any technical corrections to the budget that must be made. On or before August 1, the Superintendent of Public Instruction shall approve or disapprove the budget and, in the event of a disapproval, transmit to the county office of education in writing his or her recommendations regarding revision of the budget and the reasons for those recommendations.

(c) On or before September 1, the county board of education shall revise the county office of education budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the Superintendent of Public Instruction, shall adopt the revised budget, and shall file the revised budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. Prior to revising the budget, the county board of education shall hold a public hearing regarding the proposed revisions, which shall be made available for public inspection not less than three working days prior to the hearing. The agenda for that hearing shall be posted at least 72 hours prior to the public hearing and shall include the location where the budget will be available for public inspection. The revised budget, and supporting data, shall be maintained and made available for public review.

(d) The Superintendent of Public Instruction shall examine the revised budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets and, no later than September 15, shall approve or disapprove the revised budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623.

(e) Notwithstanding any other provision of this section, the budget review for a county office of education shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (c) and (d), if the county board of education so elects, and notifies the Superintendent of Public Instruction in writing of that decision, no later than October 31 of the immediately preceding calendar year.

(1) In the event of the disapproval of the budget of a county office
of education pursuant to subdivision (b), on or before September 1, the county superintendent of schools and the county board of education shall review the recommendations of the Superintendent of Public Instruction at a regularly scheduled meeting of the county board of education and respond to those recommendations. That response shall include the proposed actions to be taken, if any, as a result of those recommendations.

(2) Not later than five working days after receiving the response required under paragraph (1), the Superintendent of Public Instruction shall review that response and either approve or disapprove the budget of the county office of education. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623.

(3) Not later than 45 days after the Governor signs the annual Budget Act, the county office of education shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

SEC. 3. Section 1625 of the Education Code is amended to read:

1625. The county superintendent of schools for any county office of education that reports a negative unrestricted fund balance or a negative cash balance in the annual report required by Section 1622 or in the audited annual financial statements required by Section 41020 shall include, with the budget submitted in accordance with Section 1622 and the certifications required by subdivision (i) of Section 1240, a statement identifying the reasons for the negative unrestricted fund balance or negative cash balance and the steps that will be taken to ensure that the negative balance will not occur at the end of the budget year.

SEC. 4. Section 1629 of the Education Code is amended to read:

1629. On or before September 30 of each year, the county board of education shall adopt a resolution to identify, pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Government Code, the estimated appropriations limit for the county office of education for the current fiscal year and the actual appropriations limit for the county office of education for the preceding fiscal year. That resolution shall be adopted at a regular or special meeting of the board. The documentation used in the identification of the appropriations limits shall be made available to the public.

SEC. 5. Section 42103 of the Education Code is amended to read:

42103. The governing board of each school district shall hold a public hearing on the proposed budget in a district facility, or some other place conveniently accessible to the residents of the district. The public hearing shall be held any day on or before the date specified for this purpose in subdivision (f) or (h), respectively, of Section 42127, but not less than three working days following availability of the proposed budget for public inspection. At the hearing any resident in the district may appear and object to the
proposed budget or any item in the budget.

The hearing may be concluded on the proposed budget when there are no requests for further hearing on file, and shall be concluded no later than the date specified for this purpose in subdivision (f) or (h), respectively, of Section 42127. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held.

The proposed budget shall show expenditures, cash balances, and all revenues as required to be tabulated in Sections 42122 and 42123, and also shall include an estimate of those figures, unaudited, for the preceding fiscal year. In addition, any tax statement submitted by the district governing board pursuant to subdivision (a) of Section 42127, any district tax requirement computed pursuant to subdivision (b) of Section 42127 for the school year to which the proposed budget is intended to apply, and any recommendations made by the county superintendent pursuant to subdivision (d) of Section 42127 shall be made available by the district for public inspection in a facility of the district or in some other place conveniently accessible to residents of the district.

Notification of dates and location or locations at which the proposed budget may be inspected by the public and the date, time, and location of the public hearing on the proposed budget shall be published by the county superintendent of schools in a newspaper of general circulation in the district or, if there is no such newspaper, in any newspaper of general circulation in the county, at least three days prior to the availability of the proposed budget for public inspection. The publication of the dates and location shall occur no earlier than 45 days prior to the final date for the hearing as specified in subdivision (f) or (h), respectively, of Section 42127, but not less than 10 days prior to the date set for hearing. The cost of the publication shall be a legal and proper charge against the school district for which the publication is made.

SEC. 6. Section 42127 of the Education Code is amended to read:

42127. (a) On or before July 1 of each year, the governing board of each school district shall accomplish the following:

(1) Hold a public hearing on the budget to be adopted for the subsequent fiscal year. The agenda for that hearing shall be posted at least 72 hours prior to the public hearing and shall include the location where the budget will be available for public inspection.

(2) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board shall file that budget with the county superintendent of schools. That budget, and supporting data, shall be maintained and made available for public review. If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which
a levy shall not be made.

(b) The county superintendent of schools may accept changes in any statement included in the budget, pursuant to subdivision (a), of the amount or portion for which a property tax levy shall not be made. The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes that exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.

(c) The county superintendent of schools shall do all of the following:

(1) Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets. The superintendent shall identify, if necessary, any technical corrections that must be made to bring the budget into compliance with those standards and criteria.

(2) Determine whether the adopted budget will allow the district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

(d) On or before August 15, the county superintendent of schools shall approve or disapprove the adopted budget for each school district. If, pursuant to the review conducted pursuant to subdivision (c), the superintendent determines that the adopted budget for a school district does not satisfy paragraph (1) or (2) of that subdivision, he or she shall disapprove the budget and, not later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations. The county superintendent of schools may assign a fiscal adviser to assist the district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent’s review and recommendations, subject to the requirement that the committee report its findings to the superintendent no later than August 20.

(e) Not later than August 20, the county superintendent of schools shall submit a report to the Superintendent of Public Instruction identifying all school districts for which budgets have been disapproved, including a copy of the written response transmitted to each of those districts pursuant to subdivision (d).

(f) On or before September 1, the governing board of the school
district shall revise the adopted budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the county superintendent of schools, shall adopt the revised budget, and shall file the revised budget with the county superintendent of schools. Prior to revising the budget, the governing board shall hold a public hearing regarding the proposed revisions, to be conducted in accordance with Section 42103. The revised budget, and supporting data, shall be maintained and made available for public review.

(g) The county superintendent of schools shall examine the revised budget to determine whether it (1) complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets, (2) allows the district to meet its financial obligations during the fiscal year, and (3) is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments, and, not later than September 15, shall approve or disapprove the revised budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1.

(h) Notwithstanding any other provision of this section, the budget review for a school district shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (f) and (g), if the governing board of the school district so elects, and notifies the county superintendent in writing of that decision, not later than October 31 of the immediately preceding calendar year. On or before July 1, the governing board of a school district for which the budget review is governed by this subdivision, rather than by subdivisions (f) and (g), shall conduct a public hearing regarding its proposed budget in accordance with Section 42103.

(1) In the event of the disapproval of the adopted budget of a school district pursuant to subdivision (d), on or before September 1, the governing board of the school district, in conjunction with the county superintendent of schools, shall review the superintendent’s recommendations at a regular meeting of the governing board and respond to those recommendations. The response shall include any revisions to the adopted budget and other proposed actions to be taken, if any, as a result of those recommendations.

(2) Not later than five working days after receiving the response required under paragraph (1), the county superintendent of schools shall review that response and either approve or disapprove the budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1.

(3) Not later than 45 days after the Governor signs the annual Budget Act, the school district shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.
(i) Any school district for which the county board of education serves as the governing board is not subject to subdivisions (c) to (g), inclusive, but is governed instead by the budget procedures set forth in Section 1622.

SEC. 7. Section 42127.3 of the Education Code is amended to read:

42127.3. (a) If the budget review committee established pursuant to Sections 42127.1 and 42127.2 recommends approval of the school district budget, the county superintendent of schools shall accept the recommendation of the budget review committee and approve the budget.

(b) If the budget review committee established pursuant to Sections 42127.1 and 42127.2 disapproves the school district budget, the school district governing board, not later than five working days after receipt of the report described in paragraph (2) of subdivision (b) of Section 42127.2, may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted final budget and any other proposed actions to be taken as a result of the recommendations of the budget review committee. Based upon the recommendations of the budget review committee, and any response to those recommendations provided by the school district governing board, the Superintendent of Public Instruction shall either approve or disapprove the budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall notify the school district governing board in writing of the reasons for that disapproval and, for the remainder of the current fiscal year, the county superintendent of schools shall do all of the following:

1. Not later than November 30, develop and adopt, in consultation with the Superintendent of Public Instruction and the school district governing board, a fiscal plan and budget that will govern the district and will allow the district to meet its financial obligations, both in the current fiscal year and with regard to the district's multiyear financial commitments. The governing board of the district shall govern the operation of the district for the current fiscal year in accordance with that adopted budget.

2. Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the budget adopted pursuant to paragraph (1). The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

3. Monitor and review the operation of the district.

4. The school district shall pay reasonable fees charged by the county superintendent of schools for actual administrative expenses incurred pursuant to subdivision (b). The Superintendent of Public Instruction shall develop, and distribute to affected school districts and county offices of education, advisory guidelines regarding the appropriate amount of any fees charged pursuant to this subdivision.

(d) This section shall not be construed to authorize the county
superintendent of schools to abrogate any provision of a collective bargaining agreement that was entered into by a school district prior to the date upon which the county superintendent of schools disapproved the budget of the school district pursuant to subdivision (b).

SEC. 8. Section 42127.6 of the Education Code is amended to read:

42127.6. (a) The county superintendent of schools shall monitor the operation of each school district pursuant to the budget adopted for that district. If the county superintendent of schools determines that a school district will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the school district governing board in writing of that determination, and of the basis for the determination. In addition, subsequent to that determination, the county superintendent of schools may do either or both of the following:

1. Assign a fiscal adviser to assist the district.
2. Conduct a study of the district's finances and recommend to the governing board of the school district actions to enable the district to meet those obligations.

(b) Any contract entered into by a county superintendent of schools for the purposes of subdivision (a) is subject to the approval of the Superintendent of Public Instruction.

(c) If, subsequent to the receipt of recommendations provided pursuant to paragraph (2) of subdivision (a), the governing board fails to take appropriate action to enable the district to meet its financial obligations, the county superintendent shall so notify the Superintendent of Public Instruction. Subsequent to that notification, the county superintendent of schools, in consultation with the Superintendent of Public Instruction, may do one or more of the following for the remainder of the current fiscal year:

1. Request additional information regarding the district's budget or operations.
2. Develop and impose, in consultation with the Superintendent of Public Instruction and the school district governing board, revisions to the school district budget that will enable the district to meet its financial obligations.
3. Stay or rescind any action that is inconsistent with any revision adopted pursuant to paragraph (2). The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.
4. This section does not authorize the county superintendent of schools to abrogate any provision of a collective bargaining agreement that was entered into by a school district prior to the date upon which the county superintendent of schools assumed authority pursuant to subdivision (c).

(e) The school district shall pay reasonable fees charged by the county superintendent of schools for actual administrative expenses
incurred pursuant to subdivision (c). The Superintendent of Public Instruction shall develop, and distribute to affected school districts and county offices of education, advisory guidelines regarding the appropriate amount of any fees charged pursuant to this subdivision.

(f) Notwithstanding Section 42647 or 42650, or any other provision of law, a county treasurer shall not honor any warrant when, pursuant to Sections 42127 to 42127.6, inclusive, the county superintendent of schools or the Superintendent of Public Instruction, as appropriate, has disapproved that warrant, or has disapproved the order on school district funds for which that warrant was prepared.

SEC. 9. Section 42127.8 of the Education Code is amended to read:

42127.8. (a) The governing board provided for in subdivision (b) shall establish a unit to be known as the County Office Fiscal Crisis and Management Assistance Team. The team shall consist of persons having extensive experience in school district budgeting, accounting, data processing, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and operation, personnel administration, organization, and staffing. The Superintendent of Public Instruction may appoint one employee of the State Department of Education to serve on the unit. The unit shall be operated under the immediate direction of an appropriate county office of education selected jointly, in response to an application process, by the Superintendent of Public Instruction and the Secretary of Child Development and Education.

(b) The unit established under subdivision (a) shall be selected and governed by an eleven-member governing board consisting of one representative chosen by the California Association of County Superintendents of Schools from each of the 10 county service regions designated by the association, and one representative from the State Department of Education chosen by the Superintendent of Public Instruction.

(c) The Superintendent of Public Instruction may request the unit to provide the assistance described in subdivision (b) of Section 1624, Section 1630, Section 33132, subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6, and Section 42127.9, and to review the fiscal and administrative condition of any county office of education.

(d) In addition to the functions described in subdivision (c), the unit shall provide management assistance at the request of any school district or county office of education. Each district or county office of education receiving that assistance shall be required to pay the onsite personnel costs and travel costs incurred by the unit for that purpose, pursuant to rates determined by the governing board established under subdivision (b). The governing board annually shall distribute rate information to each school district and county office of education.

(e) The governing board shall reserve not less than 25 percent,
nor more than 50 percent, of its revenues each year for expenditure for the costs of contracts and professional services as management assistance to school districts or county offices of education in which the board determines a fiscal emergency to exist.

(f) The governing board established under subdivision (b) may levy an annual assessment against each county office of education that elects to participate under this section in an amount not to exceed twenty cents ($0.20) per unit of total average daily attendance for all school districts within the county. The revenues collected pursuant to that assessment shall be applied to the expenses of the unit.

(g) The governing board established under subdivision (b) may pay to the State Department of Education, from any available funds, a reasonable amount to reimburse the department for actual administrative expenses incurred in the review of the budgets and fiscal conditions of school districts and county offices of education.

SEC. 10. Section 42132 of the Education Code is amended to read:

42132. On or before September 30 of each year, the governing board of each school district shall adopt a resolution to identify, pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Government Code, the estimated appropriations limit for the district for the current fiscal year and the actual appropriations limit for the district for the preceding fiscal year. That resolution shall be adopted at a regular or special meeting of the governing board. The documentation used in the identification of the appropriations limits shall be made available to the public.

CHAPTER 324

An act to amend Section 219 of the Code of Civil Procedure, relating to juries.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 219 of the Code of Civil Procedure is amended to read:

219. The jury commissioner shall randomly select jurors for jury panels to be sent to courtrooms for voir dire. However, no peace officer, as defined in Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code, shall be selected for voir dire.
CHAPTER 325

An act to add Section 7000.2 to the Business and Professions Code, relating to contractors.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 7000.2 is added to the Business and Professions Code, to read:

7000.2. Nothing in this code shall be interpreted to prohibit cities, counties, and cities and counties from requiring contractors to show proof that they are in compliance with local business tax requirements of the entity prior to issuing any city, county, or city and county permit. Nothing in this code shall be interpreted to prohibit cities, counties, and cities and counties from denying the issuance of a permit to a licensed contractor who is not in compliance with local business tax requirements.

Any business tax required or collected as part of this process shall not exceed the amount of the license tax or license fee authorized by Section 37101 of the Government Code or Section 16000 of the Business and Professions Code.

CHAPTER 326

An act to amend Section 4024.2 of the Penal Code, relating to county correctional facilities.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 4024.2 of the Penal Code is amended to read:

4024.2. (a) Notwithstanding any other law, the board of supervisors of any county may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to the facility may participate in a work release program pursuant to criteria described in subdivision (b), in which one day of participation will be in lieu of one day of confinement.

(b) The criteria for a work release program are the following:

(1) The work release program shall consist of any of the following:

(A) Manual labor to improve or maintain levees or public facilities, including, but not limited to, streets, parks, and schools.
(B) Manual labor in support of nonprofit organizations, as approved by the sheriff or other official in charge of the correctional facilities. As a condition of assigning participants of a work release program to perform manual labor in support of nonprofit organizations pursuant to this section, the board of supervisors shall obtain workers’ compensation insurance which shall be adequate to cover work-related injuries incurred by those participants, in accordance with Section 3363.5 of the Labor Code.

(2) In addition, the sheriff or other official may permit a prisoner participating in a work release program to receive work release credit for participation in education, vocational training, or substance abuse programs in lieu of performing labor in a work release program on an hour-for-hour basis. However, credit for that participation may not exceed one-half of the hours established for the work release program, and the remaining hours shall consist of manual labor described in paragraph (1).

(3) The work release program shall be under the direction of a responsible person appointed by the sheriff or other official in charge.

(4) The hours of labor to be performed pursuant to this section shall be uniform for all persons committed to a facility in a county and may be determined by the sheriff or other official in charge of county correctional facilities, and each day shall be a minimum of 8 and a maximum of 10 hours, in accordance with the normal working hours of county employees assigned to supervise the programs. However, reasonable accommodation may be made for participation in a program under paragraph (2).

As used in this section, “nonprofit organizations” means organizations established or operated for the benefit of the public or in support of a significant public interest, as set forth in Section 501 (c) (3) of the Internal Revenue Code. Organizations established or operated for the primary purpose of benefiting their own memberships are specifically excluded.

(c) The board of supervisors may prescribe reasonable rules and regulations under which a work release program is operated and may provide that participants wear clothing of a distinctive character while performing the work. As a condition of participating in a work release program, a person shall give his or her promise to appear for work or assigned activity by signing a notice to appear before the sheriff or at the education, vocational, or substance abuse program at a time and place specified in the notice and shall sign an agreement that the sheriff may immediately retake the person into custody to serve the balance of his or her sentence if the person fails to appear for the program at the time and place agreed to, does not perform the work or activity assigned, or for any other reason is no longer a fit subject for release under this section. A copy of the notice shall be delivered to the person and a copy shall be retained by the sheriff. Any person who willfully violates his or her written promise to appear at the time and place specified in the notice is guilty of a
misdemeanor.

Whenever a peace officer has reasonable cause to believe the person has failed to appear at the time and place specified in the notice or fails to appear or work at the time and place agreed to or has failed to perform the work assigned, the peace officer may, without a warrant, retake the person into custody, or the court may issue an arrest warrant for the retaking of the person into custody, to complete the remainder of the original sentence. A peace officer may not retake a person into custody under this subdivision, without a warrant for arrest, unless the officer has a written order to do so, signed by the sheriff or other person in charge of the program, which describes with particularity the person to be retaken.

(d) Nothing in this section shall be construed to require the sheriff or other official in charge to assign a person to a program pursuant to this section if it appears from the record that the person has refused to satisfactorily perform as assigned or has not satisfactorily complied with the reasonable rules and regulations governing the assignment or any other order of the court.

A person shall be eligible for work release under this section only if the sheriff or other official in charge concludes that the person is a fit subject therefor.

(e) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each person according to his or her ability to pay.

CHAPTER 327

An act to add Section 23004.5 to the Government Code, relating to county health facilities.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 23004.5 is added to the Government Code, to read:

23004.5. Health care facilities, including, but not limited to, hospitals and clinics licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code, that are owned or operated by counties may establish, maintain, and carry on their activities through one or more corporations, joint ventures, or partnerships for the direct benefit of those health care facilities and the health services that they provide. Nothing in this section shall be construed to exempt facilities conducting their activities in accordance with this section from the licensure requirements set forth in Division 2 (commencing with Section 1200) of the Health and Safety Code, when those requirements are applicable. Nothing
in this section shall be construed to eliminate the necessity of prior approval by the county's board of supervisors, at a noticed public hearing, of any transfer of the assets of a county health system and the consideration therefor.

CHAPTER 328

An act to add Section 1795.27 to the Health and Safety Code, relating to health records.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 1795.27 is added to the Health and Safety Code, to read:

1795.27. Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall, upon a written or oral request of a patient who is the subject of a clinical laboratory test, provide the patient with the results of the test in plain language conveyed in the manner deemed most appropriate by the health care professional who requested the test. The test results to be reported to the patient pursuant to this section shall be recorded in the patient's medical record and shall be reported to the patient within a reasonable time period after the test results are received at the offices of the health care professional who requested the test.

CHAPTER 329

An act to amend Section 19.8 of, and to add Section 193.8 to, the Penal Code, relating to driving offenses.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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 193.8, 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 193.8 is added to the Penal Code, to read:
193.8. (a) It is unlawful for any adult who is the registered owner of a motor vehicle or in possession of a motor vehicle to relinquish possession of the vehicle to a minor for the purpose of driving if the following conditions exist:
   (1) The adult owner or person in possession of the vehicle knew or reasonably should have known that the minor was intoxicated at the time possession was relinquished.
   (2) A petition was sustained or the minor was convicted of a violation of Section 23103 as specified in Section 23103.5, 23140, 23152, or 23153 of the Vehicle Code or a violation of Section 191.5 or paragraph (3) of subdivision (c) of Section 192.
   (3) The minor does not otherwise have a lawful right to possession of the vehicle.
   (b) The offense described in subdivision (a) shall not apply to commercial bailments, motor vehicle leases, or parking arrangements, whether or not for compensation, provided by hotels, motels, or food facilities for customers, guests, or other invitees thereof. For purposes of this subdivision, hotel and motel shall have the same meaning as in subdivision (b) of Section 25503.16 of the Business and Professions Code and food facility shall have the same meaning as in Section 27521 of the Health and Safety Code.
   (c) If any adult is convicted of the offense described in subdivision (a), that person shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment. Any adult convicted of the offense described in subdivision (a) shall not be subject to driver’s license suspension or revocation or attendance at a licensed alcohol or drug education and counseling program for persons who drive under the influence.

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 330

An act to add Section 94316.28 to the Education Code, relating to private postsecondary education.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 94316.28 is added to the Education Code, to read:

94316.28. (a) As used in this section, "ESL instruction" means any educational service involving instruction in English as a second language.

(b) No institution shall offer ESL instruction without the prior approval of the council.

(c) The council shall not approve an institution's offering of ESL instruction unless that institution complies with the minimum standards established in subdivision (a) of Section 94311.

(d) An institution that offers ESL instruction to a student shall not enroll the student in any educational service presented in the English language unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to comprehend instruction in English.

(e) A student who has completed ESL instruction at an institution shall not be enrolled in any course of instruction presented in the English language at that institution unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to be successfully trained by English language instruction to perform tasks associated with the occupations or job titles to which the educational program is represented to lead.

(f) If an institution offers ESL instruction to a student to enable the student to use already existing knowledge, training, or skills in the pursuit of an occupation, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained adequate proficiency in oral and written English to use his or her existing knowledge, training, or skills. Before enrolling the student in ESL instruction, the institution shall document the nature of the student's existing knowledge, training, or skills and that the ESL instruction is necessary to enable the student to use that existing knowledge, training, or skills.

(g) If an institution offers ESL instruction to a student in connection with a course of instruction leading to employment in any occupation requiring licensure awarded after the passage of an examination offered in English, the institution shall test the student
after the student completes the ESL instruction to determine that the student has attained a level of proficiency in English reasonably equivalent to the level of English in which the licensure examination is offered.

(h) If the results of a test administered pursuant to subdivision (d), (e), (f), or (g) indicate that the student has not attained adequate English language proficiency after the completion of ESL instruction, the institution shall (1) make a full refund of the total charge for the ESL instruction, or (2) offer the student the choice of either enrolling without charge in additional ESL instruction until the student attains adequate English language proficiency or obtaining a full refund of the total charge for the ESL instruction. The institution shall pay refunds within 30 days and shall comply with subdivisions (c) and (d) of Section 94318.

(i) This section does not apply to grantees funded under Section 1672 of Title 29 of the United States Code.

(j) The institution shall, for five years, retain an exemplar of each language proficiency test administered pursuant to this section, an exemplar of the answer sheet for each test, a record of the score for each test, the answer sheets or other responses submitted by each person who took each test, and the documentation required by subdivision (f).

(k) (1) In addition to any applicable provisions of this chapter, this article, except for Section 94316.5, subparagraph (B) of paragraph (2) of subdivision (a) of Section 94316.10, and Section 94319.2, applies to institutions offering ESL instruction.

(2) For the purpose of determining compliance with this article, ESL instruction shall be deemed a course and a charge shall be deemed to be made for ESL instruction if a student is obligated to make any payment in connection with any educational service, including, but not limited to, the ESL instruction that is offered by the institution.

(l) The tests used by an institution pursuant to this section shall be tests that are approved by the United States Department of Education or tests such as the Test of English as a Foreign Language and the Comprehensive Adult Student Assessment System that are generally recognized by public and private institutions of higher learning in this state for the evaluation of English language proficiency. An institution shall demonstrate to the council that the tests and passing scores that it uses establish that students have acquired the degree of proficiency in oral and written English required by subdivision (d), (e), (f), or (g), whichever is applicable. The required level of proficiency in oral and written English shall not be lower than the sixth grade level.

(m) All tests shall be independently administered, without charge to the student and in accordance with the procedures specified by the test publisher. The tests shall not be administered by a previous or current owner, director, consultant, or representative of the institution or by any person who previously had, or currently has, a
direct or indirect financial interest in the institution other than the arrangement to administer the test. The council shall adopt regulations that contain criteria to ensure independent test administration including the criteria established by the United States Department of Education and set forth on pages 52160 and 52161 of Volume 55 of the Federal Register, dated December 19, 1990.

CHAPTER 331

An act to add Section 2190.1 to the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992]

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

SECTION 1. Section 2190.1 is added to the Business and Professions Code, to read:

2190.1. (a) The continuing medical education standards of Section 2190 may be met by educational activities that meet the standards of the Division of Licensing and serve to maintain, develop, or increase the knowledge, skills, and professional performance that a physician and surgeon uses to provide care, or improve the quality of care provided for patients, including, but not limited to, educational activities that meet any of the following criteria:

1. Have a scientific or clinical content with a direct bearing on the quality or cost-effective provision of patient care, community or public health, or preventive medicine.

2. Concern quality assurance or improvement, risk management, health facility standards, or the legal aspects of clinical medicine.

3. Concern bioethics or professional ethics.

4. Are designed to improve the physician-patient relationship.

(b) Notwithstanding subdivision (a), educational activities that are not directed toward the practice of medicine, or are directed primarily toward the business aspects of medical practice, including, but not limited to, medical office management, billing and coding, and marketing shall not be deemed to meet the continuing medical education standards for licensed physicians and surgeons.

(c) Educational activities that meet the content standards set forth in this section and are accredited by the California Medical Association or the Accreditation Council for Continuing Medical Education may be deemed by the Division of Licensing to meet its continuing medical education standards.
CHAPTER 332

An act to amend Sections 53395 and 53395.3 of the Government Code, relating to infrastructure financing districts.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 53395 of the Government Code is amended to read:

53395. (a) The Legislature finds and declares that the state and federal governments have withdrawn in whole or in part from their former role in financing major, regional, or communitywide infrastructure, including highways and interchanges, sewage treatment and water reclamation works, water supply and treatment works, flood control and drainage works, schools, libraries, parks, parking facilities, open space, and seismic retrofit and rehabilitation of public facilities.

(b) The Legislature further finds and declares that the methods available to local agencies to finance public works often place an undue and unfair burden on buyers of new homes, especially for public works that benefit the broader community.

(c) The Legislature further finds and declares that the absence of practical and equitable methods for financing both regional and local public works leads to a declining standard of public works, a reduced quality of life and decreased safety for affected citizens, increased objection to otherwise desirable development, and excessive costs for homebuyers.

(d) The Legislature further finds and declares that it is equitable and in the public interest to provide alternative procedures for financing public works and services needed to meet the needs of new housing and other development projects.

SEC. 2. Section 53395.3 of the Government Code is amended to read:

53395.3. (a) A district may finance (1) the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer which satisfies the requirements of subdivision (b), (2) may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of that property and (3) the costs described in Sections 53395.5, and 53396.5. A district may only finance the purchase of facilities for which construction has been completed, as determined by the legislative body. The facilities need not be physically located within the boundaries of the district. A district may not finance routine maintenance, repair work, or the costs of ongoing operation or providing services of any kind.
(b) The district shall finance only public capital facilities of communitywide significance, which provide significant benefits to an area larger than the area of the district, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(c) Any district which constructs dwelling units shall set aside not less than 20 percent of those units to increase and improve the community’s supply of low- and moderate-income housing available at an affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, to persons and families of low- and moderate-income, as defined in Section 50093 of the Health and Safety Code.

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CHAPTER 333

An act to amend Section 25364 of the Public Resources Code, relating to petroleum.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 25364 of the Public Resources Code is amended to read:

25364. (a) Any person required to present information to the commission pursuant to Section 25354 may request that specific information be held in confidence.

(b) Information presented to the commission pursuant to Section 25354 shall be held in confidence by the commission or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(c) (1) Whenever the commission receives a request to publicly disclose unaggregated information, or otherwise proposes to publicly disclose information submitted pursuant to Section 25354, notice of
the request or proposal shall be provided to the person submitting
the information. The notice shall indicate the form in which the
information is to be released. Upon receipt of notice, the person
submitting the information shall have 10 working days in which to
respond to the notice to justify the claim of confidentiality on each
specific item of information covered by the notice on the basis that
public disclosure of the specific information would result in unfair
competitive disadvantage to the person supplying the information.

(2) The commission shall consider the respondent's submittal in
determining whether to publicly disclose the information submitted
to it to which a claim of confidentiality is made. The commission shall
issue a written decision which sets forth its reasons for making the
determination whether each item of information for which a claim
of confidentiality is made shall remain confidential or shall be
publicly disclosed.

(d) The commission shall not make public disclosure of
information submitted to it pursuant to Section 25354 within 10
working days after the commission has issued its written decision
required in this section.

(e) No information submitted to the commission pursuant to
Section 25354 shall be deemed confidential if the person submitting
the information or data has made it public.

(f) With respect to information provided pursuant to subdivision
(h) of Section 25354, neither the commission, nor any employee of
the commission, may do any of the following:

(1) Use the information furnished under subdivision (h) of
Section 25354 for any purpose other than the statistical purposes for
which it is supplied.

(2) Make any publication whereby the information furnished by
any particular establishment or individual under subdivision (h) of
Section 25354 can be identified.

(3) Permit anyone other than commission members and
employees of the commission to examine the individual reports
provided under subdivision (h) of Section 25354.

(g) Notwithstanding any other provision of law, the commission
may disclose confidential information received pursuant to
subdivision (a) of Section 25310.4 or Section 25354 to the State Air
Resources Board if the state board agrees to keep the information
confidential. With respect to the information it receives, the state
board shall be subject to all pertinent provisions of this section.

SEC. 2. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because the
only costs which may be incurred by a local agency or school district
will be incurred because this act creates a new crime 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 334

An act to amend Section 245.5 of the Penal Code, relating to crimes.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 245.5 of the Penal Code is amended to read:

245.5. (a) Every person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a school employee, and who knows or reasonably should know that the victim is a school employee engaged in the performance of his or her duties, when that school employee is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years, or in a county jail not exceeding one year.

(b) Every person who commits an assault with a firearm upon the person of a school employee, and who knows or reasonably should know that the victim is a school employee engaged in the performance of his or her duties, when the school employee is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years, or in a county jail for not less than six months and not exceeding one year.

(c) Every person who commits an assault upon the person of a school employee with a stun gun or taser, and who knows or reasonably should know that the person is a school employee engaged in the performance of his or her duties, when the school employee is engaged in the performance of his or her duties, shall be punished by imprisonment in a county jail for a term not exceeding one year or by imprisonment in the state prison for two, three, or four years.

This subdivision shall not be construed to preclude or in any way limit the applicability of Section 245 in any criminal prosecution.

(d) As used in the section, “school employee” means any person employed as a permanent or probationary certificated or classified employee of a school district on a part-time or full-time basis, including a substitute teacher. “School employee,” as used in this section, also includes a student teacher, or a school board member. “School,” as used in this section, has the same meaning as that term is defined in Section 626.

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 335

An act to amend Sections 18451, 18586.2, 18586.3, 19053.6, 23153, 25432, 25673, 25674, and 26073.4 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 18451 of the Revenue and Taxation Code is amended to read:

18451. (a) If the amount of gross income or deductions for any year of any taxpayer as returned to the United States Treasury Department is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in gross income or deductions, that taxpayer shall report the change or correction, or the results of the renegotiation, within six months after the final federal determination of the change or correction or renegotiation, or as required by the Franchise Tax Board, and shall concede the accuracy of the determination or state wherein it is erroneous. The changes or corrections need not be reported unless they affect the amount of tax payable under this part.

(b) Any taxpayer filing an amended return with the Commissioner of Internal Revenue shall also file within six months thereafter an amended return with the Franchise Tax Board which shall contain any information as it shall require. However, an amended return need not be filed unless the change therein would affect the amount of tax payable under this part.

(c) Notification of a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or renegotiation of a contract or subcontract with the United States that results in a change in gross income or deductions or the filing of an amended return shall be reported in the form and manner as prescribed by the Franchise Tax Board.

SEC. 2. Section 18586.2 of the Revenue and Taxation Code is amended to read:
18586.2. (a) If a taxpayer fails to report a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or fails to file an amended return as required by Section 18451, a notice of proposed deficiency assessment resulting from the adjustment may be mailed to the taxpayer at any time after the change, correction, or amended return is reported to or filed with the federal government.

(b) If, after the six-month period required in Section 18451, a taxpayer reports a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or files an amended return as required by Section 18451, a notice of proposed deficiency assessment resulting from the adjustment may be mailed to the taxpayer within four years from the date the taxpayer notifies the Franchise Tax Board of that change or correction or files that return.

SEC. 3. Section 18586.3 of the Revenue and Taxation Code is amended to read:

18586.3. (a) If a taxpayer is required by subdivision (a) of Section 18451 to report a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority and does report the change or correction within six months after the final federal determination, a notice of proposed deficiency assessment resulting from those adjustments may be mailed to the taxpayer within two years from the date when the notice is filed with the Franchise Tax Board by the taxpayer, or within the periods provided in Sections 18586 and 18586.1, whichever period expires later.

(b) If a taxpayer is required by subdivision (b) of Section 18451 to file an amended return and does file the return within six months of filing an amended return with the Commissioner of Internal Revenue, a notice of proposed deficiency assessment resulting from the adjustments may be mailed to the taxpayer within two years from the date when the amended return is filed with the Franchise Tax Board by the taxpayer, or within the periods provided in Sections 18586 and 18586.1, whichever period expires later.

SEC. 4. Section 19053.6 of the Revenue and Taxation Code is amended to read:

19053.6. If a taxpayer is required by subdivision (b) of Section 18451 to file an amended return and does file the return within six months of filing a return with the Commissioner of Internal Revenue, a claim for credit or refund resulting from the adjustment may be filed by the taxpayer within two years from the date of the final federal determination, or within the periods provided in Sections 19053 and 19053.1, whichever period expires later.

SEC. 5. Section 23153 of the Revenue and Taxation Code is amended to read:

23153. (a) Every bank and corporation described in subdivision (b) shall be subject to the minimum franchise tax specified in subdivision (d) from the earlier of the date of incorporation,
qualification, or commencing to do business within this state, until
the effective date of dissolution or withdrawal as provided in Section
23331 or, if later, the date the corporation ceases to do business within
the limits of this state.

(b) Unless expressly exempted by the provisions of this part or the
Constitution of this state, subdivision (a) shall apply to each of the
following:

(1) Every bank or corporation which is incorporated under the
laws of this state.

(2) Every bank or corporation which is qualified to transact
intrastate business in this state pursuant to Chapter 21 (commencing
with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(3) Every bank or corporation which is doing business within the
limits of this state.

(c) Credit unions shall not be subject to the minimum franchise
tax specified in this section.

(d) (1) Except as provided in paragraph (2), banks and
corporations subject to the minimum franchise tax shall pay annually
to the state a minimum franchise tax of eight hundred dollars ($800).

(2) The minimum franchise tax shall be twenty-five dollars ($25)
for each of the following:

(A) A corporation formed under the laws of this state whose
principal business when formed was gold mining, which is inactive
and has not done business within the limits of the state since 1950.

(B) A corporation formed under the laws of this state whose
principal business when formed was quicksilver mining, which is
inactive and has not done business within the limits of the state since
1971, or has been inactive for a period of 24 consecutive months or
more.

(3) For purposes of paragraph (2), a corporation shall not be
considered to have done business if it engages in other than mining.

(e) Notwithstanding subdivision (a), a domestic bank or domestic
corporation, as defined in Section 167 of the Corporations Code, that
files a certificate of dissolution in the office of the Secretary of State
pursuant to subdivision (c) of Section 1905 of the Corporations Code
and that does not thereafter do business shall not be subject to the
minimum franchise tax for income years beginning on or after the
date of that filing.

(f) The minimum franchise tax imposed by paragraph (1) of
subdivision (d) shall not be increased by the Legislature by more
than 10 percent during any calendar year.

SEC. 6. Section 25432 of the Revenue and Taxation Code is
amended to read:

25432. (a) If the amount of gross income or deductions for any
year of any taxpayer as returned to the United States Treasury
Department is changed or corrected by the Commissioner of
Internal Revenue or other officer of the United States or other
competent authority, or where a renegotiation of a contract or
subcontract with the United States results in a change in gross
income or deductions, that taxpayer shall report the change or correction, or the results of the renegotiation, within six months after the final federal determination of the change or correction or renegotiation, or as required by the Franchise Tax Board, and shall concede the accuracy of the determination or state wherein it is erroneous.

(b) Any taxpayer filing an amended return with the Commissioner of Internal Revenue shall also file within six months thereafter an amended return with the Franchise Tax Board which shall contain any information as it shall require. However, an amended return need not be filed unless the changes therein would affect the amount of tax payable under this part.

(c) Notification of a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, of renegotiation of a contract or subcontract with the United States that results in a change in gross income or deductions or the filing of an amended return shall be reported in the form and manner as prescribed by the Franchise Tax Board.

SEC. 7. Section 25673 of the Revenue and Taxation Code is amended to read:

25673. (a) If a taxpayer fails to report a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or fails to file an amended return as required by Section 25432, a notice of proposed deficiency assessment resulting from the adjustment may be mailed to the taxpayer at any time after the change, correction, or amended return is reported to or filed with the federal government.

(b) If, after the six-month period specified in Section 25432, a taxpayer reports a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or files an amended return as required by Section 25432, a notice of proposed deficiency assessment resulting from the adjustment may be mailed to the taxpayer within four years from the date the taxpayer notifies the Franchise Tax Board of that change or correction or files that return.

SEC. 8. Section 25674 of the Revenue and Taxation Code is amended to read:

25674. (a) If a taxpayer is required by subdivision (a) of Section 25432 to report a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority and does report the change or correction within six months after the final federal determination, a notice of proposed deficiency assessment resulting from those adjustments may be mailed to the taxpayer within two years from the date the notice is filed with the Franchise Tax Board by the taxpayer, or within the periods provided in Sections 25663 and 25663c, whichever period expires later.

(b) If a taxpayer is required by subdivision (b) of Section 25432 to file an amended return and does file the return within six months of
filing an amended return with the Commissioner of Internal Revenue, a notice of proposed deficiency assessment resulting from the adjustments may be mailed to the taxpayer within two years from the date when the amended return is filed with the Franchise Tax Board by the taxpayer, or within the periods provided in Sections 25663 and 25663c, whichever period expires later.

SEC. 9. Section 26073.4 of the Revenue and Taxation Code is amended to read:

26073.4. If a taxpayer is required by subdivision (b) of Section 25432 to file an amended return and does file the return within six months of filing a return with the Commissioner of Internal Revenue, a claim for credit or refund resulting from the adjustment may be filed within two years from the date of the final federal determination, or within the periods provided in Section 26073.2, whichever period expires later.

CHAPTER 336

An act to amend Section 44918 of, and to repeal and add Section 44954 of, the Education Code, relating to school employees.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992]

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

SECTION 1. Section 44918 of the Education Code is amended to read:

44918. (a) Any employee classified as a substitute or temporary employee, who serves during one school year for at least 75 percent of the number of days the regular schools of the district were maintained in that school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year.

(b) Any such employee shall be reemployed for the following school year to fill any vacant positions in the school district unless the employee has been released pursuant to subdivision (b) of Section 44954.

(c) If an employee was released pursuant to subdivision (b) of Section 44954 and has nevertheless been retained as a temporary or substitute employee by the district for two consecutive years and that employee has served for at least 75 percent of the number of days the regular schools of the district were maintained in each school year and has performed the duties normally required of a certificated employee of the school district, that employee shall receive first priority if the district fills a vacant position, at the grade
level at which the employee served during either of the two years, for the subsequent school year. In the case of a departmentalized program, the employee shall have taught in the subject matter in which the vacant position occurs.

(d) Those employees classified as substitutes, and who are employed to serve in an on-call status to replace absent regular employees on a day-to-day basis shall not be entitled to the benefits of this section.

(e) Permanent and probationary employees subjected to a reduction in force pursuant to Section 44955 shall, during the period of preferred right to reappointment, have prior rights to any vacant position in which they are qualified to serve superior to those rights hereunder afforded to temporary and substitute personnel who have become probationary employees pursuant to this section.

(f) This section shall not apply to any school district in which the average daily attendance is in excess of 400,000.

SEC. 2. Section 44954 of the Education Code is repealed.

SEC. 3. Section 44954 is added to the Education Code, to read:

44954. Governing boards of school districts may release temporary employees requiring certification qualifications under the following circumstances:

(a) At the pleasure of the board prior to serving during one school year at least 75 percent of the number of days the regular schools of the district are maintained.

(b) After serving during one school year the number of days set forth in subdivision (a), if the employee is notified before the end of the school year of the district’s decision not to reelect the employee for the next succeeding year.

CHAPTER 337

An act to amend Section 798.34 of the Civil Code, relating to mobilehome parks.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 798.34 of the Civil Code is amended to read: 798.34. (a) A homeowner shall not be charged a fee for a guest who does not stay with him or her for more than a total of 20 consecutive days or a total of 30 days in a calendar year. Such a guest shall not be required to register with the management.

(b) A homeowner who is living alone and who wishes to share his or her mobilehome with one person may do so, and a fee shall not be imposed by management for that person. The person shall be considered a guest of the homeowner and any agreement between
the homeowner and the person shall not change the terms and
conditions of the rental agreement between management and the
homeowner. The guest shall comply with the provisions of the rules
and regulations of the mobilehome park.

(c) A senior homeowner may share his or her mobilehome with
any person over 18 years of age if that person is providing live-in
health care or live-in supportive care to the homeowner pursuant to
a written treatment plan prepared by the homeowner's physician. A
fee shall not be charged by management for that person. That person
shall have no rights of tenancy in the park, and any agreement
between the homeowner and the person shall not change the terms
and conditions of the rental agreement between management and
the homeowner. That person shall comply with the rules and
regulations of the mobilehome park. As used in this subdivision,
"senior homeowner" means a homeowner who is 55 years of age or
older.

CHAPTER 338

An act to amend Sections 798.32 and 798.41 of, and to add Section
798.49 to, the Civil Code, relating to mobilehomes.

[Approved by Governor July 23, 1992. Filed with
Secretary of State July 24, 1992.]

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

SECTION 1. Section 798.32 of the Civil Code is amended to read:
798.32. (a) A homeowner shall not be charged a fee for services
actually rendered which are not listed in the rental agreement unless
he or she has been given written notice thereof by the management,
at least 60 days before imposition of the charge.

(b) Those fees and charges specified in subdivision (a) shall be
separately stated on any monthly or other periodic billing to the
homeowner. If the fee or charge has a limited duration or is
amortized for a specified period, the expiration date shall be stated
on the initial notice and each subsequent billing to the homeowner
while the fee or charge is billed to the homeowner.

SEC. 2. Section 798.41 of the Civil Code is amended to read:
798.41. (a) Where a rental agreement, including a rental
agreement specified in Section 798.17, does not specifically provide
otherwise, the park management may elect to bill a homeowner
separately for utility service fees and charges assessed by the utility
for services provided to or for spaces in the park. Any separately
billed utility fees and charges shall not be deemed to be included in
the rent charged for those spaces under the rental agreement, and
shall not be deemed to be rent or a rent increase for purposes of any
ordinance, rule, regulation, or initiative measure adopted or

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enforced by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent, provided that at the time of the initial separate billing of any utility fees and charges the rent chargeable under the rental agreement or the base rent chargeable under the terms of a local rent control provision is simultaneously reduced by an amount equal to the fees and charges separately billed. The amount of this reduction shall be equal to the average amount charged to the park management for that utility service for that space during the 12 months immediately preceding notice of the commencement of the separate billing for that utility service.

Utility services to which this section applies are natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service, and sewer service.

(b) This section does not apply to rental agreements entered into prior to January 1, 1991, until extended or renewed on or after that date.

(c) Nothing in this section shall require rental agreements to provide for separate billing to homeowners of fees and charges specified in subdivision (a).

(d) Those fees and charges specified in subdivision (a) shall be separately stated on any monthly or other periodic billing to the homeowner. If the fee or charge has a limited duration or is amortized for a specified period, the expiration date shall be stated on the initial notice and each subsequent billing to the homeowner while the fee or charge is billed to the homeowner.

SEC. 3. Section 798.49 is added to the Civil Code, to read:

798.49. (a) Except as provided in subdivision (d), the local agency of any city, including a charter city, county, or city and county, which administers an ordinance, rule, regulation, or initiative measure that establishes a maximum amount that management may charge a tenant for rent shall permit the management to separately charge a homeowner for any of the following:

1. The amount of any fee, assessment or other charge first imposed by the city, including a charter city, county, or city and county on or after January 1, 1993, upon the space rented by the homeowner.

2. The amount of any increase on or after January 1, 1993, in an existing fee, assessment or other charge imposed by the city, including a charter city, county, or city and county upon the space rented by the homeowner.

3. The amount of any fee, assessment or other charge upon the space first imposed or increased on or after January 1, 1993, pursuant to any state or locally mandated program relating to housing contained in the Health and Safety Code.

(b) If management has charged the homeowner for a fee, assessment, or other charge specified in subdivision (a) that was increased or first imposed on or after January 1, 1993, and the fee,
assessment, or other charge is decreased or eliminated thereafter, the charge to the homeowner shall be decreased or eliminated accordingly.

(c) The amount of the fee, assessment or other charges authorized by subdivision (a) shall be separately stated on any billing to the homeowner. Any change in the amount of the fee, assessment, or other charges that are separately billed pursuant to subdivision (a) shall be considered when determining any rental adjustment under the local ordinance.

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

1. Those fees, assessments, or charges imposed pursuant to the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13, of the Health and Safety Code) unless specifically authorized by Section 18502 of the Health and Safety Code.

2. Those costs that are imposed on management by a court pursuant to Section 798.42.

3. Any fee or other exaction imposed upon management for the specific purpose of defraying the cost of administration of any ordinance, rule, regulation, or initiative measure that establishes a maximum amount that management may charge a tenant for rent.

4. Any tax imposed upon the property by a city, including a charter city, county, or city and county.

(e) Those fees and charges specified in subdivision (a) shall be separately stated on any monthly or other periodic billing to the homeowner. If the fee or charge has a limited duration or is amortized for a specified period, the expiration date shall be stated on the initial notice and each subsequent billing to the homeowner while the fee or charge is billed to the homeowner.

CHAPTER 339

An act to amend Sections 437c, 1005, and 1013 of, and to add Section 1010.5 to, the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 437c of the Code of Civil Procedure is amended to read:

437c. (a) Any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense thereto. The motion may be made at any time after 60 days have elapsed since the general appearance in the action or proceeding of each party against whom the motion is directed or at such earlier time after the general appearance as the court, with or without notice and upon good cause shown, may
direct. Notice of the motion and supporting papers shall be served on all other parties to the action at least 28 days before the time appointed for hearing. However, if the notice is served by mail, the required 28-day period of notice shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States, and if the notice is served by facsimile transmission, Express Mail, or another method of delivery providing for overnight delivery, the required 28-day period of notice shall be increased by two court days. The motion shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise. The filing of the motion shall not extend the time within which a party must otherwise file a responsive pleading.

(b) The motion shall be supported by affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken. The supporting papers shall include a separate statement setting forth plainly and concisely all material facts which the moving party contends are undisputed. Each of the material facts stated shall be followed by a reference to the supporting evidence. The failure to comply with this requirement of a separate statement may in the court's discretion constitute a sufficient ground for denial of the motion.

Any opposition to the motion shall be served and filed not less than 14 days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. The opposition, where appropriate, shall consist of affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken. The opposition papers shall include a separate statement which responds to each of the material facts contended by the moving party to be undisputed, indicating whether the opposing party agrees or disagrees that those facts are undisputed. The statement also shall set forth plainly and concisely any other material facts which the opposing party contends are disputed. Each material fact contended by the opposing party to be disputed shall be followed by a reference to the supporting evidence. Failure to comply with this requirement of a separate statement may constitute a sufficient ground, in the court's discretion, for granting the motion.

Any reply to the opposition shall be served and filed by the moving party not less than five days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise.

Evidentiary objections not made at the hearing shall be deemed waived.

Section 1005 and Section 1013, extending the time within which a right may be exercised or an act may be done, do not apply to this section.

Any incorporation by reference of matter in the court's file shall set forth with specificity the exact matter to which reference is being
made and shall not incorporate the entire file.

(c) The motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. In determining whether the papers show that there is no triable issue as to any material fact the court shall consider all of the evidence set forth in the papers, except that to which objections have been made and sustained by the court, and all inferences reasonably deducible from the evidence, except summary judgment shall not be granted by the court based on inferences reasonably deducible from the evidence, if contradicted by other inferences or evidence, which raise a triable issue as to any material fact.

(d) Supporting and opposing affidavits or declarations shall be made by any person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Any objections based on the failure to comply with the requirements of this subdivision shall be made at the hearing or shall be deemed waived.

(e) If a party is otherwise entitled to a summary judgment pursuant to this section, summary judgment shall not be denied on grounds of credibility or for want of cross-examination of witnesses furnishing affidavits or declarations in support of the summary judgment, except that summary judgment may be denied in the discretion of the court, where the only proof of a material fact offered in support of the summary judgment is an affidavit or declaration made by an individual who was the sole witness to that fact; or where a material fact is an individual's state of mind, or lack thereof, and that fact is sought to be established solely by the individual's affirmation thereof.

(f) If it is contended that one or more causes of action within an action has no merit or that there is no defense thereto, or that there is no merit to an affirmative defense as to any cause of action, or both, or that there is no merit to a claim for damages, as specified in Section 3294 of the Civil Code, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs, any party may move for summary adjudication as to that cause or causes of action, that affirmative defense, that claim for damages, or that issue of duty. A cause of action has no merit if one or more of the elements of the cause of action, even if not separately pleaded, cannot be established. A motion may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment. However, a party may not move for summary judgment based on issues asserted in a prior motion for summary adjudication and denied by the court, unless that party establishes to the satisfaction of the court, newly discovered facts or circumstances supporting the issues reasserted in the summary judgment motion.

(g) Upon the denial of a motion for summary judgment, on the ground that there is a triable issue as to one or more material facts,
the court shall, by written or oral order, specify one or more material facts raised by the motion as to which the court has determined there exists a triable controversy. This determination shall specifically refer to the evidence proffered in support of and in opposition to the motion which indicates that a triable controversy exists. Upon the grant of a motion for summary judgment, on the ground that there is no triable issue of material fact, the court shall, by written or oral order, specify the reasons for its determination. The order shall specifically refer to the evidence proffered in support of, and if applicable in opposition to, the motion which indicates that no triable issue exists. The court shall also state its reasons for any other determination. The court shall record its determination by court reporter or written order.

(h) If it appears from the affidavits submitted in opposition to a motion for summary judgment or summary adjudication or both that facts essential to justify opposition may exist but cannot, for reasons stated, then be presented, the court shall deny the motion, or order a continuance to permit affidavits to be obtained or discovery to be had or may make any other order as may be just.

(i) If the court determines at any time that any of the affidavits are presented in bad faith or solely for purposes of delay, the court shall order the party presenting the affidavits to pay the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur. Sanctions shall not be imposed pursuant to this subdivision except on notice contained in a party’s papers, or on the court’s own noticed motion, and after an opportunity to be heard.

(j) Except where a separate judgment may properly be awarded in the action, no final judgment shall be entered on a motion for summary judgment prior to the termination of the action, but the final judgment shall, in addition to any matters determined in the action, award judgment as established by the summary proceeding herein provided for.

(k) In actions which arise out of an injury to the person or to property, when a motion for summary judgment was granted on the basis that the defendant was without fault, no other defendant during trial, over plaintiff’s objection, may attempt to attribute fault to or comment on the absence or involvement of the defendant who was granted the motion.

(l) A summary judgment entered under this section is an appealable judgment as in other cases. Upon entry of any order pursuant to this section except the entry of summary judgment, a party may, within 20 days after service upon him or her of a written notice of entry of the order, petition an appropriate reviewing court for a peremptory writ. If the notice is served by mail, the initial period within which to file the petition shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United
States. If the notice is served by facsimile transmission, Express Mail, or another method of delivery providing for overnight delivery, the initial period within which to file the petition shall be increased by two court days. The superior court may, for good cause, and prior to the expiration of the initial period, extend the time for one additional period not to exceed 10 days.

(m) Nothing in this section shall be construed to extend the period for trial provided by Section 1170.5.

(n) Subdivisions (a) and (b) shall not apply to actions brought pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

SEC. 2. Section 1005 of the Code of Civil Procedure is amended to read:

1005. (a) Written notice shall be given, as prescribed in subdivision (b), for the following motions:

1. Notice of Application and Hearing for Writ of Attachment under Section 484.040.

2. Notice of Application and Hearing for Claim and Delivery under Section 512.030.


4. Motion to Quash Summons pursuant to subdivision (b) of Section 418.10.

5. Motion for Determination of Good Faith Settlement pursuant to Section 877.6.


7. Notice of Hearing of Third-Party Claim pursuant to Section 720.320.

8. Motion for an Order to Attend Deposition more than 150 miles from deponent’s residence pursuant to paragraph (3) of subdivision (e) of Section 2025.


10. Motion to Set Aside Default or Default Judgment and for Leave to Defend Actions pursuant to Section 473.5.

11. Motion to Expunge Notice of Pendency of Action pursuant to Section 409.1.

12. Motion to Set Aside Default and for Leave to Amend pursuant to Section 585.5.

13. Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge.

(b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 15 calendar days before the time appointed for the hearing. However, if the notice is served by mail, the required 15-day period of notice before the time appointed for the hearing shall be increased by five days if the place of mailing and the place of address are within the
State of California, 10 days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 days if either the place of mailing or the place of address is outside the United States, and if the notice is served by facsimile transmission, Express Mail, or another method of delivery providing for overnight delivery, the required 15-day period of notice before the time appointed for the hearing shall be increased by two court days. Section 1013, which extends the time within which a right may be exercised or an act may be done, does not apply to a notice of motion governed by this section. All papers opposing a motion so noticed shall be filed with the court and served on each party at least five court days, and all reply papers at least two court days before the time appointed for the hearing.

The court, or a judge thereof, may prescribe a shorter time.

SEC. 3. Section 1010.5 is added to the Code of Civil Procedure, to read:

1010.5. The Judicial Council may adopt rules permitting the filing of papers by facsimile transmission, both directly with the courts and through third parties. Notwithstanding any other provision of law, the rules may provide that the facsimile transmitted document shall constitute an original document, and that notwithstanding subdivision (f) of Section 6159 of the Government Code or Title 13 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, any court authorized to accept a credit card as payment pursuant to this section may add a surcharge to the amount of the transaction to be borne by the litigant to cover charges imposed on credit card transactions regarding fax filings between a litigant and the court.

If the Judicial Council adopts rules permitting the filing of papers by facsimile transmission, the consent of the county board of supervisors shall not be necessary to permit the use of credit cards to pay fees for the filing of papers by facsimile transmission directly with the court, provided that the court charges a processing fee to the filing party sufficient to cover the cost to the court of processing payment by credit card.

SEC. 4. Section 1013 of the Code of Civil Procedure is amended to read:

1013. (a) In case of service by mail, the notice or other paper must be deposited in a post office, mailbox, sub-post office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by mail; otherwise at that party's place of residence. The service is complete at the time of the deposit, but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the service of the document served by mail shall be extended five days if the place of
address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal.

(b) The copy of the notice or other paper served by mail pursuant to this chapter shall bear a notation of the date and place of mailing or be accompanied by an unsigned copy of the affidavit or certificate of mailing.

(c) In case of service by Express Mail, the notice or other paper must be deposited in a post office, mailbox, sub-post office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service for receipt of Express Mail, in a sealed envelope, with Express Mail postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by Express Mail; otherwise at that party's place of residence. In case of service by another method of delivery providing for overnight delivery, the notice or other paper must be deposited in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service; otherwise at that party's place of residence. The service is complete at the time of the deposit, but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the service of the document served by Express Mail or other method of delivery providing for overnight delivery shall be extended by two court days, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal.

(d) The copy of the notice or other paper served by Express Mail or another means of delivery providing for overnight delivery pursuant to this chapter shall bear a notation of the date and place of deposit or be accompanied by an unsigned copy of the affidavit or certificate of deposit.

(e) Service by facsimile transmission shall be permitted only where the parties agree and a written confirmation of that agreement is made. The Judicial Council may adopt rules implementing the service of documents by facsimile transmission and may provide a form for the confirmation of the agreement required by this subdivision. In case of service by facsimile transmission, the notice or other paper must be transmitted to a
facsimile machine maintained by the person on whom it is served at the facsimile machine telephone number as last given by that person on any document which he or she has filed in the cause and served on the party making the service. The service is complete at the time of transmission, but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the service of the document served by facsimile transmission shall be extended by two court days, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal.

(f) The copy of the notice or other paper served by facsimile transmission pursuant to this chapter shall bear a notation of the date and place of transmission and the facsimile telephone number to which transmitted or be accompanied by an unsigned copy of the affidavit or certificate of transmission which shall contain the facsimile telephone number to which the notice or other paper was transmitted.

(g) Subdivisions (b), (d), and (f) are directory.

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 340

An act to add Division 5 (commencing with Section 33200) to Title 3 of the Government Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Division 5 (commencing with Section 33200) is added to Title 3 of the Government Code, to read:

DIVISION 5. ORGANIZATION OF COUNTY HEALTH AND HUMAN SERVICES

CHAPTER 1. ORGANIZATION

33200. Notwithstanding Sections 24300 and 24304, the board of
supervisors of any county may organize, pursuant to ordinance or charter, the delivery of health and human services for which county government is responsible under state law into departments that provide human assistance, human services, and medical systems. Any county board of supervisors which elects to so organize the delivery of health and human services may consolidate, integrate, and separate duties and functions of county offices, and organizational units within departments, to the extent deemed necessary by the board of supervisors, consistent with the provisions of this division.

33201. All personnel, including the heads of units, within departments organized pursuant to this division and formed from units formerly within the county health, mental health, or welfare departments, shall possess the particular qualifications required by the Health and Safety Code or the Welfare and Institutions Code or the regulations enacted pursuant to either of those codes.

The county health department itself or the health related functions of the departments organized pursuant to this division may be under the direction of the health officer, or the board of supervisors may appoint personnel who possess qualifications, including standards of education and experience to assure competence, appropriate for the direction of the health department or the local administration of county health functions. The board of supervisors shall ensure that the final determination regarding issues of professional nursing practice shall be made by a person who is licensed as a registered nurse and certified as a public health nurse.

33202. If the county health department or the administration of county health functions are not under the direction of the health officer, the county board of supervisors shall ensure that the health officer has sufficient authority and resources and the organizational structure does not impede the health officer from carrying out the duties required under Article 1 (commencing with Section 450) of Chapter 1 of Part 2 of Division 1 of the Health and Safety Code.

33203. This chapter does not permit the occupant of a consolidated, integrated, or separated office to practice any profession or trade for the practice of which a license, permit, or registration is required without a license, permit, or registration.

33204. This division shall not be construed to affect any other statutory or regulatory provision governing county health, mental health, or welfare programs, however reorganized or renamed, except for the organizational requirements specified in Sections 33200 to 33202, inclusive.

33205. Nothing in this division is intended to change the fiscal and reimbursement provisions for subaccounts for mental health, health services, and social services enacted by Chapter 89 of the Statutes of 1991.

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 county reorganization plans to go into effect in certain counties in a timely and cost-effective manner, it is necessary that this act take effect immediately.

CHAPTER 341

An act to amend Sections 17742.5, 17742.7, and 39140 of, to add Sections 17721.4, 39140.5, and 81130.3 to, and to repeal Sections 17742, 17742.2, 17742.3, and 17742.6 of, the Education Code, relating to school facilities funding.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992]

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

SECTION 1. Section 17721.4 is added to the Education Code, to read:

17721.4. Notwithstanding the limitation set forth in subdivision (a) of Section 17721.3, the costs of a modernization or renovation project funded under this chapter may exceed 25 percent of the replacement cost of an existing structure where the costs in excess of that amount are funded by the district exclusively from sources other than any state program administered by the board. For each project, the total costs of the modernization or renovation project, as supplemented pursuant to this section, may not exceed 50 percent of the replacement cost of the existing structure except to the extent of those costs funded by the district, from sources other than any state program administered by the board, that are expended to conform that structure to current building standards, in which event the total costs of the project may not exceed 75 percent of the replacement cost of the structure.

SEC. 1.5. Section 17742 of the Education Code is repealed.
SEC. 2. Section 17742.2 of the Education Code is repealed.
SEC. 3. Section 17742.3 of the Education Code is repealed.
SEC. 4. Section 17742.5 of the Education Code is amended to read:

17742.5. (a) For purposes of determining the area of adequate school construction existing in an applicant school district pursuant to Section 17742.7, all portable classrooms, whether owned or leased, shall be included, except as otherwise provided in paragraphs (1) to (3), inclusive.

(1) Leased portable classrooms acquired by a school district shall not be included in the area of existing adequate school construction until January 1, 1991.

(2) Portable classrooms leased pursuant to Chapter 25 (commencing with Section 17785) shall be excluded from the area of adequate school construction. Portable classrooms obtained by an
applicant district pursuant to subdivision (b) of Section 17788.5 also shall be excluded from the area of adequate school construction, except as to any portable classroom or classrooms for which the district rejected the board's offer to purchase pursuant to that subdivision.

(3) Portable classrooms that have been leased or owned by the district for 20 years or more shall be excluded from the area of adequate school construction.

(4) Leased portable classrooms shall not be included in the area of adequate school construction for a period of five years from the date first leased by the district. That exclusion shall be extended by the board for one additional five-year period where the board finds that the continued use of the leased portable classrooms for classroom purposes is justified by additional growth in average daily attendance pursuant to the standards established by this part. If the board finds continued use to be no longer justified, it may extend the exclusion for a period of up to two years as necessary to maintain the eligibility of the applicant district for project funding pursuant to this chapter if the board finds that the district has made a good faith effort to obtain that funding in a timely manner. The additional five-year exclusion shall not apply to any portable classroom for which, under the lease agreement, the district is to take title, or the total consideration paid by the district for the lease and an option to purchase is determined by the board to be substantially equivalent to the cost of acquiring title.

(b) For purposes of this section, "portable classroom" means a classroom building of modular design and construction that meets all of the following criteria:

(1) Is designed and constructed to be relocatable and transportable over public streets.

(2) Is designed and constructed for relocation without the separation of the roof or floor from the building.

(3) When measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

SEC. 5. Section 17742.6 of the Education Code is repealed.

SEC. 6. Section 17742.7 of the Education Code is amended to read:

17742.7. (a) For any project application filed or amended on or after January 1, 1993, the area of adequate school construction existing in the applicant school district or, where appropriate, in the attendance area, at the time of application shall be calculated pursuant to the following formula:

(1) Identify by grade level all teaching stations existing in the school district or, where appropriate, the attendance area, as of January 1, 1993. For the purposes of this section, "teaching station" means any space that was constructed or reconstructed to serve as an area in which to provide pupil instruction.

(2) Determine the maximum pupil loading figure for each grade level pursuant to the district pupil loading standards in effect on
January 1, 1993. For the purposes of this section, the "district pupil loading standards" are those pupil loading standards in effect in a school district on July 1, 1992, as a result of actions including, but not necessarily limited to, the execution of a collective bargaining agreement or the adoption of a district policy by the governing board of the school district. In no event may this figure be more than the maximum pupil loading standards established by the board, or less than three pupil units lower than those maximum pupil loading standards.

(3) Multiply the figure determined under paragraph (2) for each grade level by the number of teaching stations for the particular grade level, as determined under paragraph (1).

(4) Multiply the product determined under paragraph (3) by the maximum area allowance established for that grade level under this article.

(5) The sum of these computations for each grade level, as determined under paragraphs (1) to (4), inclusive, shall be the total area of adequate school construction existing in the district or attendance area pursuant to this formula.

(b) For purposes of this section, a school district that is participating in a class size reduction program set forth in this code shall use the pupil loading standard established pursuant to that program.

(c) The area of existing adequate school construction calculated under this section shall not include, in any school operated on a year-round schedule, any teaching station that has been in continuous use during the preceding five-year period primarily for the operation of a preschool program or programs.

SEC. 7. Section 39140 of the Education Code is amended to read:

39140. (a) The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds twenty thousand dollars ($20,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 39640 and 39649. In calculating the cost of any project of reconstruction or alteration of, or addition to, any school building for the purpose of determining the applicability of the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, the Department of General Services shall not include, as an element of that cost, any expenses of air-conditioning equipment or insulation materials for that building, or of installing the equipment or materials.
(b) Whenever repairs due to fire damage, not including any damage caused by wind or earthquake, must be made to any school building previously approved by the Department of General Services, the approved plans and specifications used in the original work under then existing rules, regulations, and building standards may be used without modification, providing all other provisions of this article are carried out.

(c) Notwithstanding any other provision of law, no school district shall be authorized to construct or reconstruct any school building, regardless of the source of funding, unless and until the governing board of the district, by resolution, has indicated the agreement of the district that any school building construction or reconstruction that exceeds those construction cost and allowable area standards or any allowable building area computed for an attendance area pursuant to Section 17741 shall, in the event of the district’s subsequent application for state funding for school facility construction, be deducted from the allowable building area for which the district would otherwise have been eligible, which restriction shall not be subject to waiver or exception as otherwise may be provided by law.

If it is determined that, for any reason, a school district failed to comply with the requirement of this section, the district shall not be eligible for any additional building area pursuant to Section 17749 and may be denied any time priority established for the particular project pursuant to Section 17716.

SEC. 8. Section 39140.5 is added to the Education Code, to read:

39140.5. This article, together with Article 6 (commencing with Section 39210), and Article 7 (commencing with Section 81130) of Chapter 1 of Part 49, shall be known and may be cited as the "Field Act."

SEC. 9. Section 81130.3 is added to the Education Code, to read:

81130.3. This article, together with Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of Chapter 2 of Part 23, shall be known and may be cited as the "Field Act."

CHAPTER 342

An act to add Sections 22477 and 24477 to the Financial Code, relating to loans.

[Approved by Governor July 23, 1992. Filed with Secretary of State July 24, 1992.]

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

SECTION 1. Section 22477 is added to the Financial Code, to read:
22477. (a) No licensee may make a loan to refinance a retail installment contract subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code, that is held by the licensee, its subsidiaries, or affiliates, unless all of the following conditions are met:

(1) The buyer has been making installment payments required by the retail installment contract for a period of not less than 90 days. The retail installment contract has a term of not less than 180 days and does not provide for any scheduled installment that is more than twice the amount of any other scheduled installment.

(2) The loan provides for additional proceeds other than for insurance in an amount not less than the outstanding principal balance of the retail installment contract and provides for payment in full of the retail installment contract.

(3) The licensee shall not take a security interest in real property which is the principal residence of the borrower unless the loan has a principal amount of five thousand dollars ($5,000) or more and the following notice written in the same language, for example, Spanish, as used in the loan documents, is incorporated into the statement used to comply with Section 22473:

"WARNING TO BORROWER: IF YOU ACCEPT THIS LOAN, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS LOAN."

This notice shall be printed in not less than 14-point bold type, shall be set apart from the rest of the statement by a border, and shall appear directly above a signature block which shall be signed by the borrower. A security interest described in this paragraph, which is taken without the prior notice and signed by the borrower as required by this paragraph, shall be void and unenforceable.

(4) The licensee shall not sell, attempt to sell or agree to sell, any goods or services to the borrower, other than credit insurance as defined in Section 22458.1 and insurance required by the licensee to protect its security interest, until the loan has been in effect for at least 30 days. The amount of insurance required by the licensee to protect its security interest shall not exceed the lesser of the principal amount of the loan or the replacement value of the security as determined by the insurer.

(5) A licensee that is an assignee of the retail installment contract shall continue to be subject under the loan to all equities and defenses of the borrower against the seller arising out of the sale, notwithstanding an agreement to the contrary.

(6) The loan shall not provide for any scheduled installment that is more than twice the amount of any other scheduled installment. This paragraph does not apply to a loan of a bona fide principal amount of ten thousand dollars ($10,000) or more.
(7) If a loan of a bona fide principal amount of ten thousand dollars ($10,000) or more provides for any scheduled installment that is more than twice the amount of any other scheduled installment, the loan shall contain the following provision:

"The payment schedule contained in this loan requires that you make a balloon payment of $ (Amount of balloon payment) which is a payment of more than double the amount of the regular payments. You have an absolute right to obtain a new payment schedule if you default in the payment of any balloon payment."

If the borrower defaults in the payment of any balloon payment, the borrower shall be given an absolute right to obtain a new payment schedule. Unless agreed to by the borrower, the installment amounts under the new schedule shall not be substantially greater than the average of the preceding installments.

(b) A loan made pursuant to this section shall be subject to this division and not to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

(c) An action by any licensee or borrower on a loan made pursuant to this section shall be tried in the county in which the loan was in fact signed by the borrower, in the county in which the borrower resided at the time the loan was entered into, or in the county in which the borrower resides at the commencement of the action.

(d) Paragraphs (6) and (7) of subdivision (a) do not apply to open-end loans.

(e) A security interest provided by any retail installment contract in violation of subdivision (b) of Section 1804.3 of the Civil Code shall not serve as consideration in whole or in part for a loan made under this section, notwithstanding any agreement to the contrary.

SEC. 2. Section 24477 is added to the Financial Code, to read:

24477. (a) No licensee may make a loan to refinance a retail installment contract subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code, that is held by the licensee, its subsidiaries, or affiliates, unless all of the following conditions are met:

(1) The buyer has been making installment payments required by the retail installment contract for a period of not less than 90 days. The retail installment contract has a term of not less than 180 days and does not provide for any scheduled installment that is more than twice the amount of any other scheduled installment.

(2) The loan provides for additional proceeds other than for insurance in an amount not less than the outstanding principal balance of the retail installment contract and provides for payment in full of the retail installment contract.

(3) The licensee shall not take a security interest in real property which is the principal residence of the borrower unless the loan has a principal amount of five thousand dollars ($5,000) or more and the
following notice written in the same language, for example, Spanish, as used in the loan documents, is incorporated into the statement used to comply with Section 24473:

"WARNING TO BORROWER: IF YOU ACCEPT THIS LOAN, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS LOAN."

This notice shall be printed in not less than 14-point bold type, shall be set apart from the rest of the statement by a border, and shall appear directly above a signature block which shall be signed by the borrower. A security interest described in this paragraph, which is taken without the prior notice and signed by the borrower as required by this paragraph, shall be void and unenforceable.

(4) The licensee shall not sell, attempt to sell, or agree to sell, any goods or services to the borrower, other than credit insurance as defined in Section 24458.1 and insurance required by the licensee to protect its security interest, until the loan has been in effect for at least 30 days. The amount of insurance required by the licensee to protect its security interest shall not exceed the lesser of the principal amount of the loan or the replacement value of the security as determined by the insurer.

(5) A licensee that is an assignee of the retail installment contract shall continue to be subject under the loan to all equities and defenses of the borrower against the seller arising out of the sale, notwithstanding an agreement to the contrary.

(6) The loan shall not provide for any scheduled installment that is more than twice the amount of any other scheduled installment. This paragraph does not apply to a loan of a bona fide principal amount of ten thousand dollars ($10,000) or more.

(7) If a loan of a bona fide principal amount of ten thousand dollars ($10,000) or more provides for any scheduled installment that is more than twice the amount of any other scheduled installment, the loan shall contain the following provision:

"The payment schedule contained in this loan requires that you make a balloon payment of $ (amount of balloon payment) which is a payment of more than double the amount of the regular payments. You have an absolute right to obtain a new payment schedule if you default in the payment of any balloon payment."

If the borrower defaults in the payment of any balloon payment, the borrower shall be given an absolute right to obtain a new payment schedule. Unless agreed to by the borrower, the installment amounts under the new schedule shall not be substantially greater than the average of the preceding installments.

(b) A loan made pursuant to this section shall be subject to this
division and not to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

(c) An action by any licensee or borrower on a loan made pursuant to this section shall be tried in the county in which the loan was in fact signed by the borrower, in the county in which the borrower resided at the time the loan was entered into, or in the county in which the borrower resides at the commencement of the action.

(d) Paragraphs (6) and (7) of subdivision (a) do not apply to open-end loans.

(e) A security interest provided by any retail installment contract in violation of subdivision (b) of Section 1804.3 of the Civil Code shall not serve as consideration in whole or in part for a loan made under this section, notwithstanding any agreement to the contrary.

CHAPTER 343

An act to add Chapter 5.67 (commencing with Section 2590) to Division 2 of the Business and Professions Code, relating to perfusion.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. (a) The Legislature finds and declares that the practice of perfusion in California affects the public health, safety, and welfare, and in the interest of the public, should be clearly defined, and unqualified practitioners should be prohibited from using the title of perfusionist.

(b) It is the intent of the Legislature to provide clear legal authority for functions and procedures relating to perfusion which have common acceptance and usage, and to provide for the continued evolution of the practice of perfusion.

SEC. 2. Chapter 5.67 (commencing with Section 2590) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.67. PERFUSIONISTS

2590. (a) For purposes of this section, "perfusion" means those functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular system, circulatory system with or without the oxygenation circuit, or any combination of those activities, and to ensure the safe management of physiologic functions by monitoring the necessary parameters of those systems pursuant to an order and under the supervision of a licensed physician and surgeon.

(b) Perfusion services include, but are not limited to, all of the
following:

(1) The use of extracorporeal circulation, cardiopulmonary support techniques, and other ancillary therapeutic and diagnostic technologies. "Extracorporeal circulation," as used in this section, means the diversion of a patient's blood through a heart-lung machine or a similar device which assumes the functions of the patient's heart, lungs, or both.

(2) Counterpulsation, ventricular assistance, autotransfusion, including blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion.

(3) The use of techniques involving blood management, advanced life support, and other related functions.

(c) Perfusion services also include, but only during the performance of functions described in subdivision (b), the following:

(1) The administration of pharmacological and therapeutic agents, blood products, or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician and surgeon.

(2) The use of anticoagulation analysis, physiologic monitoring, blood gas and chemistry analysis, hematocrit analysis, hypothermia, hyperthermia, hemoconcentration, and hemodilution. Nothing in this paragraph shall exempt perfusionists from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578) or from the requirements of Chapter 3 (commencing with Section 1200).

(3) The observation of signs and symptoms related to perfusion services.

(4) Making a determination whether the signs and symptoms related to perfusion services exhibit abnormal characteristics.

(5) Implementation, based on observed abnormalities, of appropriate reporting, or perfusion protocols, or changes in treatment regimen, pursuant to an order by a physician and surgeon or the initiation of emergency procedures. "Perfusion protocols" as used in this section means perfusion-related policies and protocols developed or approved by a licensed health facility or a physician and surgeon through collaboration with administrators and health professionals, including perfusionists.

(d) Commencing January 1, 1993, no person shall hold himself or herself out as a perfusionist, unless at the time of doing so the person meets the educational and examination requirements specified in subdivisions (f) and (g).

(e) Except as provided in subdivision (f) persons holding themselves out as perfusionists shall be graduates of a training program described in Section 2592 and produce satisfactory evidence of successful completion of the entire examination of the American Board of Cardiovascular Perfusion or the equivalent thereof if an equivalent is determined to be necessary by the State Department of Health Services.
(f) Any person may be deemed to have completed the equivalent of the examination and education requirements if that person is currently certified by the American Board of Cardiovascular Perfusion, or if, as of January 1, 1993, the person has practiced as a perfusionist and has performed a annually minimum of 40 cases of cardiopulmonary bypass during cardiopulmonary surgery in a licensed health facility and has done so for at least five years since January 1, 1987. For the purposes of this subdivision, “licensed health facility” means a health facility licensed in any jurisdiction within the United States.

(g) In order to continue to use the title of “perfusionist,” the person shall complete the continuing education requirements of, or maintain active certification by, the American Board of Cardiovascular Perfusion, or the equivalent if an equivalent is determined to be necessary by the State Department of Health Services.

(h) Any person who violates this section is guilty of a misdemeanor.

2591. After completion of an approved perfusion training program, as defined in Section 2592, and until notification of passage of the entire examination of the American Board of Cardiovascular Perfusion, that person shall identify himself or herself only as a “graduate perfusionist.”

2592. (a) Except as otherwise provided in Section 2590, all persons calling themselves perfusionists shall be graduates of an approved perfusion training program.

(b) For purposes of this article, an “approved perfusion training program” means a training program in perfusion reviewed by the Accreditation Committee on Perfusion Education of the Committee on Allied Health Education and Accreditation of the American Medical Association, and approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent training program if an equivalent is determined to be necessary by the State Department of Health Services.

2593. (a) During the period of any clinical training provided by an approved perfusion training program, perfusion may be performed by a student enrolled in the approved perfusion training program when those services are part of his or her course of study.

(b) A person enrolled as a student in an approved perfusion training program shall be identified as a “student perfusionist” or as a “perfusion intern.”

(c) During the period of any clinical training, a student perfusionist or perfusion intern shall be under the direct supervision of a perfusionist who has met all the requirements of this chapter. For purposes of this section, “direct supervision” means assigned to a perfusionist who is on duty and immediately available in the assigned patient care area.

2595. Nothing in this chapter shall limit, preclude, or otherwise
interfere with the practices of other persons licensed or otherwise authorized to practice under this division in performing perfusion services consistent with the laws governing their respective scopes of practice. None of the activities described in subdivisions (b) and (c) of Section 2590, including, but not limited to, extracorporeal life support, shall be construed to be exclusively perfusion services, but may be performed by other licensed persons when consistent with their respective scopes of practice.

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 344

An act to add Sections 309.220, 309.225, and 309.230 to the Health and Safety Code, relating to Adolescent Family Life Programs, and making an appropriation therefor.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:
(a) California leads the nation in the number of births to adolescent mothers.
(b) In 1989, 64,935 babies were born to adolescent mothers from 10 to 19 years of age in California.
(c) It is estimated by educators and other service providers dealing with pregnant and parenting adolescents that between 60 percent and 75 percent of the adolescents they serve either abuse substances by experimenting with alcohol and drugs or live in an environment in which substance abuse occurs.
(d) Not only are these young people at risk of exposing their unborn infants to dangerous and harmful substances, but the majority of them are victims of some kind of domestic violence or serious family dysfunction.
(e) More than 5,000 pregnant and parenting adolescents benefit from comprehensive case management services provided by the Adolescent Family Life Programs of the State Department of Health.
Services, however, case managers and counselors for these programs do not have the special skills required to provide substance abuse intervention and counseling for these same adolescents.

(f) The Health and Welfare Agency has found that it is difficult, if not impossible, to provide substance abuse counseling for adolescents in settings designed to serve adults, such as the state’s perinatal substance abuse pilot projects.

SEC. 2. Section 309.220 is added to the Health and Safety Code, to read:

309.220. (a) The state department, through its program of maternal and child health, shall award contract augmentations to four Adolescent Family Life Programs that meet the requirements of this section and develop plans for a comprehensive coordinated substance abuse prevention, intervention, and counseling program, designed specifically to meet the developmental, social, and educational needs of high-risk pregnant or parenting adolescents. The program shall, to the extent practicable, feasible, and appropriate, leverage existing programs and funding rather than creating new, duplicative programs and services.

(b) The state department shall adopt guidelines and criteria setting forth the terms and conditions upon which the state department will offer contract augmentations pursuant to this section. The state department also shall disseminate information designed to publicize the availability of contract augmentations for a comprehensive coordinated substance abuse prevention, intervention, and counseling program to high-risk pregnant or parenting adolescents.

(c) The state department shall encourage Adolescent Family Life Programs with small caseloads to develop plans and submit applications which reflect sharing of services among two or more programs.

(d) At least one program that is awarded a contract augmentation shall be located in northern California, at least one program shall be located in central California, and at least one program shall be located in southern California.

(e) This section shall become operative on July 1, 1994.

SEC. 3. Section 309.225 is added to the Health and Safety Code, to read:

309.225. A comprehensive coordinated substance abuse prevention, intervention, and counseling program, as used in Section 309.220, shall include, but not be limited to, programs which:

(a) Have demonstrated a capacity for developing interagency cooperative approaches to reduce the incidence of high-risk pregnant or parenting adolescents. This shall include documentation of program development and plans for coordination and collaboration with existing perinatal substance abuse programs in the county, including state pilot projects on perinatal substance abuse established under the direction of the Local Perinatal Substance Abuse Coordinating Council.
(b) Employ maximum utilization of existing available programs and facilities.

(c) Have developed goals and objectives for reducing the incidence of high-risk pregnant and parenting adolescents.

(d) Are culturally and linguistically appropriate to the population being served.

(e) Include staff development training by substance abuse counselors.

(f) This section shall become operative on July 1, 1994.

SEC. 4. Section 309.230 is added to the Health and Safety Code, to read:

309.230. The state department shall require reports to be prepared by all programs funded pursuant to this article. A summary of the reports and recommendations regarding the programs shall be submitted by the state department to the Legislature on or before December 31, 1996. The summary shall include all of the following:

(a) An accounting of the incidence of high-risk pregnant or parenting adolescents who are abusing alcohol or drugs, or a combination of alcohol and drugs.

(b) An accounting of the health outcomes of infants of high-risk pregnant and parenting adolescents including: infant morbidity, mortality, rehospitalization, low birth weight, premature birth, developmental delay, and other related areas.

(c) An accounting of school enrollment among high-risk pregnant and parenting adolescents.

(d) An assessment of the effectiveness of the counseling services in reducing the incidence of high-risk pregnant and parenting adolescents who are abusing alcohol or drugs, or a combination of alcohol and drugs.

(e) The effectiveness of the component of other health programs aimed at reducing substance use among pregnant and parenting adolescents.

(f) The need for an availability of substance abuse treatment programs in the program areas that are appropriate, acceptable, and accessible to teenagers.

(g) This section shall become operative on July 1, 1994.

SEC. 5. The State Department of Health Services shall be required to implement Sections 309.220, 309.225, and 309.230 of the Health and Safety Code, only to the extent funding is available.
CHAPTER 345

An act to amend Section 18400.1 of, and to repeal and add Section 18401 of, the Health and Safety Code, relating to mobilehome parks, and making an appropriation therefor.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 18400.1 of the Health and Safety Code is amended to read:

18400.1. (a) The enforcement agency shall enter and inspect all mobilehome parks, as required under this part, at least once every five years, to ensure enforcement of this part and the regulations adopted pursuant to this part. Any notices of violation of this part shall be issued pursuant to Chapter 3.5 (commencing with Section 18420).

(b) In developing its program for inspections, the enforcement agency shall give first priority to inspections of those mobilehome parks which it believes may have the most serious violations of this part.

(c) Nothing in this part shall be construed to allow the enforcement agency to issue a notice for a violation of existing laws or regulations which were not violations of the laws or regulations at the time the mobilehome park received its original permit to operate or at the time the manufactured home or mobilehome received its original installation permit, unless the enforcement agency determines that a condition of the park, manufactured home, or mobilehome endangers the life, limb, health, or safety of the public or occupants thereof.

(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.

(e) Any local enforcement agency that relinquishes enforcement authority over to the department shall remit to the department fees collected pursuant to paragraph (2) of subdivision (c) of Section 18502 that have not been expended for purposes of that paragraph.

(f) Each local enforcement agency that has assumed enforcement authority and has collected fees pursuant to paragraph (2) of subdivision (b) of Section 18502, shall provide the department, prior to January 1, 1994, with a status report on its specific inspection program. The report shall include information on the number of parks and spaces in its jurisdiction, the number of parks and spaces that have been inspected, the number of parks and spaces that are scheduled for inspection, the number and types of notices of violations issued against the parks, the number and types of notices of violations issued against the residents, the number of notices of
violations appealed, the amount of fees collected and expended for the purpose of the inspection program, and any program deviations that exist between the local enforcement agency and the department.

(g) The department shall, prior to January 1, 1995, submit a report to the Senate Committee on Housing and Urban Affairs and the Assembly Committee on Housing and Community Development on the status of the mobilehome park inspection program. The report shall include information on the total number of parks and spaces in the state, the number of parks and spaces that have been inspected, the number of parks and spaces that are scheduled for inspection, the number of notices of violations issued against the parks, the number of notices of violations issued against the residents and the number of notices of violations appealed, and the amount of fees collected and expended for the purpose of the inspection program. The report shall separate the information according to parks inspected by local enforcement agencies, parks inspected by the department, and total program activity. The report shall also include a discussion of any program deviations that exist between the local enforcement agency and the department, obstacles encountered while implementing the program and any recommendations for change to make it operate more efficiently and effectively should the program be extended after January 1, 1997.

SEC. 2. Section 18401 of the Health and Safety Code is repealed.
SEC. 3. Section 18401 is added to the Health and Safety Code, to read:

18401. Any notice of violation of this part, or any rule or regulation adopted pursuant thereto, issued by the enforcement agency shall be issued to the appropriate persons designated in Section 18420 and shall include a statement that any willful violation is a misdemeanor under Section 18700.

SEC. 4. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Pursuant to Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the July 1 following the date on which the act takes effect pursuant to the California Constitution.
An act to add Sections 17922.1 and 18941.6 to the Health and Safety Code, and to amend Section 2705 of the Public Resources Code, relating to seismic safety.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 17922.1 is added to the Health and Safety Code, to read:

17922.1. Notwithstanding any other provisions of this part, the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, as published in the California Building Standards Code, shall not apply to a local jurisdiction that has adopted, on or before January 1, 1993, a program for mitigation of potentially hazardous buildings. This program shall include the adoption by ordinance of a hazardous buildings program, for which a proposed ordinance was introduced on or before the date that Assembly Bill No. 2358 of the 1991–92 Regular Session was chaptered, containing required standards to strengthen buildings under subdivision (b) of Section 8875.2 of the Government Code. Standards to strengthen buildings shall conform to requirements of Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, except as to requirements found by local ordinance to be inapplicable based on local conditions. The ordinance shall conclusively be presumed to comply with the requirements of Chapter 173 of the Statutes of 1991.

SEC. 2. Section 18941.6 is added to the Health and Safety Code, to read:

18941.6. Notwithstanding any other provision of this part, the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, as published in the California Building Standards Code, shall not apply to a local jurisdiction that has adopted, on or before January 1, 1993, a program for mitigation of potentially hazardous buildings. This program shall include the adoption by ordinance of a hazardous buildings program, for which a proposed ordinance was introduced on or before the date that Assembly Bill No. 2358 of the 1991–92 Regular Session was chaptered, containing required standards to strengthen buildings under subdivision (b) of Section 8875.2 of the Government Code. Standards to strengthen buildings shall conform to those requirements of Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, except as to requirements found by local ordinance to be inapplicable based on local conditions. Such an
ordinance shall be conclusively presumed to comply with the requirements of Chapter 173 of the Statutes of 1991.

SEC. 3. 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 Code of Regulations, 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) (1) 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.

(2) "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) (1) A city or county may retain up to 5 percent of the total
amount it collects under subdivision (a) or (b) for data utilization, for seismic education incorporating data interpretations from data of the strong-motion instrumentation program and the seismic hazards mapping program, and, in accordance with paragraph (2), for improving the preparation for damage assessment after strong seismic motion events.

(2) A city or county may use any funds retained pursuant to this subdivision to improve the preparation for damage assessment in its jurisdiction only after it provides the Department of Conservation with information indicating to the department that data utilization and seismic education activities have been adequately funded.

SEC. 4. For the purposes of Sections 17922.1 and 18941.6, as added to the Health and Safety Code by this act, and notwithstanding the meaning of "local conditions" as used elsewhere in Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code, and Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, it is the intent of the Legislature that the term "local conditions" shall only include the impact of the implementation of seismic strengthening standards on the preservation of qualified historic structures (as governed by the State Historical Building Code, Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code), participation in historic preservation programs such as the California Mainstreet Program, and the preservation of affordable housing.

CHAPTER 347

An act to add and repeal Chapter 6 (commencing with Section 42800) of Part 4 of Division 26 of the Health and Safety Code, relating to pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992]

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

SECTION 1. Chapter 6 (commencing with Section 42800) is added to Part 4 of Division 26 of the Health and Safety Code, to read:

CHAPTER 6. DRY CLEANING INDUSTRY TASK FORCE

Article 1. General

42800. This chapter shall be known and may be cited as the California Dry Cleaning Industry Task Force Act of 1992.

42801. The Legislature hereby finds and declares all of the following:
(a) The air, water, and other natural resources are of environmental, economic, public health, and aesthetic importance to the people of the state.

(b) The state board has listed perchloroethylene as a toxic air contaminant.

(c) The dry cleaning industry uses perchloroethylene as a cleaning agent and the dry cleaning process is known to emit perchloroethylene to the atmosphere in California.

(d) Perchloroethylene and other volatile organic compounds have been found in municipal groundwater production wells. Many dry cleaners have been allowed to discharge water containing perchloroethylene to the municipal or industrial sewer. Some of the volatile organic compounds in groundwater may have been discharged from sewer collection systems or may have resulted from past disposal practices.

(e) Air emission control measures designed to reduce perchloroethylene emissions can result in additional impacts on sewer, groundwater, and hazardous waste disposal resources. Similarly, removal of perchloroethylene from waste water can result in additional impacts on air and hazardous waste disposal resources. A coordinated, interdisciplinary approach to the regulation of the dry cleaning industry is therefore required in order to avoid unintended and detrimental environmental effects while maximizing protection of the public health and the environment.

(f) The dry cleaning industry is generally composed of independent, small businesses. Regulation of the dry cleaning industry should strive to control or avoid any environmentally damaging processes while making it possible for small businesses to know and understand applicable regulations and to comply with all requirements.

(g) It is in the public interest to provide assistance to small dry cleaning businesses which have limited financial resources to develop and implement emission control measures and investigatory and remedial programs directed towards contributions that these businesses may have made to existing environmental problems.

42802. For purposes of this chapter, the following definitions apply:

(a) "Dry cleaning" means any process of cleaning fabrics and textiles using organic nonpolar solvents in equipment manufactured for this purpose.

(b) "Dry cleaning equipment manufacturing industry" means establishments that manufacture equipment for use by commercial dry cleaners.

(c) "Dry cleaning industry" means commercial establishments that use any dry cleaning process.

(d) "Task force" means the California Dry Cleaning Industry Task Force created by Section 42803.
Article 2. California Dry Cleaning Industry Task Force

42803. (a) The California Dry Cleaning Industry Task Force is hereby created.
       (b) The task force is comprised of the following members:
           (1) The Secretary for Environmental Protection.
           (2) The Secretary of the Business, Transportation and Housing Agency.
           (3) The Executive Director of the State Water Resources Control Board.
           (4) A representative of the California regional water quality control boards designated by the Executive Director of the State Water Resources Control Board.
           (5) The chairperson of the state board.
           (6) The Director of Toxic Substances Control.
           (7) A representative of the dry cleaning equipment manufacturing industry, appointed by the chairperson of the task force.
           (8) Two representatives of the dry cleaning industry, appointed by the chairperson of the task force.
           (9) A representative of the California Air Pollution Control Officers Association.
           (10) The chairperson of an appropriate policy committee of the Senate designated by the President pro Tempore of the Senate.
           (11) The chairperson of an appropriate policy committee of the Assembly designated by the Speaker of the Assembly.
           (12) A representative of a publicly owned treatment works.
           (13) A representative from the League of California Cities.
           (c) A member of the task force who is unable to attend any meeting may designate a representative to attend and vote on his or her behalf.

42804. (a) The chairperson of the task force shall be the Secretary for Environmental Protection or his or her representative designated pursuant to subdivision (c) of Section 42803.
       (b) The task force shall meet at the call of the chairperson of the task force.

42805. The chairperson of the task force, with advice from the task force, shall contract with appropriate professionals from the California State University or University of California system to provide technical support to the task force and to manage the process of collecting and analyzing the information required under Section 42806. All costs associated with this contract, up to an aggregate amount of seventy-five thousand dollars ($75,000), shall be paid by the dry cleaning industry and the dry cleaning equipment manufacturing industry.

42806. The task force shall prepare a report regarding the potential impacts on the environment of existing practices in the dry cleaning industry, and any recommendations for improvements. The report shall include, to the degree information is available, at least
the following:

(a) Inventory and analysis of state and federal laws, rules and regulations, and programs which pertain to the dry cleaning industry, including identification and analysis of any regulatory incentives and disincentives to improvements in the environmental practices of the dry cleaning industry.

(b) Identification of existing types of sources of air pollutants related to the dry cleaning industry.

(c) Estimated quantity of air pollutants attributable to the dry cleaning industry and comparison to total emissions of those pollutants from all sources.

(d) Identification of past and existing types of sources of water pollutants related to the dry cleaning industry.

(e) Estimated quantity of water pollutants attributable to the dry cleaning industry and comparison to total emissions of those pollutants from all sources.

(f) Analysis of the possible ways in which these air and water pollutants may be discharged into the environment.

(g) Identification of past and existing types of sources of hazardous wastes related to the dry cleaning industry.

(h) Identification and analysis of past and existing practices regarding disposal of hazardous wastes by the dry cleaning industry.

(i) Estimated quantity of hazardous waste disposal attributable to the dry cleaning industry and comparison of total disposal of those hazardous wastes by all sources.

(j) Identification and analysis of possible cross-media impacts, including those between and among air, water, and hazardous waste disposal.

(k) Identification and analysis of available technologies for controlling air and water emissions from dry cleaning establishments.

(l) Analysis of the economic feasibility and environmental benefit of installing the best available control technology at new facilities or retrofitting that technology at existing facilities.

(m) Identification of potential sources of financial assistance to promote installation of best available control equipment at new facilities and retrofitting of equipment at existing facilities.

(n) Any recommendations to reduce or eliminate discharges of perchloroethylene from dry cleaning while protecting the economic viability of small, independent dry cleaning businesses to the extent possible, consistent with the need to protect public health and the environment.

(o) Inventory of groundwater basins, listed in order of remedial priority, which the California regional water quality control boards suspect may have been contaminated, in whole or in part, by discharges of volatile organic compounds.

(p) Identification of available remedial technologies for treating volatile organic compound contamination, and an analysis of each, emphasizing the cost effectiveness of the technologies and their
effectiveness in protecting public health and the environment.
(c) Discussion of potential funding mechanisms for implementing investigatory and remedial measures and installation of emission control technology.

42807. (a) The task force shall provide an opportunity for public review and comment following release of a draft report.
(b) The chairperson of the task force shall submit a final report to the Governor and the Legislature not later than February 28, 1993. Public comments and any dissenting views of task force members shall be submitted with the final report to the Governor and the Legislature.

42808. This chapter shall become inoperative on March 31, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which is enacted before January 1, 1994, 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 protect the air and water resources of the state and preserve limited hazardous waste disposal resources, it is necessary that this act take effect immediately.

CHAPTER 348

An act to add Division 4.5 (commencing with Section 13080) to the Financial Code, relating to automated teller machines.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Division 4.5 (commencing with Section 13080) is added to the Financial Code, to read:

DIVISION 4.5. AUTOMATED TELLER MACHINE SURCHARGE DISCLOSURE

13080. (a) No operator of an automated teller machine in this state shall impose a surcharge upon the usage of that machine for customers using an access device not issued by that operator unless the surcharge is clearly disclosed to the customer prior to completion of any transaction.
(b) As used in this section, "operator," "automated teller machine," "customer," and "access device" have meaning set forth in Section 13020.
An act to amend Sections 50078.4, 50078.6, and 50078.13 of the Government Code, relating to fire suppression.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 50078.4 of the Government Code is amended to read:

50078.4. The legislative body of the local agency shall cause to be prepared and filed with the clerk of the local agency a written report which shall contain all of the following:

(a) A description of each lot or parcel of property proposed to be subject to the assessment.
(b) The amount of the assessment for each lot or parcel for the initial fiscal year.
(c) The maximum amount of the assessment which may be levied for each lot or parcel during any fiscal year.
(d) The duration of the assessment.
(e) The basis of the assessment.
(f) The schedule of the assessment.
(g) A description specifying the requirements for written and oral protests and the protest thresholds necessary for requiring a vote on, or abandonment of, the proposed assessment pursuant to Sections 50078.11 and 50078.12.

SEC. 2. Section 50078.6 of the Government Code is amended to read:

50078.6. The clerk of the local agency shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 of the Government Code and to be posted in at least three public places within the local agency. The clerk shall also cause a copy of the notice of the filing of the report and of the time, date, and place of hearing thereon to be mailed to each parcel or property owner whose property would be subject to the assessment. The notice shall be mailed by first-class mail at least two weeks prior to the date set for hearing to those persons whose name and address appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or as known to the clerk. The mailed notice shall include the name of the local agency, the return address of the sender, the amount of the initial assessment, the amount of the maximum assessment, the duration and basis of the assessment, and a summary of the procedures for making a protest pursuant to Sections 50078.11 and 50078.12. The notice shall also contain the name and telephone number of the person designated by the legislative body to answer inquiries regarding the protest proceedings.
SEC. 3. Section 50078.13 of the Government Code is amended to read:

50078.13. The local agency shall pay the county for costs, if any, incurred by the county in conducting the election. An election called by a legislative body pursuant to this article is subject to all provisions of the Elections Code applicable to elections called by the local agency. The local agency may recover the costs of the election and any other costs of preparing and levying the assessment from the proceeds of the assessment.

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 350

An act to amend Sections 5020 and 5030 of the Education Code, relating to elections.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 5020 of the Education Code is amended to read:

5020. (a) The resolution of the county committee approving a proposal to establish or abolish trustee areas or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.

(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.

(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of
members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district’s registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.

(d) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:

"For the establishment (or abolition or rearrangement) of trustee areas in ______ (insert name) School District—Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in ______ (insert name) School District—No."

"For increasing the number of members of the governing board of ______ (insert name) School District from five to seven—Yes" and "For increasing the number of members of the governing board of ______ (insert name) School District from five to seven—No."

"For decreasing the number of members of the governing board of ______ (insert name) School District from seven to five—Yes" and "For decreasing the number of members of the governing board of ______ (insert name) School District from seven to five—No."

"For the election of each member of the governing board of the ______ (insert name) School District by the registered voters of the entire ______ (insert name) School District—Yes" and "For the election of each member of the governing board of the ______ (insert name) School District by the registered voters of the entire ______ (insert name) School District—No."

"For the election of one member of the governing board of the ______ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area—Yes" and "For the election of one member of the governing board of the ______ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area—No."

"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ______ (insert name) School District residing in each trustee area elected by the registered voters of the entire ______ (insert name) School District—Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ______ (insert name) School District residing in each trustee area elected by the registered voters of the entire ______ (insert name) School District—No."

If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless
a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.

SEC. 3. Section 5030 of the Education Code is amended to read:

5030. Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Sections 5019 and 5020, respectively, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

In counties with a population of less than 25,000, the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

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.
An act to amend Sections 2924b, 2924c, 2924f, 2924g, 2924h, and 2924j of the Civil Code, relating to mortgages.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 2924b of the Civil Code is amended to read:
2924b. (a) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property or an estate for years therein, as to which deed of trust or mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof, and the book and page where the deed of trust or mortgage is recorded or the recorder's number, and shall be in substantially the following form:

"In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded ______, 19__, in Book _______ page _______ records of ______ County, (or filed for record with recorder's serial number _______ _____ County) California, executed by _______ as trustor (or mortgagor) in which _______, is named as beneficiary (or mortgagee) and _______ as trustee be mailed to

________________________________________________________ at __________________________________________.

Name Address

NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

Signature __________________________

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trustees (or mortgagor) recited therein and the names of persons requesting copies.

(b) The mortgagee, trustee, or other person authorized to record
the notice of default shall do each of the following:

(1) Within 10 business days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his or her last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(2) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his or her last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(3) As used in paragraphs (1) and (2), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to the last address unless the trustee has actual knowledge of it.

(c) The mortgagee, trustee, or other person authorized to record the notice of default shall do the following:

(1) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice with the recording date shown thereon, addressed to each person set forth in paragraph (2), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided the instrument is recorded in the office of the county recorder so as to impart that constructive notice prior to the recording date of the notice of default and provided the instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.

(2) The persons to whom notice shall be mailed under this subdivision are:

(A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being
foreclosed.

(B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to the deed of trust or mortgage being foreclosed.

(C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B), as of the recording date of the notice of default.

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to the deed of trust or mortgage being foreclosed.

(E) The successor in interest to the vendee or lessee described in subparagraph (D), as of the recording date of the notice of default.

(F) The Office of the Controller, Sacramento, California, where, as of the recording date of the notice of default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the notice of default applies.

(3) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (1) and (2), and addressed to the office of any state taxing agency, Sacramento, California, which has recorded a notice of tax lien prior to the recording date of the notice of default against the real property to which the notice of default applies.

(4) The mailing of notices in the manner set forth in paragraph (1) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the attorney, agent, or employee.

(d) Any deed of trust or mortgage with power of sale hereafter executed upon real property or an estate for years therein may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of the person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each of these at the same time and in the same manner required as though a separate request therefor had been filed by each of these persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor
for special notice at the address of the person given therein or does contain such a request but no address of the person is given therein and if no request for special notice by the trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, the publication to commence within 10 business days after the filing of the notice of default. In lieu of publication, a copy of the notice of default may be delivered personally to the trustor or mortgagor within the 10 business days or at any time before publication is completed.

(e) Any person required to mail a copy of a notice of default or notice of sale to each trustor or mortgagor pursuant to subdivision (b) or (c) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice addressed to each trustor or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (b) or (c). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that he or she is over the age of 18 years, the date of deposit in the mail, the name and address of the trustor or mortgagor to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.

(f) No request for a copy of any notice filed for record pursuant to this section, no statement or allegation in any such request, and no record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title, or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.

(g) "Business day," as used in this section, has the meaning specified in Section 9.

SEC. 2. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property or an estate for years therein hereafter executed has, prior to the maturity date fixed in that obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of that obligation or of the deed of trust or mortgage, taxes, assessments, premiums for insurance, or advances made by beneficiary or mortgagee in accordance with the terms of that obligation or of the deed of trust or mortgage, the trustor or mortgagor or his or her successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a
subordinate lien or encumbrance of record thereon, at any time within the period specified in subdivision (e), if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount due, at the time payment is tendered, with respect to (A) all amounts of principal, interest, taxes, assessments, insurance premiums, or advances actually known by the beneficiary to be, and that are, in default and shown in the notice of default, under the terms of the deed of trust or mortgage and the obligation secured thereby, (B) all amounts in default on recurring obligations not shown in the notice of default, and (C) all reasonable costs and expenses, subject to subdivision (c), which are actually incurred in enforcing the terms of the obligation, deed of trust, or mortgage, and trustee's or attorney's fees, subject to subdivision (d), other than the portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if the acceleration had not occurred. This section does not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the Public Utilities Code. For the purposes of this subdivision, the term “recurring obligation” means all amounts of principal and interest on the loan, or rents, subject to the deed of trust or mortgage in default due after the notice of default is recorded; all amounts of principal and interest or rents advanced on senior liens or leaseholds which are advanced after the recordation of the notice of default; and payments of taxes, assessments, and hazard insurance advanced after recordation of the notice of default. Where the beneficiary or mortgagee has made no advances on defaults which would constitute recurring obligations, the beneficiary or mortgagee may require the Trustor or mortgagee to provide reliable written evidence that the amounts have been paid prior to reinstatement.

(2) If the Trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, the beneficiary or mortgagee shall, within 21 days following the reinstatement, execute and deliver to the Trustee a notice of rescission which rescinds the declaration of default and demand for sale and advises the Trustee of the date of reinstatement. The Trustee shall cause the notice of rescission to be recorded within 30 days of receipt of the notice of rescission and of all allowable fees and costs.

No charge, except for the recording fee, shall be made against the Trustor or mortgagor for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person
pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is ___________ as of ________________

(Date)

and will increase until your account becomes current.

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any
other reason, contact:

(Name of beneficiary or mortgagee)

(Mailing address)

(Telephone)

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of the contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or the assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (c) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by Sections 2924 to 2924i, inclusive, postponement upon the written request of the trustor pursuant to Section 2924g made to either the beneficiary or trustee not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.
(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed two hundred dollars ($200) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where the charge does not exceed the amounts authorized herein.

(e) Reinstatement of a monetary default under the terms of an obligation secured by a deed of trust, or mortgage may be made at any time within the period commencing with the date of recordation of the notice of default until five business days prior to the date of sale set forth in the initial recorded notice of sale.

In the event the sale does not take place on the date set forth in the initial recorded notice of sale or a subsequent recorded notice of sale is required to be given, the right of reinstatement shall be revived as of the date of recordation of the subsequent notice of sale, and shall continue from that date until five business days prior to the date of sale set forth in the subsequently recorded notice of sale.

In the event the date of sale is postponed on the date of sale set forth in either an initial or any subsequent notice of sale, or is postponed on the date declared for sale at an immediately preceding postponement of sale, and, the postponement is for a period which exceeds five business days from the date set forth in the notice of sale, or declared at the time of postponement, then the right of reinstatement is revived as of the date of postponement and shall continue from that date until five business days prior to the date of sale declared at the time of the postponement.

Nothing contained herein shall give rise to a right of reinstatement during the period of five business days prior to the date of sale, whether the date of sale is noticed in a notice of sale or declared at a postponement of sale.

Pursuant to the terms of this subdivision, no beneficiary, trustee, mortgagee, or their agents or successors shall be liable in any manner to a trustor, mortgagor, their agents or successors for the failure to allow a reinstatement of the obligation secured by a deed of trust or mortgage during the period of five business days prior to the sale of the security property, and no such right of reinstatement during this period is created by this section. Any right of reinstatement created
by this section is terminated five business days prior to the date of
sale set forth in the initial date of sale, and is revived only as
prescribed herein and only as of the date set forth herein.

As used in this subdivision, the term "business day" has the same
meaning as specified in Section 9.

SEC. 3. Section 2924f of the Civil Code is amended to read:

2924f. (a) As used in this section and Sections 2924g and 2924h
"property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of
property can be made under the power of sale contained in any deed
of trust or mortgage, or any resale resulting from a rescission for a
failure of consideration pursuant to subdivision (c) of Section 2924h,
notice of the sale thereof shall be given by posting a written notice
of the time of sale and of the street address and the specific place at
the street address where the sale will be held, and describing the
property to be sold including the county assessor's parcel number, at
least 20 days before the date of sale in one public place in the city
where the property is to be sold, if the property is to be sold in a city,
or, if not, then in one public place in the judicial district in which the
property is to be sold, and publishing a copy once a week for the same
period, in a newspaper of general circulation published in the city in
which the property or some part thereof is situated, if any part
thereof is situated in a city, if not, then in a newspaper of general
circulation published in the judicial district in which the property or
some part thereof is situated, or in case no newspaper of general
circulation is published in the city or judicial district, as the case may
be, in a newspaper of general circulation published in the county in
which the property or some part thereof is situated, or in case no
newspaper of general circulation is published in the city or judicial
district or county, as the case may be, in a newspaper of general
circulation published in the county in this state that (1) is contiguous
to the county in which the property or some part thereof is situated,
and (2) has, by comparison with all similarly contiguous counties, the
highest population based upon total county population as
determined by the most recent federal decennial census published
by the Bureau of the Census. A copy of the notice of sale shall also
be posted in a conspicuous place on the property to be sold at least
20 days before the date of sale, where possible and where not
restricted for any reason. If the property is a single-family residence
the posting shall be on a door of the residence, but, if not possible or
restricted, then the notice shall be posted in a conspicuous place on
the property; however, if access is denied because a common
entrance to the property is restricted by a guard gate or similar
impediment, the property may be posted at that guard gate or
similar impediment to any development community. Additionally,
the notice of sale shall be recorded with the county recorder of the
county in which the property or some part thereof is situated at least
14 days prior to the date of sale. The notice of sale shall contain the
name, street address, and telephone number of the trustee or other
person conducting the sale, and the name of the original trustor, and also shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of the notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, county assessor's parcel number, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary, county assessor's parcel number, or directions obtained therefrom are omitted. The term newspaper of general circulation as used in this section has the same meaning as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, advances at the time of the initial publication of the notice of sale, and, if republished pursuant to a cancellation of a cash equivalent pursuant to subdivision (d) of Section 2924h, a reference of that fact; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount. An inaccurate statement of this amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(c) (1) This subdivision applies only to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence, where the obligation secured by the deed of trust or mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of a power of sale contained in a deed of trust or mortgage described in paragraph (1).

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) has not been cured within 30
days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

(Deed of trust or mortgage)

DATED __________. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and, prior to which the property may be conveyed by the trustor to the person making the offer according to its terms. The offer is revocable until accepted. The performance of the offer following acceptance, according to its terms by a conveyance of the property to the offeror shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(6) This subdivision applies only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC. 4. Section 2924g of the Civil Code is amended to read:

2924g. (a) All sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where the property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

The sale shall commence at the time and location specified in the notice of sale. Any postponement shall be announced at the time and location specified in the notice of sale for commencement of the sale or pursuant to paragraph (1) of subdivision (c).

If the sale of more than one parcel of real property has been scheduled for the same time and location by the same trustee, (1) any postponement of any of the sales shall be announced at the time published in the notice of sale, (2) the first sale shall commence at the time published in the notice of sale or immediately after the announcement of any postponement, and (3) each subsequent sale
shall take place as soon as possible after the preceding sale has been completed.

(b) When the property consists of several known lots or parcels they shall be sold separately unless the deed of trust or mortgage provides otherwise. When a portion of the property is claimed by a third person, who requires it to be sold separately, the portion subject to the claim may be thus sold. The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when the property consists of several known lots or parcels which may be sold to advantage separately, and the trustee shall follow that direction. After sufficient property has been sold to satisfy the indebtedness no more can be sold.

If the property under power of sale is in two or more counties the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion thereof is located.

(c) (1) There may be a postponement of the sale proceedings at any time prior to the completion of the sale at the discretion of the trustee, or upon instruction by the beneficiary to the trustee that the sale proceedings be postponed.

There may be a maximum of three postponements of the sale proceedings pursuant to this subdivision. In the event that the sale proceedings are postponed three times, the scheduling of any further sale proceedings shall be preceded by the giving of a new notice of sale in the manner prescribed by Section 2924f.

(2) The trustee shall postpone the sale upon the order of any court of competent jurisdiction, or where stayed by operation of law, or by the mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee. Any postponement pursuant to this paragraph shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision nor shall a postponement resulting from the prohibition upon a sale within seven days from the expiration of an injunction, restraining order, or stay as provided in subdivision (d) be deemed a postponement for purposes of this subdivision.

(d) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. Such a public declaration of postponement shall also set forth the new date, time, and place of sale and the place of sale shall be the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given. However, the sale shall be conducted no sooner than seven days after the earlier of (1) dismissal of the action or (2) expiration or termination of the injunction, restraining order, or stay (which required postponement of the sale), whether by entry of an order by a court of competent jurisdiction, operation of law, or otherwise, unless the injunction, restraining order, or subsequent order
expressly directs the conduct of the sale within that seven-day period. If the sale had been scheduled to occur, but this subdivision precludes its conduct during that seven-day period, a new notice of postponement shall be given if the sale had been scheduled to occur during that seven-day period. The trustee shall maintain records of each postponement and the reason therefor.

SEC. 5. Section 2924h of the Civil Code is amended to read:

2924h. (a) Each and every bid made by a bidder at a trustee’s sale under a power of sale contained in a deed of trust or mortgage shall be deemed to be an irrevocable offer by that bidder to purchase the property being sold by the trustee under the power of sale for the amount of the bid. Any second or subsequent bid by the same bidder or any other bidder for a higher amount shall be a cancellation of the prior bid.

(b) At the trustee’s sale the trustee shall have the right (1) to require every bidder to show evidence of the bidder’s ability to deposit with the trustee the full amount of his or her final bid in cash, a cashier’s check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee prior to and as a condition to the recognizing of the bid, and to conditionally accept and hold these amounts for the duration of the sale, and (2) to require the last and highest bidder to deposit, if not deposited previously, the full amount of the bidder’s final bid in cash, a cashier’s check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee, immediately prior to the completion of the sale, the completion of the sale being so announced by the fall of the hammer or in other customary manner. The present beneficiary of the deed of trust under foreclosure shall have the right to offset his or her bid(s) only to the extent of the total amount due the beneficiary including the trustee’s fees and expenses.

(c) In the event the trustee accepts a check drawn by a credit union or a savings and loan association pursuant to this subdivision or a cash equivalent designated in the notice of sale, the trustee may withhold the issuance of the trustee’s deed to the successful bidder submitting the check drawn by a state or federal credit union or savings and loan association or the cash equivalent until funds become available to the payee or endorsee as a matter of right.

For the purposes of this subdivision, the trustee’s sale shall be deemed final upon the acceptance of the last and highest bid. However, the sale is subject to an automatic rescission for a failure of consideration in the event the funds are not available to the payee.
or endorsee as a matter of right as defined in subdivision (d) of Section 12413 of the Insurance Code. The trustee shall send a notice of rescission for a failure of consideration to the last and highest bidder submitting the check or alternative instrument, if the address of the last and highest bidder is known to the trustee.

If a sale results in an automatic right of rescission for failure of consideration pursuant to this subdivision, the interest of any lienholder shall be reinstated in the same priority as if the previous sale had not occurred.

(d) If the trustee has not required the last and highest bidder to deposit the cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee in the manner set forth in paragraph (2) of subdivision (b), the trustee shall complete the sale. If the last and highest bidder then fails to deliver to the trustee, when demanded, the amount of his or her final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee, that bidder shall be liable to the trustee for all damages which the trustee may sustain by the refusal to deliver to the trustee the amount of the final bid, including any court costs and reasonable attorneys' fees.

If the last and highest bidder willfully fails to deliver to the trustee the amount of his or her final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee, or if the last and highest bidder cancels an instrument submitted to the trustee as a cash equivalent, that bidder shall be guilty of a misdemeanor punishable by a fine of not more than two thousand five hundred dollars ($2,500).

In the event the last and highest bidder cancels an instrument submitted to the trustee as a cash equivalent, the trustee shall provide a new notice of sale in the manner set forth in Section 2924f and shall be entitled to recover the costs of the new notice of sale as provided in Section 2924c.

(e) Any postponement or discontinuance of the sale proceedings shall be a cancellation of the last bid.

(f) In the event that this section conflicts with any other statute, then this section shall prevail.

(g) It shall be unlawful for any person, acting alone or in concert
with others, (1) to offer to accept or accept from another, any consideration of any type not to bid, or (2) to fix or restrain bidding in any manner, at a sale of property conducted pursuant to a power of sale in a deed of trust or mortgage. However, it shall not be unlawful for any person, including a trustee, to state that a property subject to a recorded notice of default or subject to a sale conducted pursuant to this chapter is being sold in an "as-is" condition.

In addition to any other remedies, any person committing any act declared unlawful by this subdivision or any act which would operate as a fraud or deceit upon any beneficiary, trustor, or junior lienor shall, upon conviction, be fined not more than ten thousand dollars ($10,000) or imprisoned in the county jail for not more than one year, or be punished by both that fine and imprisonment.

SEC. 6. Section 2924j of the Civil Code is amended to read:

2924j. (a) Unless an interpleader action has been filed, within 30 days of the execution of the trustee's deed resulting from a sale in which there are proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section 2924k, the trustee shall send written notice to all persons with recorded interests in the real property as of the date immediately prior to the trustee's sale who would be entitled to notice pursuant to subdivisions (b) and (c) of Section 2924b. The notice shall be sent by first-class mail in the manner provided in paragraph (1) of subdivision (c) of Section 2924b and inform each entitled person of each of the following:

(1) That there has been a trustee's sale of the described real property.

(2) That the noticed person may have a claim to all or a portion of the sale proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section 2924k.

(3) The noticed person may contact the trustee at the address provided in the notice to pursue any potential claim.

(4) That before the trustee can act, the noticed person shall submit a written claim to the trustee, executed under penalty of perjury, stating the following:

(A) The amount of the claim to the date of trustee's sale.

(B) An itemized statement of the principal, interest, and other charges.

(C) That claims must be received by the trustee at the address stated in the notice no later than 30 days after the date the trustee sends notice to the potential claimant.

(b) The trustee shall exercise due diligence to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds from those persons to whom notice was sent pursuant to subdivision (a).

(c) If, after due diligence, the trustee is unable to determine the priority of the written claims received by the trustee to the trustee's sale surplus of multiple persons or if the trustee determines there is
a conflict between potential claimants, the trustee may file a
declaration of the unresolved claims and deposit with the clerk of the
superior or municipal court, as applicable, of the county in which the
sale occurred, that portion of the sales proceeds that cannot be
distributed, less any fees charged by the clerk pursuant to this
subdivision. The declaration shall specify the date of the trustee's
sale, a description of the property, the names and addresses of all
persons sent notice pursuant to subdivision (a), a statement that the
trustee exercised due diligence pursuant to subdivision (b), that the
trustee provided written notice as required by subdivisions (a) and
(d) and the amount of the sales proceeds deposited by the trustee
with the superior or municipal court. Further, the trustee shall
submit a copy of the trustee's sales guarantee and any information
relevant to the identity, location, and priority of the potential
claimants with the superior or municipal court and shall file proof of
service of the notice required by subdivision (d) on all persons
described in subdivision (a).

The clerk shall deposit the amount with the county treasurer
subject to order of the superior or municipal court upon the
application of any interested party. The clerk may charge a
reasonable fee for the performance of activities pursuant to this
subdivision equal to the fee for filing an interpleader action pursuant
to Article 2 (commencing with Section 26820) of Division 2 of Title
3 of the Government Code. Upon deposit of that portion of the sale
proceeds that cannot be distributed by due diligence, the trustee
shall be discharged of further responsibility for the disbursement of
sale proceeds. A deposit with the clerk of the superior or municipal
court pursuant to this subdivision may be either for the total
proceeds of the trustee's sale, less any fees charged by the clerk, if
a conflict or conflicts exist with respect to the total proceeds, or that
portion that cannot be distributed after due diligence, less any fees
charged by the clerk.

(d) Before the trustee deposits the funds with the clerk of the
court pursuant to subdivision (c), the trustee shall send written
notice by first-class mail, postage prepaid, to all persons described in
subdivision (a) informing them that the trustee intends to deposit
the funds with the clerk of the superior or municipal court, as
applicable, and that a claim for the funds must be filed with the court
within 30 days from the date of the notice, providing the address of
the court in which the funds were deposited, and a phone number
for obtaining further information.

Within 90 days after deposit with the clerk, the court shall consider
all claims filed at least 15 days before the date on which the hearing
is scheduled by the court, the clerk shall serve written notice of the
hearing by first-class mail on all claimants identified in the trustees'
declaration at the addresses specified therein. The court shall
distribute the deposited funds to any and all claimants entitled
thereto.

(e) Nothing in this section restricts the ability of a trustee to file
an interpleader action in order to resolve a dispute about the proceeds of a trustee's sale. Once an interpleader action has been filed, thereafter the provisions of this section shall not apply.

(f) "Due diligence," for the purposes of this section means that the trustee researched the written claims submitted or other evidence of conflicts and determined that a conflict of priorities exists between two or more claimants which the trustee is unable to resolve.

CHAPTER 352

An act to add Chapter 4 (commencing with Section 14450) to Part 5 of Division 3 of Title 2 of the Government Code, to add Section 99315.6 to the Public Utilities Code, and to add Section 203 to the Streets and Highways Code, relating to transportation.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992]

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

SECTION 1. Chapter 4 (commencing with Section 14450) is added to Part 5 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4. CALIFORNIA TRANSPORTATION RESEARCH AND INNOVATION PROGRAM

14450. The department, in preparing its research and development program, shall consult with other parts of the transportation industry, including the private and public sectors, in order to obtain maximum input designed to develop a balanced multimodal research and development program. The department shall also consult with affected state agencies, including the Department of Motor Vehicles, the State Air Resources Board, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol.

14451. The department shall prepare an annual report which discusses the accomplishments of the research and innovation program and includes a recommended program for the next fiscal year. The report shall be submitted to the Legislature not later than August 1 in advance of the preparation of the Governor's proposed budget.

14452. (a) All funds made available pursuant to Section 99315.6 of the Public Utilities Code and Section 203 of the Streets and Highways Code shall be allocated to transportation research and development projects, including both the research and development of new technologies and the application of existing technologies to
transportation purposes. All state funded research and development work conducted on intelligent vehicle highway systems shall be funded with funds made available pursuant to Section 99315.6 of the Public Utilities Code and Section 203 of the Streets and Highways Code or with available federal funds.

(b) The department shall adopt a balanced, multimodal research and development program and shall ensure that adequate resources are devoted to research and development of nonhighway transportation modes, including, but not limited to, transit buses and other public transportation, and nonmotorized modes. The research and development program shall be evaluated to determine to what extent the program benefits highways or alternative modes. As an overall program goal, the department should strive to allocate a minimum of 50 percent of state funds made available pursuant to Section 99315.6 of the Public Utilities Code and Section 203 of the Streets and Highways Code to projects which relate to research and development of alternative modes of transportation.

(c) Funds made available pursuant to Section 203 of the Streets and Highways Code may be used for any research and development project which is designed to enhance or improve the operation of highways.

14453. The department’s role in this program shall be limited to research and development. The department shall consider the following guidelines in evaluating and selecting a site for a research and development center:

(a) Sources of funding for the center, with the stipulation that the state’s funding share does not exceed one-third of the total costs of the center, with the remaining funds provided from local, federal, and private sources. The department shall seek to maximize private participation in the funding of a center, and state funds shall be expended only for facilities to be used by the state to be located on real property owned by the state, including acquisition of real property to be owned by the state in fee simple or pursuant to a lease-purchase contract.

(b) Accessibility to the center by rail or bus service operating at frequency headways of not less than one-half hour during peak commute hours.

(c) Other criteria to be used in the evaluation of a site for the center, which shall include, but not be limited to, the following:

1. The ability of the project to enhance environmental quality, including the dedication of open space for preservation of open space, wetlands, and other wildlife habitat.

2. The ability of the project to rely on existing infrastructure, including water and sewer hookups to existing systems and access by existing roads and transit systems, or alternatively, an assurance by the local jurisdiction or jurisdictions that an infrastructure development plan has been adopted which provides for the timely construction of necessary infrastructure and which is fully funded.

3. The extent to which the project will result in the least cost to
public agencies, direct and indirect, including costs incurred by state and local agencies other than the department.

(4) The extent to which the project provides a return on investment of public funds to public agencies.

(d) Contracting for consultant services to assist it in selecting a site for a center.

(e) Receiving and evaluating proposals for the center, to be ranked in priority order consistent with this section.

(f) Not committing any state funds to the project other than for the development of a request for proposals and the evaluation of proposals received in response to the request, unless funds are specifically appropriated as a separate item in the annual Budget Act for the financing, planning, design, and construction of the center. Prior to funds being included in the annual Budget Act for the center, the department shall submit a report to the Legislature which fully describes any proposal which incorporates all information and activities required by this section.

(g) Construction of the center shall be subject to prevailing wage laws and minority enterprise and women business enterprise participation laws applicable to the department's highway construction projects.

14454. (a) If a decision is made to proceed with a research and development center, proceeds from the sale or lease of existing facilities owned by the department due to the transfer of the functions performed at those facilities to the research and development center shall be available, upon appropriation by the Legislature, for allocation for research and development purposes.

(b) Prior to recommending a site, the department shall hold at least one public hearing.

(c) The department shall not acquire a site for the center unless, at the time of the selection, construction of the center on that site is consistent with the applicable city or county general plan. With respect to this subdivision, the state shall not supercede local planning and zoning decisions.

14455. (a) Research contracts approved by the department shall require the contractor to disclose administrative overhead as a separate cost item, with a detailed statement identifying what activities will be paid as administrative overhead.

(b) Proposed research contracts shall be circulated by the department to interested private sector parties as well as public and private academic institutions.

14456. Pursuant to Section 14453, the department may enter into a joint powers agreement with other entities for development and operation of the center.

SEC. 2. Section 99315.6 is added to the Public Utilities Code, to read:

99315.6. Funds available pursuant to subdivision (b) of Section 99315.5 shall be allocated either in accordance with that section or pursuant to Chapter 4 (commencing with Section 14450) of Part 5 of
Division 3 of Title 2 of the Government Code, or both, consistent with Section 99310.5. The department shall consider making an allocation pursuant to subdivision (b) of Section 99315.5, so long as the funds will be used as part of the program adopted pursuant to Section 14452 of the Government Code.

SEC. 3. Section 203 is added to the Streets and Highways Code, to read:

203. It is the intent of the Legislature that each annual proposed budget prepared pursuant to Section 165 include state funds from the State Highway Account for the California Transportation Research and Innovation Program, in accordance with Chapter 4 (commencing with Section 14450) of Part 5 of Division 3 of Title 2 of the Government Code. These funds shall be identified as a distinct line-item in each proposed budget and shall be in addition to existing research and development conducted by the department.

CHAPTER 353

An act to add and repeal Section 21670.3 of the Public Utilities Code, relating to airports.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 21670.3 is added to the Public Utilities Code, to read:

21670.3. (a) Notwithstanding the deadlines in Sections 21671.5 and 21675.1, the commission in the County of Mendocino shall adopt the comprehensive land use plans required pursuant to Section 21675 by June 30, 1993, for all public airports in the county except the Willits Municipal Airport.

(b) Until the commission adopts a comprehensive land use plan, the city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land which will be included or reasonably could be included within the plan. If the commission has not designated a study area for the plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the
completion of the plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted plan if the action, regulation, or permit is ultimately inconsistent with the plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city’s or county’s decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations which exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1993.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

(h) Until June 30, 1993, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in the County of Mendocino.

(i) This section shall become inoperative on June 30, 1993, and is repealed on that date.

SEC. 2. In enacting Section 21670.3 of the Public Utilities Code pursuant to Section 1 of this bill, the Legislature finds and declares that:

(a) The Legislature has not extended the deadlines in Sections 21671.5 and 21675.1 of the Public Utilities Code for the Willits Municipal Airport.

(b) This act shall have no effect on the pending litigation brought by the City of Willits regarding the lack of a comprehensive land use plan for the Willits Municipal Airport.
(c) The Legislature does not intend to further extend the deadlines in Sections 21671.5 and 21675.1 of the Public Utilities Code for the County of Mendocino.

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 commission in the County of Mendocino. The facts constituting the special circumstances are:

There are unique problems involved for the commission in preparing the comprehensive land use plans with sufficient resources and broad public involvement, taking into consideration such factors as the county's natural resources and lands of high scenic values.

CHAPTER 354

An act to amend Sections 871.5, 874, 875, 876, 878, 879, and 879.5 of, and to repeal and add Section 873 of, the Public Utilities Code, relating to telephones.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 871.5 of the Public Utilities Code is amended to read:

871.5. The Legislature finds and declares all of the following:

(a) The offering of high quality basic telephone service at affordable rates to the greatest number of citizens has been a longstanding goal of the state.

(b) The Moore Universal Telephone Service Act has been, and continues to be, an important means for achieving universal service by making basic residential telephone service affordable to low-income citizens through the creation of a lifeline class of service.

(c) Every means should be employed by the commission and telephone corporations operating within service areas which furnish lifeline telephone service to ensure that every person qualified to receive lifeline telephone service is informed of and is afforded the opportunity to subscribe to that service.

(d) The furnishing of lifeline telephone service is in the public interest and should be supported fairly and equitably by every telephone corporation, and the commission, in administering the lifeline telephone service program, should implement the program in a way that is equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California.
SEC. 2. Section 873 of the Public Utilities Code is repealed.

SEC. 3. Section 873 is added to the Public Utilities Code, to read:
873. (a) The commission shall annually do all of the following:
(1) Designate a class of lifeline service necessary to meet minimum residential communications needs.
(2) Set the rates and charges for that service.
(3) Develop eligibility criteria for that service.
(4) Assess the degree of achievement of universal service, including telephone penetration rates by income, ethnicity, and geography.
This information shall be annually reported to the Legislature by the commission in a document which can be made public.
(b) Minimum residential communications needs includes, but is not limited to, the ability to originate and receive calls and the ability to access electronic information services.

SEC. 4. Section 874 of the Public Utilities Code is amended to read:
874. The lifeline telephone service rates and charges shall be as follows:
(a) In a residential subscriber’s service area where measured service is not available, the lifeline telephone service rates shall not be more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential subscriber.
(b) In a residential subscriber’s service area where measured service is available, the subscriber may elect either of the following:
(1) A lifeline telephone service measured rate of not more than 50 percent of the basic rate for measured service, exclusive of federally mandated end user access charges, available to the residential subscriber.
(2) A lifeline flat rate of not more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential subscriber.
(c) The lifeline telephone service installation or connection charge, or both, shall not be more than 50 percent of the charge for basic residential service installation or connection, or both. The commission may limit the number of installation and connection charges, or both, that may be incurred at the reduced rate in any given period.
(d) There shall be no charge to the residential customer who has filed a valid eligibility statement for changing out of lifeline service.
(e) The commission shall assess whether there is a problem with customers who fraudulently obtain lifeline telephone service. If the commission determines that there is a problem, it shall recommend and promulgate appropriate solutions. The results of this assessment and the solutions determined by the commission shall be reported to the Legislature on or before December 31, 1993. This assessment and the solutions determined by the commission shall not, in and of themselves, change the procedures developed pursuant to Section
SEC. 5. Section 875 of the Public Utilities Code is amended to read:

875. (a) In addition to Section 874, every lifeline telephone service subscriber shall be given an allowance, reduced by the amount of any credit or allowance authorized by the Federal Communications Commission, equal to the then current or announced federally mandated residential end user access charges.

(b) The commission may, in a separate proceeding, establish procedures necessary to ensure that the lifeline telephone service program qualifies for any federal funds available for the support of those programs.

SEC. 6. Section 876 of the Public Utilities Code is amended to read:

876. The commission shall require every telephone corporation providing telephone service within a service area to file a schedule of rates and charges providing a class of lifeline telephone service. Every telephone corporation providing service within a service area shall inform all eligible subscribers of the availability of lifeline telephone service, and how they may qualify for and obtain service, and shall accept applications for lifeline telephone service according to procedures specified by the commission.

SEC. 7. Section 878 of the Public Utilities Code is amended to read:

878. A lifeline telephone service subscriber shall be provided with one single party line at his or her principal place of residence, and no other member of that subscriber's family or household who maintains residence at that place is eligible for lifeline telephone service.

An applicant for lifeline telephone service may report only one address in this state as the principal place of residence.

SEC. 8. Section 879 of the Public Utilities Code is amended to read:

879. (a) The commission shall, at least annually, initiate a proceeding to set rates for lifeline telephone service. All telephone corporations providing lifeline telephone service shall annually file, on a date set by the commission, proposed lifeline telephone service rates and a statement of projected revenue needs to meet the funding requirements to provide lifeline telephone service to qualified subscribers, together with proposed funding methods to provide the necessary funding. These funding methods shall include identification of those services whose rates shall be adjusted to provide the necessary funding.

(b) The commission shall commence a proceeding within 30 days after the date set for the filings required in subdivision (a), giving interested parties an opportunity to comment on the proposed rates and funding requirements and the proposed funding methods. The commission may change the rates, funding requirements, and funding methods proposed by the telephone corporations in any
manner necessary, including reasonably spreading the funding among the services offered by the telephone corporations, to meet the public interest. Within 60 days of the annual filing, the commission shall issue an order setting lifeline telephone service rates and funding methods for each telephone corporation making a filing as required in subdivision (a). The commission may establish a lifeline service pool composed of the rate adjustments and surcharges imposed by the commission pursuant to this section for the purpose of funding lifeline telephone service.

(c) Any order issued by the commission pursuant to this section shall require telephone corporations providing lifeline telephone service to apply the funding requirement in the form of a surcharge to service rates which may be separately identified on the bills of customers using those services. The commission shall not allow any surcharge under this section on the rates charged by those telephone corporations for lifeline telephone service.

(d) The commission shall permit telephone corporations operating between service areas to adjust the rates of any service which may be affected by any surcharge imposed by this section.

SEC. 9. Section 879.5 of the Public Utilities Code is amended to read:

879.5. Notwithstanding Section 879, the commission shall issue its initial order adopting required rates and funding requirements not later than October 31, 1987, and prior to the issuance of that order, may fund lifeline telephone service through the use of an interim surcharge on service rates for telephone service provided by telephone corporations operating between service areas. The interim surcharge shall not exceed 4 percent of the service rates.

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 355

An act to amend Sections 2580, 3602, and 3611 of, and to add Sections 3604 and 3605 to, the Probate Code, relating to trusts.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992]

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

SECTION 1. Section 2580 of the Probate Code is amended to read:

2580. (a) The conservator or other interested person may file a petition under this article for an order of the court authorizing or requiring the conservator to take a proposed action for any one or more of the following purposes:

1. Benefiting the conservatee or the estate.
2. Minimizing current or prospective taxes or expenses of administration of the conservatorship estate or of the estate upon the death of the conservatee.
3. Providing gifts for any purposes, and to any charities, relatives (including the other spouse), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the conservatee.

(b) The action proposed in the petition may include, but is not limited to, the following:

1. Making gifts of principal or income, or both, of the estate, outright or in trust.
2. Conveying or releasing the conservatee’s contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety.
3. Exercising or releasing the conservatee’s powers as donee of a power of appointment.
4. Entering into contracts.
5. Creating for the benefit of the conservatee or others, revocable or irrevocable trusts of the property of the estate, which trusts may extend beyond the conservatee’s disability or life. A special needs trust for money paid pursuant to a compromise or judgment for a conservatee may be established only under Chapter 4 (commencing with Section 3600) of Part 8, and not under this article.
6. Exercising options of the conservatee to purchase or exchange securities or other property.
7. Exercising the rights of the conservatee to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any of the following:
   (i) Life insurance policies, plans, or benefits.
   (ii) Annuity policies, plans, or benefits.
(iii) Mutual fund and other dividend investment plans.
(iv) Retirement, profit sharing, and employee welfare plans and benefits.

(8) Exercising the right of the conservatee to elect to take under or against a will.

(9) Exercising the right of the conservatee to disclaim any interest that may be disclaimed under Part 8 (commencing with Section 260) of Division 2.

(10) Exercising the right of the conservatee (i) to revoke a revocable trust or (ii) to surrender the right to revoke a revocable trust, but the court shall not authorize or require the conservator to exercise the right to revoke a revocable trust if the instrument governing the trust (i) evidences an intent to reserve the right of revocation exclusively to the conservatee, (ii) provides expressly that a conservator may not revoke the trust, or (iii) otherwise evidences an intent that would be inconsistent with authorizing or requiring the conservator to exercise the right to revoke the trust.

(11) Making an election referred to in Section 13502 or an election and agreement referred to in Section 13503.

SEC. 2. Section 3602 of the Probate Code is amended to read:

3602. (a) If there is no guardianship of the estate of the minor or conservatorship of the estate of the incompetent person, the remaining balance of the money and other property (after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601) shall be paid, delivered, deposited, or invested as provided in Article 2 (commencing with Section 3610).

(b) Except as provided in subdivisions (c) and (d), if there is a guardianship of the estate of the minor or conservatorship of the estate of the incompetent person, the remaining balance of the money and other property (after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601) shall be paid or delivered to the guardian or conservator of the estate. Upon application of the guardian or conservator, the court making the order or giving the judgment referred to in Section 3600 or the court in which the guardianship or conservatorship proceeding is pending may, with or without notice, make an order that all or part of the money paid or to be paid to the guardian or conservator under this subdivision be deposited or invested as provided in Section 2456.

(c) Upon ex parte petition of the guardian or conservator or upon petition of any person interested in the guardianship or conservatorship estate, the court making the order or giving the judgment referred to in Section 3600 may for good cause shown order either or both of the following:

(1) That all or part of the remaining balance of money not become a part of the guardianship or conservatorship estate and instead be deposited 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.

(2) If there is a guardianship of the estate of the minor, that all or
part of the remaining balance of money and other property not become a part of the guardianship estate and instead 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).

(d) Upon petition of the guardian, conservator, or any person interested in the guardianship or conservatorship estate, the court making the order or giving the judgment referred to in Section 3600 may order that all or part of the remaining balance of money not become a part of the guardianship or conservatorship estate and instead be paid to a special needs trust established under Section 3604 for the benefit of the minor or incompetent person.

(e) If the petition is by a person other than the guardian or conservator, notice of hearing on a petition under subdivision (c) shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(f) Notice of the time and place of hearing on a petition under subdivision (d), and a copy of the petition, shall be mailed to the State Director of Health Services, the Director of Mental Health, and the Director of Developmental Services at the office of each director in Sacramento at least 15 days before the hearing.

SEC. 3. Section 3604 is added to the Probate Code, to read:

3604. (a) If a court makes an order under Section 3602 or 3611 that money of a minor or incompetent person be paid to a special needs trust, the terms of the trust shall be reviewed and approved by the court and shall satisfy the requirements of this section. The trust is subject to continuing jurisdiction of the court, and is subject to court supervision to the extent determined by the court. The court may transfer jurisdiction to the court in the proper county for commencement of a proceeding as determined under Section 17005.

(b) A special needs trust may be established and continued under this section only if the court determines all of the following:

(1) That the minor or incompetent person has a disability that substantially impairs the individual's ability to provide for the individual's own care or custody and constitutes a substantial handicap.

(2) That the minor or incompetent person is likely to have special needs that will not be met without the trust.

(3) That money to be paid to the trust does not exceed the amount that appears reasonably necessary to meet the special needs of the minor or incompetent person.

(c) If at any time it appears (1) that any of the requirements of subdivision (b) are not satisfied or the trustee refuses without good cause to make payments from the trust for the special needs of the beneficiary, and (2) that the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, or a county or city and county in this state has a claim against trust property, that department, county, or city and county may petition the court for an order terminating the trust.
(d) A court order under Section 3602 or 3611 for payment of money to a special needs trust shall include a provision that all statutory liens in favor of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, and any county or city and county in this state shall first be satisfied.

SEC. 4. Section 3605 is added to the Probate Code, to read:

3605. (a) This section applies only to a special needs trust established under Section 3604 on or after January 1, 1993.

(b) While the special needs trust is in existence, the statute of limitations otherwise applicable to claims of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, and any county or city and county in this state is tolled. Notwithstanding any provision in the trust instrument, at the death of the special needs trust beneficiary or on termination of the trust, the trust property is subject to claims of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, and any county or city and county in this state to the extent authorized by law as if the trust property is owned by the beneficiary or is part of the beneficiary’s estate.

(c) At the death of the special needs trust beneficiary or on termination of the trust, the trustee shall give notice of the beneficiary’s death or the trust termination, in the manner provided in Section 1215, to all of the following:

1. The State Department of Health Services, the State Department of Mental Health, and the State Department of Developmental Services, addressed to the director of that department at the Sacramento office of the director.

2. Any county or city and county in this state that has made a written request to the trustee for notice, addressed to that county or city and county at the address specified in the request.

(d) Failure to give the notice required by subdivision (c) prevents the running of the statute of limitations against the claim of the department, county, or city and county not given the notice.

(e) The department, county, or city and county has four months after notice is given in which to make a claim with the trustee. If the trustee rejects the claim, the department, county, or city and county making the claim may petition the court for an order under Chapter 3 (commencing with Section 17200) of Part 5 of Division 9, directing the trustee to pay the claim. A claim made under this subdivision shall be paid as a preferred claim prior to any other distribution. If trust property is insufficient to pay all claims under this subdivision, the trustee shall petition the court for instructions and the claims shall be paid from trust property as the court deems just.

(f) If trust property is distributed before expiration of four months after notice is given without payment of the claim, the department, county, or city and county has a claim against the distributees to the full extent of the claim, or each distributee’s share of trust property,
whichever is less. The claim against distributees includes interest at a rate equal to that earned in the Pooled Money Investment Account, Article 4.5 (commencing with Section 16480) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, from the date of distribution or the date of filing the claim, whichever is later, plus other accruing costs as in the case of enforcement of a money judgment.

SEC. 5. 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) That the remaining balance of any money be paid to a special needs trust established under Section 3604 for the benefit 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 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.

(e) 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.

(f) 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 356

An act to amend Sections 4370.5, 4800.10, 4800.11, and 5127 of, and to add Sections 4372 and 4373 to, the Civil Code, relating to family law.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 4370.5 of the Civil Code is amended to read:

4370.5. (a) The court may make an award of attorneys' fees and costs under this chapter where the making of the award, and the amount of the award, is just and reasonable under the relative circumstances of the respective parties.

(b) In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to adequately present his or her case, taking into consideration to the extent relevant the circumstances of the respective parties described in subdivision (a) of Section 4801. The fact that the party requesting an award of attorneys' fees and costs has the resources from which he or she could pay his or her own attorneys' fees and costs is not itself a bar to an order that the other party pay part, or all of the fees and costs requested. Financial resources are only one factor for the court to consider in determining how to apportion the overall cost of the litigation equitably between the parties under their relative circumstances.

(c) The court may order payment of an award from any type of property, whether community or separate, principal or income.

(d) Either party may, at any time prior to the hearing of the cause
on the merits, upon noticed motion, request the court to make a finding that the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support. Upon that finding, the court may in its discretion direct the implementation of a case management plan for the purpose of allocating attorney's fees, court costs, expert fees, and consultant fees equitably between the parties. The case management plan shall focus on specific, designated issues. The plan may provide for the allocation of separate or community assets, security against these assets, and for payments from income or anticipated income of either party for the purpose described in this subdivision and for the benefit of one or both parties. Payments shall be authorized only upon agreement of the parties or, in the absence thereof, by court order. The court may order that a referee be appointed pursuant to Section 639 of the Code of Civil Procedure to oversee the case management plan.

SEC. 2. Section 4372 is added to the Civil Code, to read:

4372. (a) Either party may encumber his or her interest in community real property to pay reasonable attorney's fees in order to retain or maintain legal counsel in an action under this part. This encumbrance shall be known as a "family law attorney's real property lien" and shall attach only to the encumbering party's interest in the community real property.

(b) Notice of a family law attorney's real property lien shall be served either personally or upon the other party's attorney of record at least 15 days before the encumbrance is recorded. This notice shall contain a declaration signed under penalty of perjury containing the following:

(1) A full description of the real property.
(2) The party's belief as to the fair market value of the property and documentation supporting that belief.
(3) Encumbrances on the property as of the date of the declaration.
(4) A list of community assets and liabilities and their estimated values as of the date of the declaration.
(5) The amount of the family law attorney's real property lien.
(c) The nonencumbering party may file an ex parte objection to the family law attorney's real property lien. The objection shall include a request to stay the recordation until further notice of the court and shall contain a copy of the notice received. It shall also include a declaration signed under penalty of perjury as to the following:

(1) Specific objections to the family law attorney's real property lien and to the specific items in the notice.
(2) The objector's belief as to the appropriate items or value and any documentation supporting that belief.
(3) A declaration specifically stating why recordation of the encumbrance at this time would likely result in an unequal division of property or would otherwise be unjust under the circumstances.
of the case.

(d) Except as otherwise provided by this section, existing procedural rules regarding ex parte motions shall apply.

(e) An attorney for whom a family law attorney's real property lien is obtained shall comply with Rule 3-300 of the Rules of Professional Conduct of the State Bar of California.

SEC. 3. Section 4373 is added to the Civil Code, to read:

4373. (a) Upon application of either party, the court may deny the family law attorney's real property lien described in Section 4372 based upon a finding that the encumbrance would likely result in an unequal division of property because it would impair the encumbering party's ability to meet his or her fair share of the community obligations or would otherwise be unjust under the circumstances of the case. The court may also for good cause limit the amount of the family law attorney's real property lien. A limitation by the court is not to be construed as a determination of reasonable attorney's fees.

(b) Upon receiving an objection to the establishment of a family law attorney's real property lien, the court may on its own motion determine whether the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support. If the court finds that the case involves one or more of these complex or substantial issues, the court may direct the implementation of a case management plan as provided in subdivision (d) of Section 4370.5.

(c) The court has jurisdiction to resolve any dispute arising from the existence of a family law attorney's real property lien.

SEC. 4. Section 4800.10 of the Civil Code, as added by Section 1 of Chapter 37 of the Statutes of 1992, is amended to read:

4800.10. (a) The Legislature finds and declares as follows:

It is the policy of the State of California (1) to marshal, preserve, and protect community and quasi-community assets and liabilities that exist at the date of separation so as to avoid dissipation of the community estate prior to distribution, (2) to ensure fair and sufficient child and spousal support awards, and (3) to achieve a division of community and quasi-community assets and liabilities upon the dissolution of marriage as provided for under California law.

Sound public policy further favors the reduction of the adversarial nature of marital dissolution and the attendant costs by fostering full disclosure and cooperative discovery.

In order to promote this public policy, a full and accurate disclosure of all assets and liabilities in which one or both parties have or may have an interest must be made in the early stages of the dissolution of marriage action, regardless of the characterization as community or separate, together with a disclosure of all income and expenses of the parties. Moreover, each party has a continuing duty to update and augment that disclosure so that at the time the parties enter into an agreement for the resolution of any of these issues, or
at the time of trial on these issues, each party will have as full and
complete knowledge of the relevant underlying facts as is reasonably
possible under the circumstances of the case.

(b) From the date of separation to the date of the distribution of
the community asset or liability in question, each party shall be
subject to the standards set forth in Section 5103, as to all activities
that affect the property rights of the other party, including, but not
limited to, the following activities:

(1) The accurate and complete disclosure of all assets and
liabilities in which the party has or may have an interest or obligation
and all current earnings, accumulations, and expenses.

(2) The accurate and complete written disclosure of any
investment opportunity that presents itself after the date of
separation, but which results directly from any activity, involvement,
or investment of either spouse from the date of marriage to the date
of separation, inclusive. The written disclosure shall be made in
sufficient time for the other spouse to make an informed decision as
to whether he or she desires to participate in the investment
opportunity.

In the event of nondisclosure of such an investment opportunity,
the division of any gain resulting from that investment opportunity
shall be governed by the standard set forth in Section 4353.

(3) The operation or management of a business or an interest in
a business in which the community may have an interest.

(c) In order to provide full and accurate disclosure of all assets and
liabilities in which one or both parties may have an interest, each
party to the dissolution action shall serve upon the other a
preliminary declaration of disclosure and a final declaration of
disclosure.

1. (A) Except by court order upon good cause or by stipulation
of the parties, within 60 days of service of the petition for dissolution
of marriage, each party shall serve upon the other a preliminary
declaration of disclosure, executed under penalty of perjury upon a
form prescribed by the Judicial Council. The commission of perjury
on the preliminary declaration of disclosure may be grounds for
setting aside the judgment, or any part or parts thereof, pursuant to
Section 4800.11, in addition to any and all other remedies, civil or
criminal, that otherwise are available under existing law for the
commission of perjury. The preliminary declaration of disclosure
shall not be filed with the court, except upon court order. The parties
may agree in writing to accelerate or delay the time in which to
exchange the preliminary declaration of disclosure.

(B) The preliminary declaration of disclosure shall set forth with
sufficient particularity which a person of reasonable and ordinary
intelligence can ascertain, the identity of all assets in which the
declarant has or may have an interest and all liabilities for which the
declarant is or may be liable, regardless of the characterization of the
asset or liability as community, quasi-community, or separate. The
declarant shall set forth his or her percentage of ownership in each
asset and percentage of obligation for each liability where property is not solely owned by one or both of the parties to the dissolution action and may set forth his or her characterization of each asset or liability. Along with the preliminary declaration of disclosure, each party shall provide the other with a completed income and expense declaration unless an income and expense declaration has already been provided and is current and valid. A party shall be permitted to amend his or her preliminary declaration of disclosure without leave of the court.

(2) Prior to the time the parties enter into an agreement for the resolution of property or support issues other than pendente lite support, or, in the event the case goes to trial, no later than 30 days before the first trial date is assigned, each party shall file and serve upon the other a final declaration of disclosure and a current income and expense declaration, executed under penalty of perjury upon a form prescribed by the Judicial Council. The commission of perjury on the final declaration of disclosure may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Section 4800.11, in addition to any and all other remedies, civil or criminal, that otherwise are available under existing law for the commission of perjury. Unless it has already been filed pursuant to the foregoing, the final declaration of disclosure shall be filed with the court at the time of the filing of the judgment. All of the following information shall be included in the final declaration of disclosure:

(A) All material facts and information regarding the characterization of all assets and liabilities.

(B) All material facts and information regarding the valuation of all assets which are contended to be community or in which it is contended the community has an interest.

(C) All material facts and information regarding the amounts of all obligations which are contended to be community obligations or in which it is contended the community has liability.

(D) All material facts and information regarding the earnings, accumulations, and expenses of each party which have been set forth in the income and expense declaration. An updated income and expense declaration shall be served and filed at this time unless a current income and expense declaration is on file.

(d) No agreement shall be enforceable, and no judgment shall be entered, with respect to the parties’ property rights without each party having executed and filed with the court a copy of the final declaration of disclosure, unless the court finds that denial of entry of judgment would unfairly prejudice a party who has complied with the disclosure requirements of this section and who has requested entry of judgment, or the court otherwise finds that the interests of justice would not be served if judgment were not entered.

(e) In the event that one party fails to exchange and serve upon the other party either a preliminary or a final declaration of disclosure pursuant to this section, or fails to provide the information in the respective declaration of disclosure with sufficient
particularity, and if the other party has served the respective declaration of disclosure on the noncomplying party, the complying party shall, within a reasonable time, request preparation of the appropriate declaration of disclosure or further particularity. In the event the noncomplying party fails to comply, the complying party may do either or both of the following:

(1) File a motion to compel a further response.
(2) File a motion for an order preventing the noncomplying party from presenting evidence on issues that should have been covered in the declaration of disclosure.

(f) In the event of a party's failure to comply with any provision of this section the court shall, in addition to any other remedy provided by law, order the noncomplying party to pay to the complying party any and all reasonable attorney's fees, expert fees, and any other costs incurred as a result of the failure to comply with any provision of this section.

(g) At any time during the proceedings, the court has the authority, upon application of a party and upon good cause, to order the liquidation of community or quasi-community assets so as to avoid unreasonable market or investment risks, given the relative nature, scope, and extent of the community estate. However, in no event shall the court grant the application unless, as provided in this section, the appropriate declaration of disclosure has been served by the moving party.

(h) Unless the context otherwise requires, the following definitions apply to this section:

(1) "Asset" includes, but is not limited to, any real or personal property of any nature, whether tangible or intangible.
(2) "Liability" includes, but is not limited to, any debt or obligation, whether currently existing or contingent.
(3) "Earnings and accumulations" includes, but is not limited to, wages, salary, net rents, issues, profits, and business perquisites.
(4) "Expenses" includes, but is not limited to, all personal living expenses, but shall not include business related expenses.

(i) This section shall be applicable to any proceeding commenced on or after January 1, 1993.

SEC. 5. Section 4800.11 of the Civil Code, as added by Section 1 of Chapter 36 of the Statutes of 1992, is amended to read:

4800.11. (a) The Legislature finds and declares as follows:

(1) The State of California has a strong policy of ensuring the division of community and quasi-community property in the dissolution of a marriage as set forth in Section 4800, and of providing for fair and sufficient child and spousal support awards. These policy goals can only be implemented with full disclosure of community, quasi-community, and separate assets, liabilities, income and expenses, as provided for in Section 4800.10, and decisions freely and knowingly made.

(2) It occasionally happens that the division of property or the award of support, whether made as a result of agreement or trial, are
inequitable when made due to the nondisclosure or other misconduct of one of the parties.

(3) The public policy of assuring finality of judgments must be balanced against the public interest in ensuring proper division of marital property, in ensuring sufficient support awards, and in deterring misconduct.

(4) The law governing the circumstances under which a judgment can be set aside, after the time for relief under Section 473 of the Code of Civil Procedure has passed, has been the subject of considerable confusion which has led to increased litigation and unpredictable and inconsistent decisions at the trial and appellate levels.

(b) In actions under the Family Law Act, the court may, upon such terms as may be just, relieve a spouse from a judgment, or any part or parts thereof, adjudicating support or division of property, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based upon the grounds, and within the time limits, set forth in this section.

(c) In all proceedings under this section, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original outcome and that the moving party would materially benefit from the granting of the relief.

(d) The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, shall be governed by this section and shall be one of the following:

(1) Actual fraud where the defrauded party was kept in ignorance or in some other manner, other than his or her own lack of care or attention, was fraudulently prevented from fully participating in the proceeding. Motions based upon fraud shall be brought within one year of the date on which the complaining party either did discover, or should have discovered, the fraud.

(2) Perjury in the declarations of disclosures required under Section 4800.10. Motions based upon perjury shall be brought within one year of the date on which the complaining party either did discover, or should have discovered, the perjury.

(3) Duress. Motions based upon duress shall be brought within two years from the date of entry of judgment.

(4) Mental incapacity. Motions based upon mental incapacity shall be brought within two years from the date of entry of judgment.

(5) As to stipulated or uncontested judgments or that part of a judgment stipulated to by the parties, mistake, either mutual or unilateral, whether mistake of law or mistake of fact. Motions based upon mistake shall be brought within one year of the date of entry of judgment.

(e) Notwithstanding any other provision of this section, or any other law, a judgment may not be set aside simply because the court finds that it was inequitable when made, nor simply because subsequent circumstances caused the division of assets or liabilities to become inequitable, or the support to become inadequate.
(f) The negligence of an attorney shall not be imputed to a client to bar an order setting aside a judgment, unless the court finds that the client knew or should have known, of the attorney’s negligence and unreasonably failed to protect himself or herself.

(g) When ruling on a motion to set aside a judgment, the court shall set aside only those provisions materially affected by the circumstances leading to the court’s decision to grant relief. However, the court shall have the discretion to set aside the entire judgment, if necessary, for equitable considerations.

(h) As to assets or liabilities for which a judgment or part of a judgment is set aside, the date of valuation shall be subject to equitable considerations. The court shall equally divide the asset or liability, unless the court finds upon good cause shown that the interests of justice require an unequal division.

(i) As to motions filed under this section, if a timely request is made, the court shall render a statement of decision where the court has resolved controverted factual evidence.

(j) Nothing in this section prohibits a party from seeking relief under Section 4353.

(k) Nothing in this section changes existing law with respect to contract remedies where the contract has not been merged or incorporated into a judgment.

(l) Nothing in this section is intended to restrict a family law court from acting as a court of equity.

(m) Nothing in this section is intended to limit existing law with respect to the modification or enforcement of support orders.

(n) Nothing in this section shall affect the rights of a bona fide lessee, purchaser, or encumbrancer for value of real property.

(o) This section shall be applicable to judgments entered on or after January 1, 1993.

SEC. 6. Section 5127 of the Civil Code is amended to read:

5127. Except as provided in Sections 5110.150 and 5128, either spouse has the management and control of the community real property, whether acquired prior to or on or after January 1, 1975, but both spouses either personally or by duly authorized agent, must join in executing any instrument by which such community real property or any interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered; provided, however, that nothing herein contained shall be construed to apply to a lease, mortgage, conveyance, or transfer of real property or of any interest in real property between husband and wife; provided, also, however, that the sole lease, contract, mortgage or deed of the husband, holding the record title to community real property, to a lessee, purchaser, or encumbrancer, in good faith without knowledge of the marriage relation, shall be presumed to be valid if executed prior to January 1, 1975, and that the sole lease, contract, mortgage, or deed of either spouse, holding the record title to community real property to a lessee, purchaser, or encumbrancer, in good faith without knowledge of the marriage relation, shall be presumed to be valid if
executed on or after January 1, 1975. No action to avoid any instrument mentioned in this section, affecting any property standing of record in the name of either spouse alone, executed by the spouse alone, shall be commenced after the expiration of one year from the filing for record of that instrument in the recorder's office in the county in which the land is situate, and no action to avoid any instrument mentioned in this section, affecting any property standing of record in the name of the husband alone, which was executed by the husband alone and filed for record prior to the time this act takes effect, in the recorder's office in the county in which the land is situate, shall be commenced after the expiration of one year from the date on which this act takes effect.

Nothing in this section shall preclude either spouse from encumbering his or her interest in community real property as provided in Section 4372, to pay reasonable attorney's fees in order to retain or maintain legal counsel in an action under this part.

CHAPTER 357

An act relating to heavy metals in packaging.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. (a) The California Integrated Waste Management Board shall conduct a study of the presence of heavy metals in packaging and the threat which heavy metals in packaging pose to public health and safety and the environment and report the results of the study to the Governor and the Legislature on or before January 1, 1995.

(b) The report shall include, but need not be limited to, all of the following:

(1) A compilation of data from any studies on heavy metals in packaging which have been completed or undertaken elsewhere, including any studies by the federal Environmental Protection Agency.

(2) The effect of heavy metals in packaging on solid waste landfills and transformation facilities.

(3) Public health and safety and environmental hazards associated with heavy metals in packaging.

(4) Recommendations for any actions which are identified to be needed to reduce or eliminate heavy metals from packaging, including recommendations for how any recommended legislative mandates should be implemented, enforced, and funded.

(c) The board shall fund the report from existing resources.

(d) The board shall consult with the State Department of Health
Services and the Office of Environmental Health Hazard Assessment in determining public health and safety hazards associated with heavy metals in packaging.

(e) For purposes of this section, "heavy metal" means any substance listed in Section 22-66261.24 of Title 26 of the California Code of Regulations.

(f) For the purposes of this section, "packaging" means any part of a product package, including, but not limited to, any interior or exterior cushioning, weatherproofing, coating, closure, ink, label, dye, pigment, adhesive, or other additive.

CHAPTER 358

An act to amend the heading of Division 2 (commencing with Section 1000) of, to amend the heading of Chapter 2 (commencing with Section 1100) of Division 2 of, to add a heading to Article 1 (commencing with Section 1100) of Chapter 2 of Division 2 of, and to add Article 2 (commencing with Section 1126) to Chapter 2 of Division 2 of, the Elections Code, relating to voting.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. The heading of Division 2 (commencing with Section 1000) of the Elections Code is amended to read:

DIVISION 2. ABSENTEE VOTING, NEW RESIDENT AND NEW CITIZEN VOTING, AND MAIL BALLOT ELECTIONS

SEC. 2. The heading of Chapter 2 (commencing with Section 1100) of Division 2 of the Elections Code is amended to read:

CHAPTER 2. NEW RESIDENTS AND NEW CITIZENS

SEC. 3. A heading is added to Article 1 (commencing with Section 1100) of Chapter 2 of Division 2 of the Elections Code, to read:

Article 1. New Residents

SEC. 4. Article 2 (commencing with Section 1126) is added to Chapter 2 of Division 2 of the Elections Code, to read:
Article 2. New Citizens

1126. "New citizen" means any person who meets all requirements of an elector of, and has established residency in, the State of California, except that he or she will become a United States citizen after the 29th day prior to an election but on or before the seventh day prior to that election.

1127. Any new citizen is eligible to register and vote at the county clerk's office at any time beginning on the 28th day before an election and ending on the seventh day prior to election day.

1128. A new citizen registering to vote after the close of registration shall provide the county clerk with proof of citizenship prior to voting, and shall declare that he or she has established residency in California. Upon receipt of proof of citizenship and California residency, the county clerk shall instate the affiant as a registered voter and include his or her affidavit of registration in the permanent file of affidavits.

1129. The ballots of new citizens shall be received and canvassed at the same time and under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this chapter.

1130. The county elections official shall keep open to public inspection a list of all persons who have registered as new citizens.

SEC. 5. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. 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 359

An act to amend Section 2889.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. The Legislature finds and declares all of the following:
(a) Competition for telecommunications services is developing within local service areas.
(b) The Public Utilities Commission has opened an investigation for considering whether and under what conditions the local service areas should be opened to competition.

(c) It is the intent of the Legislature to help ensure that adequate consumer protections are in place if and when competition is authorized. This act is not intended to predetermine the outcome of the Public Utilities Commission's investigation.

SEC. 2. Section 2889.5 of the Public Utilities Code is amended to read:

2889.5. No telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall authorize a different telephone corporation to make any change in a residential telephone subscriber's presubscribed telephone corporation until all of the following steps have been completed:

(a) If a subscriber is solicited by telephone or by some other method, other than by contact in person, by a telephone corporation or its independent representative, other than an employee of the telephone corporation, "the corporation" or its representative shall do all of the following:

(1) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) Specifically establish whether the subscriber intends to make any change in his or her telephone corporation and explain any charges associated with that change.

(3) Where a representative is acting on behalf of the corporation, a followup call by the telephone corporation, or a representative of the carrier who does not receive a commission for that sale, shall be made to verify the subscriber's intent to change his or her telephone corporation.

(4) Mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation and describing the new service, as soon as possible. The package shall include a confirmation form to be returned to the telephone corporation or some other reasonable attempt shall be made to obtain written authorization of the subscriber's intent to change telephone corporations.

(b) If the subscriber seeks to make a change in his or her telephone corporation in person, the telephone corporation or its representative shall do all of the following:

(1) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) Specifically establish whether the subscriber intends to make any change in his or her telephone corporation, and explain any charges associated with that change.

(3) Obtain the subscriber's signature on a document which fully explains the nature and extent of the action. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation.

(4) Furnish the subscriber with a copy of the signed document.
(c) If a subscriber notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that made the change.

CHAPTER 360

An act to amend Section 10605 of the Health and Safety Code, and to amend Section 350 of the Welfare and Institutions Code, relating to minors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 10605 of the Health and Safety Code is amended to read:

10605. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) (1) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven-dollar ($7) fee is exempt from subdivision (e) and shall be paid to either a county children’s trust fund or to the State Children’s Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(2) (A) As a pilot project, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, Santa Clara, and Tulare Counties may increase the fee for a certified copy of a birth certificate by up to three dollars ($3), through December 31, 1996, for the purpose of providing dependency mediation services in the juvenile court. Public agencies shall be exempt from paying this portion of the fee. However, if a county increases this fee, neither the revenue generated from the fee increase nor the increased expenditures made for these services shall be considered in determining the court’s progress towards achieving its cost reduction goals pursuant to Section 68113 of the Government Code if the net effect of the revenue and expenditures is a cost increase. In each county participating in the pilot project up to 5 percent of the revenue generated from the fee increase may be apportioned to the county recorder for the additional accounting costs of the program.

(B) On or before December 31, 1995, each participating county
shall submit an independent study of the project to the Legislature. The study shall consider the effectiveness of mediation, the cost-avoidance realized, what model of juvenile court mediation should be promoted statewide, and at what point mediation is most effective.

(C) The presiding judge of the superior court of each participating county shall designate a person who will facilitate access to case files and any other data necessary for the independent study.

(D) Variables to be evaluated and measured to indicate the success of the pilot projects shall include, but not be limited to:

(i) At least 75 percent of all participants should be satisfied or very satisfied with the dependency mediation process.

(ii) The range of creative solutions for resolution of the families' problems within the development of the court ordered plan shall increase by 10 percent.

(iii) At least 70 percent of matters coming before the court should be settled in less time using dependency mediation than if adjudicated.

(iv) Dependency mediation shall result in a 25 percent reduction in foster care placements.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 5183 of the Civil Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to this section shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section 114.

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

350. (a) (1) The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and
effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his or her welfare with any provisions that the court may make for the disposition and care of the minor.

(2) Each juvenile court in Contra Costa, Los Angeles, Orange, Sacramento, San Diego, Santa Clara, and Tulare Counties is encouraged to develop a dependency mediation program to provide a problem-solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening. The Legislature finds that mediation of these matters assists the court in resolving conflict, and helps the court to intervene in a constructive manner in those cases where court intervention is necessary. Notwithstanding any other provision of law, no person, except the mediator, who is required to report suspected child abuse pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code), shall be exempted from those requirements under Section 1152.5 of the Evidence Code because he or she agreed to participate in a dependency mediation program established in one of these juvenile courts.

If a dependency mediation program has been established in one of these juvenile courts, and if mediation is requested by any person who the judge or referee deems to have a direct and legitimate interest in the particular case, or on the court's own motion, the matter may be set for confidential mediation to develop a plan in the best interests of the child, utilizing resources within the family first and within the community if required.

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

(1) The court determines that testimony in chambers is necessary to 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) At any hearing in which the probation department bears the
burden of proof, after the presentation of evidence on behalf of the
probation department has been closed, the court, on motion of the
minor, parent or guardian, or on its own motion, shall order whatever
action the law requires of it if the court, upon weighing the evidence
then before it, finds that the probation department has not met its
burden. That action includes, but is not limited to, the dismissal of
the petition and release of the minor at a jurisdictional hearing, the
return of the minor at an out-of-home review held prior to the
permanency planning hearing, or the termination of jurisdiction at
an in-home review. If the motion is not granted, the minor, parent,
or guardian may offer evidence without first having reserved that
right.

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 families involved in dependency
proceedings for child abuse may continue to take full advantage of
mediation services currently available, and that counties may
receive funding from the increased fee on birth certificates for the
payment of these mediation programs, it is necessary that this act
take effect immediately.

CHAPTER 361

An act to add Chapter 27 (commencing with Section 22770) to
Division 8 of the Business and Professions Code, relating to cable
television.

[Approved by Governor July 24, 1992. Filed with
Secretary of State July 27, 1992 ]

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

SECTION 1. Chapter 27 (commencing with Section 22770) is
added to Division 8 of the Business and Professions Code, to read:

CHAPTER 27. CABLE TELEVISION

22770. (a) "Cable television operator" means the person or
entity providing cable television services through the cable
television system.

(b) "Video provider" means any person, company, or service
which provides one or more channels of video programming to a
residence, including a home, condominium, apartment, or
mobilehome, where some fee is paid, whether directly or as included
in dues or rental charges, for that service, whether or not public
rights-of-way are utilized in the delivery of the video programming.
A "video provider" shall include, but not be limited to, providers of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution service, and other providers of video programming, whatever their technology.

(c) No cable television operator or video provider shall charge for a service, for which a separate and distinct charge was made, that is provided to a consumer on an individual basis at no charge unless the customer affirmatively and specifically elects to continue that service for the applicable charge. This election may be made by the consumer at any time prior to the imposition of the applicable charge, including at any time prior to first receiving the service for no charge. This section shall not apply to the addition of any service to a package, tier or service offering or any restructuring or retiering of any package, tier or service offering, provided the consumer is receiving the package, tier or servicing offering at the time of the addition, restructuring or retiering.

CHAPTER 362

An act to add Section 23358.6 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992 ]

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

SECTION 1. Section 23358.6 is added to the Business and Professions Code, to read:

23358.6. Notwithstanding any other provision of this division, a licensed winegrower who manufactures, produces, bottles, processes, imports, or sells wine only, or any officer, director, or agent of that person, may hold, directly or indirectly, the ownership of any interest in an on-sale license, provided that each of the following conditions are met:

(a) The licensed on-sale premises is licensed as a bona fide public eating place as defined in Section 23038.

(b) Any alcoholic beverage sold and served at the on-sale licensed premises is purchased only from a California wholesale licensee.

(c) The licensed winegrower's principal place of business is in the County of Napa.

(d) The licensed winegrower holds no more than one on-sale license that is not contiguous to the licensed premise.

(e) The licensed winegrower does not sell wine to consumers for consumption on the premises of a bona fide eating place operated at the winegrower's licensed premises pursuant to Section 23358 of this division. For the purposes of this section only, a licensed winegrower
will be deemed not to be selling wine to consumers for consumption on the premises of a bona fide eating place pursuant to Section 23358 if the licensed winegrower serves to consumers wines for consumption on the premises in conjunction with meals prepared by a caterer which are sold to private, prebooked, and rearranged bus tours at the winegrower’s licensed premises in compliance with a valid county conditional use permit. Catered meals and wines for consumption on the premises shall be limited to 10 bus tours in any 30-day period with no more than two bus tours in any given day.

(f) The number of wine items offered for sale by the on-sale licensed premises which are produced, bottled, processed, imported, or sold by the licensed winegrower or by any person holding any interest in the winegrower does not exceed 15 percent of the total wine items listed and offered for sale in the licensed bona fide eating place selling and serving that wine.

(g) The licensed winegrower does not produce more than 125,000 gallons of wine per year.

CHAPTER 363

An act to amend Section 25366.5 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992]

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 household hazardous waste collection program or any person operating such a program under a written 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, including, but not limited to, any action to recover the fees imposed by Section 25343, 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) For purposes of this section, “household hazardous waste collection program” means a program in which hazardous wastes from households and small quantity commercial sources, as defined in subdivision (d) of Section 25158.1, are collected and ultimately transferred to an authorized hazardous waste treatment, storage, or disposal facility.
(c) 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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 safe disposal of household hazardous waste by household hazardous waste collection programs, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 364

An act to amend Section 61600 of, and to add Sections 61601.1 and 61615.5 to, the Government Code, relating to graffiti abatement.

[Approved by Governor July 24, 1992. Filed with Secretary of State July 27, 1992.]

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

SECTION 1. Section 61600 of the Government Code is amended to read:

61600. A district formed under this law may exercise the powers granted for any of the following purposes designated in the petition for formation of the district and for any other of the following purposes that the district shall adopt:
(a) To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.
(b) The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.
(c) The collection or disposal of garbage or refuse matter.
(d) Protection against fire.
(e) Public recreation including, but not limited to, aquatic parks and recreational harbors, equestrian trails, playgrounds, golf courses, swimming pools, or recreational buildings.
(f) Street lighting.
(g) Mosquito abatement.
(h) The equipment and maintenance of a police department or other police protection to protect and safeguard life and property.
(i) To acquire sites for, construct, and maintain library buildings, and to cooperate with other governmental agencies for library service.
(j) The opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in
which the improvement is to be made.

(k) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the governing body of the county or city in which the improvement is to be made.

(l) The conversion of existing overhead electric and communication facilities to underground locations, which facilities are owned and operated by either a "public agency" or a "public utility," as defined in Section 5896.2 of the Streets and Highways Code, and to take proceedings for and to finance the cost of the conversion in accordance with Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code, subject to the consent of the public agency or public utility responsible for the owning, operation, and maintenance of the facilities. Nothing in this section gives a district formed under this law the power to install, own, or operate the facilities that are described in this subdivision.

(m) To contract for ambulance service to serve the residents of the district as convenience requires, if a majority of the voters in the district, voting in an election thereon, approve.

(n) To provide and maintain public airports and landing places for aerial traffic.

(o) To provide transportation services.

(p) To abate graffiti.

SEC. 2. Section 61601.1 is added to the Government Code, to read:

61601.1. (a) "Abatement," for the purposes of this section, includes the removal and prevention of graffiti, antigraffiti education, and restitution to any property owner for any injury or damage caused by the removal of graffiti from the property.

(b) A district that is authorized to abate graffiti may:

(1) Remove or contract for the removal of graffiti from any public or private property within its boundaries.

(2) Indemnify or compensate any property owner for any injury or damage caused by the removal of graffiti from property.

(3) Undertake a civil action to abate graffiti as a nuisance pursuant to Section 731 of the Code of Civil Procedure.

(4) Use the services of persons ordered to perform those services by a municipal, superior, or juvenile court.

(5) Use the phrase "Graffiti Abatement District" in the name of the district.

(6) Operate specifically designated telephone "hot lines" for the purpose of receiving reports of unlawful application of graffiti on public or private property.

(7) Operate a program of financial reward, not to exceed one thousand dollars ($1,000), for information leading to the arrest and conviction of any person who unlawfully applies graffiti to any public or private property.

SEC. 3. Section 61615.5 is added to the Government Code, to
read:

61615.5. Any district, which is authorized to abate graffiti and located in whole or in part within a city, county, or city and county, which levies a graffiti prevention tax pursuant to Chapter 3 (commencing with Section 7287) of Part 1.7 of Division 2 of the Revenue and Taxation Code, may contract with that city, county, or city and county for purposes of collecting and transferring to the district graffiti prevention taxes collected within the boundaries of the district.

CHAPTER 365

An act to amend Section 56842 of the Government Code, relating to local government reorganization, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1992. Filed with Secretary of State July 27, 1992]

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

SECTION 1. Section 56842 of the Government Code is amended to read:

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

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.
(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs which were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost which was funded by any revenues of that agency which are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.
(d) If the proposal would transfer all of an affected agency’s service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985–86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, “prior fiscal year” means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the fiscal year in which the commission approves by resolution the city’s proposal to incorporate or the district’s proposal to form.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city’s incorporation or the district’s formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

SEC. 2. All provisions of this act clarify and are declaratory of existing law, and are not to be construed or given any weight in any court of law as manifestations of any legislative intent to make any substantive change to existing law.

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

In order to provide statutory guidance and reassurance to local agencies in their assumption of duties and provision of essential services, it is necessary to clarify the formula by which they receive property tax revenues and to ensure that the application of the formula is consistent statewide.
An act to amend Sections 769.83 and 779.30 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.


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

SECTION 1. Section 769.83 of the Insurance Code is amended to read:

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 or savings association the deposits of which are insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation. 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.

SEC. 2. Section 779.30 of the Insurance Code is amended to read:

779.30. (a) An individual policy or group certificate may exclude from credit disability insurance coverage only those preexisting illnesses, diseases, or physical conditions for which the debtor actually received medical advice, consultation, or treatment both within six months before and six months after the effective date of the debtor’s coverage and which result in disability commencing within two years of the effective date. This provision shall not preclude the exclusion of other preexisting diseases or physical conditions by name or specific description.

(b) An individual policy or group certificate may exclude from credit life insurance coverage only those preexisting illnesses, diseases, or physical conditions for which the debtor actually received medical advice, consultation, or treatment both within six months before and six months after the effective date of the debtor’s coverage and that result in death within six months after the effective date.

(c) Preexisting condition provisions on revolving accounts for credit disability insurance shall be subject to the limitations of subdivision (a), and for credit life insurance shall be subject to the limitations of subdivision (b).

(d) In the case of revolving accounts, any preexisting condition provision may be applied separately to each charge or advance, in which case the time periods in the applicable subdivision shall be measured from the date of each separate charge or advance.

If any preexisting condition provision is applied to a subsequent charge or advance on a revolving account the consumer shall be given the following notice at least annually:

50230
“NOTICE: THIS INSURANCE MAY NOT COVER AN
ADVANCE OR CHARGE UNDER YOUR CREDIT LINE IF YOUR
DISABILITY OR DEATH RESULTS FROM A CONDITION FOR
WHICH YOU HAVE SEEN A DOCTOR OR CHIROPRACTOR IN
THE SIX MONTHS BEFORE THE ADVANCE OR CHARGE.”

(e) The notice required by subdivision (d) may be printed on a
periodic billing statement or given separately.

(f) Subdivision (d) does not apply to a credit card as defined in
Section 1747.02 of the Civil Code.

SEC. 3. Section 2 of this act shall become operative on January 1,
1993.

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 clarify provisions of existing insurance law with respect
to managing general agents and credit disability insurance at the
earliest possible time, it is necessary that this act take effect
immediately.

CHAPTER 367

An act to amend Section 19605.71 of the Business and Professions
Code, relating to horseracing, and declaring the urgency thereof, to
take effect immediately.

[Approved by Governor July 27, 1992 Filed with
Secretary of State July 27, 1992.]

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

SECTION 1. Section 19605.71 of the Business and Professions
Code 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. 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, excluding the 50th District Agricultural Association, the amount deducted for promotion of the satellite wagering program at satellite wagering facilities shall be one-half of 1 percent. 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. To the extent that funds representing a percentage greater than one-half of 1 percent of funds wagered on thoroughbred races conducted in the Counties of Orange and Los Angeles have been distributed, prior to the effective date of the amendments made to this section during the 1992 portion of the 1991–92 Regular legislative Session, to an organization described in Section 19608.2 for promotion activities, but remain unused, those funds shall be redistributed, 50 percent as commissions to the association that conducts the racing meeting, and 50 percent as purses to the horsemen participating the racing meeting. 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. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Chapter 424 of the Statutes of 1991 amended Section 19605.71 of the Business and Professions Code to (1) require that amounts handled by satellite wagering facilities on certain wagers at specified meetings be distributed to the racing association for payment to the state as license fees, and (2) reduce, for harness, quarter horse, Appaloosa, or Arabian meetings, the percentage of the amount handled by satellite wagering facilities on these wagers to be paid to the state as a license fee from 1 1/2 percent to 1 percent for conventional wagers and from 3 percent to 1 percent for exotic wagers.

Chapter 424 also amended Section 19605.71 to require that, on wagers made in the Counties of Orange and Los Angeles on thoroughbred races conducted in either of those two counties, or both, the amount deducted for promotion of the satellite wagering program at satellite wagering facilities be one-half of 1 percent.

Chapter 484 of the Statutes of 1991 also amended Section 19605.71. Chapter 484 included the changes described in (1) and (2), above, made by Chapter 424, but did not include the change with respect to the promotion of the satellite wagering program in the Counties of Orange and Los Angeles.

This bill would amend Section 19605.71 to include the latter change, and in order for this change to take effect as the Legislature intended at the earliest possible time, it is necessary that this act take effect immediately.
An act to amend Section 10494 of, and to add Sections 778.4 and 1730.6 to, the Insurance Code, relating to insurance.


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

SECTION 1. Section 778.4 is added to the Insurance Code, to read:

778.4. (a) Every fire and casualty broker-agent shall, prior to arranging premium financing for any new or renewal policy of insurance specified in Section 660, do all of the following:

(1) Provide the applicant or prospective insured with any information that is required by the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.).

(2) Obtain the signature of the applicant or prospective insured on the following disclosure, which shall be in 10-point bold face type on a separate form or sheet of paper:

Some insurance companies and the California Automobile Assigned Risk Plan (CAARP) provide the opportunity to make payments on insurance premiums. Your agent or broker is required to disclose these options, if any are available for the insurance you are purchasing. If you choose to enter into a contract that provides for premium financing, your agent is required by law to make certain disclosures concerning interest, fees, or other charges. If your insurance has been financed by any person or business other than your insurance company, and your insurance is canceled for any reason, your loan may be subject to continued interest charges, or other charges that may result from delays by your insurance company in repaying the premium finance company. You should understand all of the charges associated with your financing plan. If you are uncertain about how the financing plan works, you should ask your insurance agent or broker.

(b) Every fire and casualty agent-broker shall comply with the requirements of the Consumer Contract Awareness Act of 1990 (Title 1.86 (commencing with Section 1799.200) of Part 4 of Division 3 of the Civil Code) to the extent that its provisions are applicable to any transaction subject to this section.

(c) If a transaction subject to subdivision (a) is conducted over the telephone, the fire and casualty broker-agent shall be deemed to have complied with the requirements of subdivision (a) if, within 72 hours after transacting the contract or agreement, the disclosure form and other information required by subdivision (a) is mailed to the applicant or insured at the address provided by the applicant or insured. Proof of mailing shall be established by the method described in Section 38.
SEC. 2. Section 1730.6 is added to the Insurance Code, to read: 1730.6. (a) Every fire and casualty broker-agent shall, prior to arranging premium financing or transacting any agreement for the periodic payment of premium for any new or renewal policy of insurance specified in Section 660, disclose to any applicant or prospective insured any options for premium financing or the periodic payment of premium from the insurer or, if applicable, the California Automobile Assigned Risk Plan, that are available for the insurance being purchased. This disclosure may be in the form of a written document. In the event the applicant or prospective insured elects to enter into an agreement for premium financing, the fire and casualty broker-agent shall comply with the requirements of Section 778.4.

(b) For purposes of this section and Section 778.4:
(1) "Periodic payment of premium" means the payment plan provided by the California Automobile Assigned Risk Plan, or a payment plan provided by the insurer that allows the total premium to be paid in more than one installment.
(2) "Arrange premium financing" means assisting an applicant or prospective insured to arrange for payment of the premium through a premium finance agreement as defined in Section 778.1.

SEC. 3. Section 10494 of the Insurance Code is amended to read: 10494. Such a benefit and relief association shall not provide for payment of a death benefit of more than two thousand dollars ($2,000) or for disability benefits of more than five hundred dollars ($500) to any one person in any one period of 12 consecutive months and shall not issue to its members a policy or benefit certificate or any other evidence of benefits except that found in the articles of the association or the bylaws thereof. However, a benefit and relief association described in paragraph (1) of subdivision (c) of Section 10493 may provide for a death benefit up to two thousand dollars ($2,000), disability benefits up to one thousand dollars ($1,000) or insurance protection for medical and hospital expenses up to one thousand five hundred dollars ($1,500), or any combination or all thereof.

CHAPTER 369

An act relating to reimbursement of state-mandated costs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

SECTION 1. The sum of twenty-eight million three hundred twenty-eight thousand four hundred thirty-four dollars ($28,328,434) is hereby appropriated from the General Fund to the Controller for the payment of claims for reimbursement of state-mandated costs, according to the following schedule:

(a) Nineteen million two hundred seventy-three thousand nine hundred eighty dollars ($19,273,980) for reimbursement of claims from school districts and community college districts, to be allocated as follows:


(3) Nine hundred fifty thousand dollars ($950,000) for the payment of claims of school districts seeking reimbursable state-mandated costs incurred pursuant to Section 54657.5 of the Education Code (Exam Proctors), for the 1987–88, and 1988–89 fiscal years.

(5) Three hundred twenty-six thousand four hundred eighty dollars ($326,480) to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(b) Nine million fifty-four thousand four hundred fifty-four dollars ($9,054,454) for the reimbursement of claims of other local governmental entities, as specified, to be allocated as follows:

(1) Two hundred thirty-seven thousand dollars ($237,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 670 of the Statutes of 1987 (Assigned Judges), for the January 1, 1988 through June 30, 1988 period and the 1988–89 fiscal year.

(2) Three million five hundred thirty-six thousand dollars ($3,536,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 921 of the Statutes of 1987 (Countywide Tax Rates), for the 1987–88 through 1992–93 fiscal years.

(4) Four million nine hundred thirty-nine thousand dollars ($4,939,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1456 of the Statutes of 1988 (Missing Persons Reports), for the 1989–90 fiscal year.

(5) Two hundred seventeen thousand dollars ($217,000) for the
payment of claims of cities and counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1088 of the Statutes of 1988 (Search Warrants for AIDS), for the 1989–90 fiscal year.

(6) One hundred twenty-five thousand four hundred fifty-four dollars ($125,454) to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(c) All amounts appropriated in subdivision (a) are for the purposes of meeting the funding guarantee for education programs pursuant to Section 8 of Article XVI of the California Constitution.

(d) If any of the scheduled amounts in subdivision (a) or (b) are insufficient to provide full reimbursement of costs, the Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein, except that unencumbered balances in any paragraph of subdivision (a) may be used to augment deficient amounts only in other paragraphs in that subdivision, and except that unencumbered balances in any paragraph of subdivision (b) may be used to augment deficient amounts only in other paragraphs of that subdivision. No order may be issued pursuant to this provision unless written notification of necessity is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee 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 settle local government claims against the state for mandated costs and end hardship to local governments, it is necessary for this act to take effect immediately.

CHAPTER 370

An act to add Section 186.28 to the Penal Code, relating to firearms.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 186.28 is added to the Penal Code, to read:

186.28. (a) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to another shall be punished by imprisonment in the state prison, or in a county jail for a term not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment if all of the following apply:
(1) The person, corporation, or firm has actual knowledge that the person will use the firearm to commit a felony described in subdivision (e) of Section 186.22, while actively participating in any criminal street gang, as defined in subdivision (f) of Section 186.22, the members of which engage in a pattern of criminal activity, as defined in subdivision (e) of Section 186.22.

(2) The firearm is used to commit the felony.

(3) A conviction for the felony violation under subdivision (e) of Section 186.22 has first been obtained of the person to whom the firearm was supplied, sold, or given possession or control pursuant to this section.

(b) This section shall only be applicable where the person is not convicted as a principal to the felony offense committed by the person to whom the firearm was supplied, sold, or given possession or control pursuant to this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime 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 371

An act to amend Sections 40424.5, 40440.5, 40440.7, 40452, 40466, and 40520.5 of, and to add Sections 40448.8, 40503, 40506.1, and 40506.2 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 40424.5 of the Health and Safety Code is amended to read:

40424.5. Voting by the south coast district board on the adoption of all items on its agenda shall be by rollcall. Unless any board member objects, a substitute rollcall may be used on any agenda item. A substitute rollcall shall consist of a unanimous voice vote of the south coast district board members in attendance and shall be recorded by the clerk of the board as an "aye" vote for all members present. For purposes of this section, any consent calendar is a single item.

SEC. 2. Section 40440.5 of the Health and Safety Code is amended
40440.5. (a) Notice of the time and place of a public hearing of the south coast district board to adopt, amend, or repeal any rule or regulation relating to an air quality objective shall be given not less than 30 days prior thereto and, notwithstanding subdivision (b) of Section 40725, shall be published in each county in the south coast district in accordance with the requirements of Section 6061 of the Government Code. The period of notice shall commence on the first day of publication.

(b) In addition to the requirements of subdivision (b) of Section 40725, notice shall be mailed to every person who filed a written request for notice of proposed regulatory action with the south coast district, every person who requested notice for, or registered at, the workshop, if any, held in connection with the development of the proposed rule or regulation, and any person the south coast district believes to be interested in the proposed rule or regulation. The inadvertent failure to mail notice to any particular person as provided in this subdivision shall not invalidate any action taken by the south coast district board.

(c) In addition to the summary description of the effect of the proposal, as required by subdivision (b) of Section 40725, the notice shall include the following:

1. A description of the air quality objective that the proposed rule or regulation is intended to achieve and the reason or reasons for the proposed rule or regulation.

2. A list of supporting information, documents, and other materials relevant to the proposed rule or regulation, prepared by the south coast district or at its direction, any environmental assessment, and the name, address, and telephone number of the district officer or employee from whom copies of the materials may be obtained.

3. A statement that a staff report on the proposed rule or regulation has been prepared, and the name, address, and telephone number of the district officer or employee from whom a copy of the report may be obtained. Whenever the proposed rule or regulation will significantly affect air quality or emissions limitations, the staff report shall include the full text of the proposed rule or regulation, an analysis of alternative control measures, a list of reference materials used in developing the proposed rule or regulation, an environmental assessment, exhibits, and draft findings for consideration by the south coast district board pursuant to Section 40727. Further, if an environmental assessment is prepared, the staff report shall also include social, economic, and public health analyses.

(d) Regardless of whether a workshop was previously conducted on the subject of the proposed rule or regulation, the south coast district may conduct one or more supplemental workshops prior to the public hearing on the proposed rule or regulation.

(e) If the south coast district board makes changes in the text of the proposed rule or regulation that was the subject of notice given
pursuant to this section, further consideration of the rule or regulation shall be governed by Section 40726.

(f) This section is not intended to change, and shall not be construed as changing, any entitlement or protection conferred by the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 3. Section 40440.7 of the Health and Safety Code is amended to read:

40440.7. (a) Whenever the south coast district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the south coast district shall conduct one or more public workshops.

(b) Notice of the time and place of the first workshop shall be given not less than 75 days prior to the meeting at which the south coast district board will consider the proposed rule or regulation by publication in each county in the south coast district pursuant to Section 6061 of the Government Code and by mail to every person who filed a written request for notice of proposed regulatory action with the south coast district and any person the south coast district believes to be interested in attending the workshop.

(c) The notice shall include at least the following:

(1) A description of the air quality objective to be discussed.

(2) A statement that the workshop is being held for the purposes of soliciting information and suggestions from the public on achieving the air quality objective.

(3) A request for submittal of any documents, studies, and reports that may be relevant to the subject of the workshop, and the name, address, and telephone number of the district officer or employee to whom they should be sent.

(4) A list of supporting information and documents, including a preliminary staff report, prepared by the south coast district or at its direction, and other materials relevant to the subject of the workshop that are available, and the name, address, and telephone number of the district officer or employee from whom copies of the materials may be obtained.

(d) If the south coast district thereafter proposes the adoption, amendment, or repeal of a rule or regulation that was the subject of a workshop, the south coast district shall respond to all written comments submitted during the workshop in preparing the environmental assessment on the proposed rule or regulation.

(e) The time and place for a workshop shall be selected on the basis of affording an opportunity to participate to the greatest number of persons expected to be interested in the workshop.

(f) The requirements of this section are not intended to restrict the south coast district in conducting other public workshops and other meetings for the exchange of information under circumstances not specifically addressed in this section.

(g) A workshop or other meeting shall not constitute consideration of a "regulatory measure" within the meaning of
Section 40923.

(h) This section is not intended to change, and shall not be construed as changing, any entitlement or protection conferred by the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 4. Section 40448.8 is added to the Health and Safety Code, to read:

40448.8. (a) As used in this section, "small business" has the same meaning as defined by the federal Small Business Administration, except that no stationary source which is a major source, as defined by applicable provisions of the federal Clean Air Act (42 U.S.C. Sec. 7661(2)), is a small business.

(b) The south coast district shall establish a small business technical and compliance assistance program. The program shall include all of the following components:

(1) Mechanisms for developing, collecting, and coordinating information concerning air quality compliance methods and technologies for small businesses.

(2) A program which assists small businesses in determining applicable requirements, applying for permits, and petitioning for variances.

(3) Mechanisms to refer small businesses to qualified compliance auditors, or, at the option of the district, to provide compliance audits of the operations of those businesses.

(4) Mechanisms to assist small businesses with air pollution control and air pollution prevention by providing information concerning alternative technologies, process changes, products, and methods of operation that reduce air pollution.

(5) Mechanisms to provide small businesses with information regarding financing for air pollution control equipment.

(6) Procedures to consider requests of small businesses for modification, as authorized by district regulations, of any work practice or technological method of compliance.

(7) Programs to encourage lawful cooperation among small businesses and other persons to further compliance with air quality regulations.

(8) Mechanisms to assure that small businesses receive notice of the assistance available pursuant to this section.

SEC. 5. Section 40452 of the Health and Safety Code is amended to read:

40452. On or before April 1, 1991, and annually thereafter, the south coast district shall submit a report to the state board and the Legislature summarizing its regulatory activities for the preceding calendar year. The report shall include:

(a) A summary of each major rule and rule amendment adopted by the south coast district board. The summary shall include emission reductions to be accomplished by each rule or regulation; the cost per ton of emission reduction to be achieved from each rule or regulation; other alternatives that were considered through the
environmental assessment process; the cost per ton of comparable emission reductions that could have been achieved from each alternative; a statement of the reason why a given alternative was chosen; the conclusions and recommendations of the district's socioeconomic analysis, including any evaluations of employment impacts; and the source of funding for the rule or regulation. For the purposes of this section, a major rule or rule amendment is one that is intended to significantly affect air quality or which imposes emission limitations.

(b) The number of permits to operate or to construct, by type of industry, that are issued and denied, and the number of permits to operate that are not renewed.

(c) Data on emission offset transactions and applications, by pollutant, during the previous fiscal year, including an accounting of the number of applications for permits for new or modified sources that were denied because of the unavailability of emission offsets.

(d) The district's forecast of budget and staff increases proposed for the following fiscal year, and projected for the next two fiscal years. Budget and staff increases shall be related to existing programs and rules, and to new programs or rules to be adopted during the following years. The budget forecast shall provide a workload justification for proposed budget and staff changes and shall identify any cost savings to be achieved by program or staff changes. The budget forecast shall include increases in permit fees and other fees proposed for the following fiscal year and projected for the next two fiscal years. Budget information developed by the district pursuant to Section 42311.1 may be used to comply with the requirements established under this section.

(e) An identification of the source of all revenues collected that are used, or proposed to be used, to finance activities related to either stationary or nonstationary sources.

(f) A response to audit recommendations pursuant to Sections 40453 and 42311.1. The response shall include proposed statutory changes needed to implement the recommendations.

SEC. 6. Section 40466 of the Health and Safety Code is amended to read:

40466. (a) The south coast district board shall adopt plan revisions, pursuant to subdivision (a) of Section 40463, after holding public hearings throughout the south coast district. The south coast district board shall submit the adopted plan revisions to the state board and to the Legislature.

(b) Notice of the times and places of the public hearings shall be given not less than 45 days prior to the first hearing and shall be published in each county in the south coast district in accordance with the requirements of Section 6061 of the Government Code. The period of notice shall commence on the first day of publication. Notice shall be mailed to every person who filed a written request for notice concerning the plan with the south coast district and any person the south coast district believes to be interested in the plan.
The notice shall include a list of supporting information, documents, and other materials relevant to the plan revision prepared by the south coast district or at its direction, any environmental assessment, and the name, address, and telephone number of the district officer and employee from whom these materials, and a copy of the draft plan, may be obtained.

SEC. 7. Section 40503 is added to the Health and Safety Code, to read:

40503. (a) The south coast district hearing board, in determining whether or not the petitioner has presented evidence sufficient to make the finding specified in subdivision (b) of Section 42352, shall consider, in addition to any other relevant factors, both of the following:

1. In determining whether or not conditions exist which are beyond the reasonable control of the petitioner, the hearing board shall consider whether or not the petitioner took actions to comply or seek a variance, which were timely and reasonable under the circumstances. In so doing, the hearing board shall consider actions taken by the petitioner since the adoption of the rule from which the variance is sought.

2. In determining whether or not requiring compliance would result in either an arbitrary or unreasonable taking of property or the practical closing and elimination of a lawful business, the hearing board shall consider whether or not an unreasonable burden would be imposed upon the petitioner if immediate compliance is required.

(b) (1) As used in this subdivision, "small business" means a business that is independently owned and operated and meets all of the following criteria:

(A) The number of employees is 10 or less.

(B) The total gross annual receipts are five hundred thousand dollars ($500,000) or less.

(C) Emits not more than four tons per year of any nonattainment air contaminant or its precursor.

(2) If the petitioner is a small business, the hearing board shall consider the factors specified in subdivision (a) in the following manner:

(A) In determining whether or not the petitioner took timely actions to comply or seek a variance, the hearing board shall make specific inquiries into the reasons for any claimed ignorance of the requirement from which a variance is sought.

(B) In determining whether or not the petitioner took reasonable actions to comply, the hearing board shall make specific inquiries into the petitioner’s financial and other capabilities to comply.

(C) In determining whether or not the burden of requiring immediate compliance would be unreasonable, the hearing board shall make specific inquiries into, and shall balance, the impact to the petitioner’s business and the benefit to the environment which would result if the petitioner is required to immediately comply.

(c) Where the petitioner is a governmental agency, public
district, or any other governmental or public entity, in determining whether or not an unreasonable burden would be imposed, the hearing board shall consider any effects of requiring immediate compliance on the availability of essential public services.

SEC. 8. Section 40506.1 is added to the Health and Safety Code, to read:

40506.1. (a) The south coast district shall establish a consolidated permit which serves as (1) an authority to build, erect, alter, or replace an article, machine, equipment, or contrivance which may cause the issuance of air contaminants, and (2) an authority to operate or use that article, machine, equipment, or contrivance.

(b) The district shall establish postconstruction enforcement procedures adequate to ensure that sources are built, erected, altered, replaced, operated, or used in the manner required by the consolidated permits.

SEC. 9. Section 40506.2 is added to the Health and Safety Code, to read:

40506.2. The south coast district may establish a program to certify private environmental professionals to prepare permit applications. The program shall provide for all of the following:

(a) Certification by the district of private environmental professionals who meet minimum qualifications established by the district and who successfully complete a district training program in the methods of preparing permit applications. The training program shall include a description of permit requirements established by district rules as well as any additional requirements established by the district for applications submitted by certified private environmental professionals.

(b) Expedited review by district personnel of permit applications that, at the option and expense of the permit applicant, are prepared by a certified private environmental professional.

(c) Full district review of a sample of permit applications prepared by certified private environmental professionals to determine whether or not district requirements for preparation of applications have been followed.

(d) Decertification of any certified private environmental professional found by the district to have done any of the following:

1. Knowingly or negligently submitted false data as part of a permit application.

2. Prepared any permit application in a manner contrary to district requirements.

3. Prepared a permit application where the person has a financial conflict of interest as defined in guidelines to be adopted by the district.

SEC. 10. Section 40520.5 of the Health and Safety Code is amended to read:

40520.5. (a) The budget process of the south coast district shall be governed by this section. This section does not apply to appropriations or other authorizations made to carry out a labor
contract entered into by the south coast district board.

(b) The south coast district shall publish, and mail upon request, a budget summary and shall make available for inspection the complete text, and any supporting documents, of the south coast district's preliminary budget, together with schedules of fees proposed to be adopted pursuant to the authority of Sections 40506 and 40510, for the ensuing fiscal year. The preliminary budget and fee schedules shall be completed as soon as an accurate revenue projection for the ensuing fiscal year can be prepared, but in no event later than May 1 of each year. Notice of the availability of the budget summary, preliminary budget, and fee schedules shall be mailed to every person who filed a written request with the south coast district, every person who paid a fee during the preceding year, and any person the south coast district believes to be interested in the budget or the fees. The south coast district shall thereupon conduct at least one public workshop on the preliminary budget and fee schedules.

(c) During June of each year, the south coast district board shall meet to consider and adopt a final budget. At the June meeting, the preliminary budget may be revised to reflect any changed circumstances occurring after completion of the preliminary budget, but the total expenditure level for any single, major object of expenditure authorized in the final budget as adopted shall not be increased by more than 10 percent of the total expenditure level proposed in the preliminary budget. At the June meeting, the final fee schedules shall be adopted by the south coast district board by rule or regulation.

(d) During the course of the fiscal year, the final budget may be further revised by the adoption of one or more supplements to the budget. Notice of a proposal to adopt a supplement to the budget shall be given not less than 30 days prior to the meeting of the south coast district board at which the supplement will be considered and shall be published in each county in the south coast district in accordance with the requirements of Section 6061 of the Government Code. The period of notice shall commence on the first day of publication. The south coast district shall make available the complete text of the supplement and any supporting documents.

SEC. 11. 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 372

An act to amend Section 19613.6 of the Business and Professions Code, relating to horseracing.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 19613.6 of the Business and Professions Code is amended to read:

19613.6. Notwithstanding any other provision of this chapter, the organization referred to in subdivision (a) of Section 19613.2 that represents thoroughbred horsemen may elect to contribute the purses from one race conducted annually by each licensed thoroughbred racing association or fair to a welfare fund. The contribution shall be used for the benefit of horsemen, and the organization shall make an accounting to the board within one calendar year of the receipt of the contribution. The designation of a specific race from which the horsemen elect to contribute the purses is subject to the mutual agreement of the horsemen’s organization and the racing association or fair that conducts the race.

CHAPTER 373

An act to amend Sections 69894.1, 69894.6, 72602.15, 72604, 72607, 72608, 72609, 72610, 72627.5, 72645, 72646, 72702, 72703, 72704, 72704.5, 72705, 72755, 72762, 72764, 72766, 72767, 72768, 72769, 72771, 72772, 72773, 72774, 72782, 72783, 73348, 73351, 73353, 73354, 73358, 74907, 74909, and 74912 of, to amend the heading of Article 1.6 (commencing with Section 72630) of Chapter 9 of Title 8 of, to amend and renumber Section 72719 of, to add Sections 72767.1 and 72785 to, and to repeal Section 72719.5 of, the Government Code, relating to courts.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 69894.1 of the Government Code is amended to read:

69894.1. In the County of Los Angeles, a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:
<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Schedule</th>
</tr>
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<tbody>
<tr>
<td>5</td>
<td>Accountant, SC</td>
<td>68A</td>
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<td>12</td>
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<td>3</td>
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<td>66J</td>
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<td>5</td>
<td>Administrative Assistant III</td>
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</tr>
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</tr>
<tr>
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</tr>
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<td>1</td>
<td>Assistant Director, Management Systems, SC</td>
<td>R10</td>
</tr>
<tr>
<td>1</td>
<td>Assistant Director, Mental Health Services, SC</td>
<td>R11</td>
</tr>
<tr>
<td>48</td>
<td>Assistant Division/District Chief, SC</td>
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</tr>
<tr>
<td>1</td>
<td>Assistant Head, Office Services</td>
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</tr>
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<td>1</td>
<td>Assistant Supervising Probate Attorney</td>
<td>98L NX</td>
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<tr>
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<td>Assistant to the Executive Officer</td>
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<td>Court Facilities and Property Services Coordinator</td>
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<td>363</td>
<td>Court Reporter</td>
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<td>Electronic Recording Monitor</td>
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<td>Executive Officer/Clerk of the Superior Court</td>
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<td>58</td>
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<td>Law Librarian, Superior Court</td>
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<td>Mental Health Hearing Referee</td>
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<td>371</td>
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1. Office Systems Technician II, SC .......................... 71L
2. Payroll Records Supervisor ............................... 63E
7. Payroll Technician, SC ................................. 58E
4. Personnel Assistant ........................................ 54D
6. Personnel Technician ........................................ 70F
3. Photocopy Machine Operator I, SC ...................... 40K
6. Photocopy Machine Operator II, SC ..................... 45C
1. Principal Counselor ......................................... 78K
7. Principal Program Analyst ................................. 80F
3. Printer I, SC ................................................ 53J
1. Printer II, SC ................................................ 58G
1. Printing Production Supervisor, SC ..................... 66L
12. Probate Attorney ............................................. 94J, NW
1. Probate Commissioner ........................................ A3
11. Probate Decree Clerk ....................................... 54F
2. Procurement Assistant ....................................... 55A
1. Procurement Assistant II, SC ............................... 60L
9. Program Analyst .............................................. 70F
8. Program Specialist ........................................... 64K
4. Property Custodian Auditor .................................. 53L
1. Psychiatric Physician ........................................ FD$286,450
6. Records Assistant ............................................ 54C
11. Referee ...................................................... FD$323,384
18. Referee, Juvenile Traffic, SC .............................. 81B
1. Research Attorney ........................................... 88J
1. Research Records Technician, SC ......................... 60F
2. Secretary I .................................................... 57F
45. Secretary II ................................................ 64D
1. Secretary to the Assistant Presiding Judge .................. 74D
1. Secretary to the Chief Deputy EO/Clerk of SC ............. 72D
1. Secretary to the EO/Clerk of SC ............................. 78D
1. Secretary to Grand Jury .................................... 72C
1. Secretary to Presiding Judge ............................... 80D
3. Senior Administrative Secretary, SC ...................... 70D
12. Senior Counselor .............................................. 75K
4. Senior Court Attendant ..................................... 63A
2. Senior Departmental Personnel Technician ................ 74F
10. Senior Electronic Recording Monitor, SC ................ 63A
35. Senior Family Mediator ................................... 80A
9. Senior Investigator Aide .................................... 63D
4. Senior Investigator, Own Recognizance .................... 77C
60. Senior Judicial Assistant, SC ............................. 75J
35. Senior Judicial Secretary ................................. 65D, N3
26. Senior Office Assistant I .................................. 57L
7. Senior Office Assistant II .................................. 61H
5. Senior Personnel Assistant ................................. 63H
1 Senior Probate Attorney, SC .......................... 96J, NX
1 Senior Probate Decree Clerk ......................... 60E
6 Senior Program Analyst ............................... 74F
2 Senior Property Custodian Auditor ................... 59K
3 Senior Word Processor ................................. 56F
1 Special Assistant ...................................... R8
1 Special Assistant, Appellate Department, SC ........... 75D
1 Staff Assistant I ...................................... 57L
18 Staff Assistant II ..................................... 64L
2 Staff Attorney, Planning and Research, SC ............... 85J, NW
3 Staff Consultant ........................................ R10
1 Student Worker, Junior, SC .......................... FH$5.340
1 Student Worker, SC .................................... FH$6.340
218 Student Professional Worker, SC ..................... FH$7.670
3 Supervising Court Exhibits Custodian I ............... 61B
1 Supervising Court Exhibits Custodian II ............... 67A
9 Supervising District Office Clerk ...................... 64H
1 Supervising Law Clerk .................................. 74E
1 Supervising Probate Decree Clerk ....................... 70K
1 Supervisor, Budget, and Support Services ............... 78E
1 Supervisor, Computer Support Services, SC ............. 69G
1 Training Officer ........................................ 78F
3 Warehouse Worker I, SC ............................... 53A
1 Warehouse Worker II, SC ................................ 57A
10 Family Counselor Intern, W/O Compensation
15,250 Deputy County Clerk, W/O Compensation
250 Volunteer, W/O Compensation

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the Los Angeles County Code, Title 6, shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners and referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes are used instead of schedule numbers:
F—Flat rate per month
FD—Flat rate per day
FH—Flat rate per hour
N.W.—As defined in the Los Angeles County Code Section 6.28.050.
N.X.—As defined in the Los Angeles County Code Section 6.28.050.
N.Z.—As defined in the Los Angeles County Code Section 6.28.050.
“R” or “A” indicates a position’s inclusion in the County’s
Performance Based Pay Plan. The grade number following the "R" or "A" designation indicates the salary range. Compensation of such positions is in accordance with Sections 6.08.305 to 6.08.360, inclusive, of the county code.

All personnel appointed pursuant to this article shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

SEC. 2. Section 69894.6 of the Government Code is amended to read:

69894.6. Notwithstanding Section 69894.1, in the County of Los Angeles, a majority of the judges of the superior court may appoint 363 court reporters at salary schedule 81A, NZ, N3. The salary schedule and notes are those found in the Los Angeles County Code, Title 6. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

SEC. 3. Section 72602.15 of the Government Code is amended to read:

72602.15. Notwithstanding Section 72602, the San Antonio Municipal Court District and South Gate Municipal Court District are consolidated into the Southeast Municipal Court District which shall have five judges.

The officers and attachés of the San Antonio Municipal Court District and the South Gate Municipal Court District employed by those districts on the operative date of this section shall be the officers and attachés of the Southeast Municipal Court District with all of the rights and benefits to which they were entitled as employees of those districts.

SEC. 4. Section 72604 of the Government Code is amended to read:

72604. Notwithstanding Article 9 (commencing with Section 69941) of Chapter 5, or any other provision of law in conflict with this section, in each municipal court district in counties having a population of 2,000,000 inhabitants, or over, as determined by the 1970 federal census, except in municipal court districts where a statute provides otherwise, the official reporter and official reporters pro tempore in those municipal court districts governed by this section shall receive for their services the same per diem fee paid to official court reporters pro tempore of the Superior Court of Los Angeles County. All other fees of these reporters for transcription shall be as provided in Article 9 (commencing with Section 69941) of Chapter 5.

SEC. 5. Section 72607 of the Government Code is amended to read:

72607. Notwithstanding the numbers and classifications of court officers and attachés specified in Articles 1.5 (commencing with Section 72620), 1.6 (commencing with Section 72630), 2 (commencing with Section 72640), 3 (commencing with Section 72700), and 4 (commencing with Section 72750), the judges of a municipal court in a county having a population of 3,000,000 or over,
with the approval of the board of supervisors, may appoint and employ additional commissioners, officers, and attachés that are necessary to the performance of duties and exercise of powers within the jurisdiction of the court. The compensation of these appointees shall be as provided in that chapter for the same position, or, where not so provided, as may be established by the judges with the approval of the board of supervisors.

The majority of municipal court judges in the county, with the approval of the board of supervisors, may authorize the marshal, and the judges of any municipal court in that county, with that approval, may authorize the clerk of the court, to adjust rates of compensation, to appoint additional deputies in any classifications that may be required for the prompt and faithful discharge of the duties of the respective offices. Deputies so appointed shall receive the respective rates of pay provided for existing classifications, or, if there be no existing classification for which a pay rate has been established, then they shall receive the rates of pay as shall be established by the judges authorizing the appointments and approved by the board of supervisors.

Appointments and adjustments made pursuant to this section shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature. It is the intention of the Legislature that this section be cumulative to, and not in abrogation of, other provisions of law governing the additional or emergency appointment of deputy clerks and deputy marshals.

SEC. 6. 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 1.6 (commencing with Section 72630), Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), and Article 4 (commencing with Section 72750) 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 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, 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 that 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 that position is attached. If the level of compensation established by any salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in the classification on the effective date of the act fixing the 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 1.6 (commencing with Section 72630), Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with Section 72750) for the first time as an amendment to this chapter shall be adjusted as necessary on the effective date of that 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 Section 72607.

Table of Positions

<table>
<thead>
<tr>
<th>Municipal Court Class</th>
<th>County or Superior Court Class</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Officer Series</strong></td>
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<tr>
<td>Marshal</td>
<td>Commander</td>
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<td>Commander, Marshal</td>
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<tr>
<td>Captain, Marshal</td>
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<tr>
<td>Lieutenant, Marshal</td>
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<td>Sergeant, Marshal</td>
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<td>Deputy Sheriff IV</td>
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<tr>
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<td>Deputy Sheriff</td>
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<tr>
<td>Deputy Marshal Trainee</td>
<td>Deputy Sheriff Trainee</td>
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<tr>
<td>Deputy Marshal, Matron</td>
<td>Custody Assistant</td>
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<tr>
<td>Deputy Clerk, Custody</td>
<td>Custody Assistant</td>
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<tr>
<td>Officer</td>
<td>Safety Police Officer II</td>
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<tr>
<td>Legal Services Specialist, Marshal</td>
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<tr>
<td>Security Officer I, Marshal</td>
<td>Safety Police Officer I</td>
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<tr>
<td>Security Officer II, Marshal</td>
<td>Safety Police Officer I</td>
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</table>

Municipal Courts Planning and Research

| Chief Staff Attorney, P & R | Senior Deputy County Counsel |

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<table>
<thead>
<tr>
<th>Assistant Chief Staff</th>
<th>Senior Deputy County Counsel</th>
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<tr>
<td>Attorney, P &amp; R</td>
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</tr>
<tr>
<td>Staff Attorney III, P &amp; R</td>
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<td>Staff Attorney II, P &amp; R</td>
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<tr>
<td>Staff Attorney I, P &amp; R</td>
<td>Senior Deputy County Counsel</td>
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<td>Legal Research Assistant, P &amp; R</td>
<td>Senior Deputy County Counsel</td>
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<tr>
<td>Planning Analyst, P &amp; R</td>
<td>Program Specialist I, CAO</td>
</tr>
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<td>Planning Analyst Aide, P &amp; R</td>
<td>Administrative Staff Trainee, CAO</td>
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<tr>
<td>Principal Budget Analyst, P &amp; R</td>
<td>Program Specialist I, CAO</td>
</tr>
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<td>Head, Management Services, P &amp; R</td>
<td>Program Specialist I, CAO</td>
</tr>
<tr>
<td>Senior Planning Analyst, P &amp; R</td>
<td>Program Specialist I, CAO</td>
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</tbody>
</table>

**Courtroom Series**

All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table.

**Municipal Court Clerk Trainee**

Superior Court Clerk

Administrative Aide

**Management Series**

<table>
<thead>
<tr>
<th>Court Administrator, LAMC</th>
<th>Performance-Based Pay Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Court Administrator, LAMC</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Deputy Court Administrator, Admin. and Financial Service, LAMC</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Deputy Court Administrator, Operations, LAMC</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Division Chief, Operations, LAMC</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Division Chief, Operations, NCS, LAMC</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Senior Court Manager, M.C., NCS</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Personel Administrator, NCS, M.C.</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Senior Program &amp; System Analyst, M.C.</td>
<td>Performance-Based Pay Plan</td>
</tr>
<tr>
<td>Position</td>
<td>Performance-Based Pay Plan</td>
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<td>-------------------------------------------------------------------------</td>
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<tr>
<td>Senior Program &amp; System Analyst, NCS, M.C.</td>
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<tr>
<td>Managing Court Reporter, NCS, LAMC</td>
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<tr>
<td>Capital Projects Manager, M.C., NCS</td>
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<tr>
<td>Assistant Capital Projects Manager, NCS, LAMC</td>
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<td>Court Information Officer, M.C.</td>
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<tr>
<td>Chief, Systems Division, NCS, M.C.</td>
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<tr>
<td>Assistant Chief, Systems Division, M.C., NCS</td>
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<tr>
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<td>Assistant Division Chief Operations, NCS, M.C.</td>
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<td>Court Manager, LAMC, NCS</td>
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<tr>
<td>Administrative Services Manager, M.C., NCS</td>
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<tr>
<td>Court Administrator (except Los Angeles Judicial District)</td>
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<tr>
<td>Assistant Chief Deputy, Clerk, M.C.</td>
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<tr>
<td>Assistant Court Administrator (1 judge court)</td>
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</tr>
<tr>
<td>Assistant Court Administrator (2 judge court)</td>
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<tr>
<td>Assistant Court Administrator (3,4,5 judge court)</td>
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<td>Assistant Court Administrator (6 judge court)</td>
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<td>Assistant Court Administrator (7 judge court)</td>
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<td>Assistant Court Administrator (10,11,12 judge court)</td>
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<tr>
<td>Judicial Management Intern, M.C., NCS</td>
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<tr>
<td>Assistant Chief Deputy, Clerk, M.C.</td>
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<tr>
<td>Court Administrator (1 judge court)</td>
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<tr>
<td>Court Administrator (2 judge court)</td>
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<td>Court Administrator (3,4,5 judge court)</td>
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<td>Court Administrator (8 judge court)</td>
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<td>Court Administrator (9 judge court)</td>
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<tr>
<td>Court Administrator (10,11,12 judge court)</td>
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<td>Administrative Assistant II</td>
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</table>

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.

Program Specialist I, CAO
Division Chief, Long Beach
M.C.
Principal Clerk, Los Angeles

Program Specialist I, CAO
Supervising Superior Court Clerk

Personnel-Administrative Services-Accounting Series

Head, Fiscal & Administrative Services, Marshal
Head Personnel Technician, M.C., NCS
Head Personnel Technician, Marshal
Personnel Technician, M.C.

Program Specialist I, CAO
Head Departmental Personnel Technician
Head Departmental Personnel Technician
Senior Departmental Personnel Technician
Senior Departmental Personnel Technician

Personnel Technician, M.C., NCS
Personnel Technician, Marshal
Personnel Assistant, M.C.

Senior Departmental Personnel Technician
Senior Departmental Personnel Technician
Departmental Personnel Assistant
Departmental Personnel Assistant

Personnel Assistant, M.C., NCS
Personnel Assistant, Marshal

Departmental Personnel Assistant
Departmental Personnel Assistant
Safety Officer
Safety Officer

Safety Officer, Marshal
Senior Personnel Assistant, M.C.
Senior Personnel Assistant, Marshal
Senior Personnel Assistant, M.C., NCS
Senior Personnel Technician, M.C.

Senior Departmental Personnel Assistant
Senior Departmental Personnel Assistant
Senior Departmental Personnel Assistant
Head, Departmental Personnel Technician

Senior Staff Assistant, Marshal
Staff Assistant, Marshal
Principal Clerk, Marshal
Assistant Head, Fiscal & Administrative Services, Marshal

Program Specialist I, CAO
Program Specialist I, CAO
Program Specialist I, CAO
Program Specialist I, CAO

Executive Assistant, Presiding Judges Association
Principal Administrative Assistant, M.C.
Principal Administrative Assistant, M.C., NCS
Principal Personnel Assistant, M.C.

Program Specialist I, CAO
Administrative Assistant III
Administrative Assistant III
Principal Departmental Personnel Assistant
<table>
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<tr>
<th>Principal Personnel</th>
<th>Principal Departmental Personnel Assistant</th>
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<tbody>
<tr>
<td>Assistant, M.C., NCS</td>
<td>Senior Accountant Auditor</td>
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<td>Statistical Analyst, M.C., NCS</td>
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<tr>
<td>Senior Accountant, M.C.</td>
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<tr>
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<tr>
<td>Facilities Planning Assistant, M.C.</td>
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<td>Facilities Planning Assistant, M.C., NCS</td>
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<tr>
<td>Staff Development Specialist, Muni Crt</td>
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<td>Staff Development Specialist, M.C., NCS</td>
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<td>Account Clerk, M.C.</td>
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<td>Personnel Clerk, M.C.</td>
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<tr>
<td>Personnel Clerk, M.C., NCS</td>
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</table>
Secretary to Presiding Judge, LAMC
Secretary to Presiding Judge, M.C., NCS
Executive Secretary, M.C.
Executive Secretary, M.C., NCS
Senior Management Secretary, LAMC
Senior Management Secretary, M.C., NCS
Management Secretary, M.C.
Management Secretary, M.C., NCS
Executive Secretary, Marshal
Senior Secretary II, Muni Ct
Senior Secretary II, M.C., NCS
Management Secretary, Marshal
Senior Judicial Secretary, Muni Ct
Senior Judicial Secretary, M.C., NCS
Senior Secretary III, Muni Ct
Senior Secretary III, M.C., NCS
Senior Secretary I, Muni Ct
Senior Secretary I, M.C., NCS
Secretary, Marshal
Secretary, Muni Ct
Secretary, M.C., NCS
Senior Secretary, Marshal
Stenographer, M.C.
Stenographer, M.C., NCS

Executive Secretary II
Executive Secretary II
Executive Secretary II
Executive Secretary II
Executive Secretary II
Executive Secretary II
Executive Secretary II
Executive Secretary II
Executive Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Senior Secretary II
Legal Office Support Assistant II
Legal Office Support Assistant II

Clerical Series

Deputy Municipal Court Clerk I

Intermediate Typist-Clerk

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Deputy Clerk II, Marshal Intermediate Typist-Clerk
Deputy Clerk I, Marshal Intermediate Typist-Clerk
Deputy Municipal Court Intermediate Typist-Clerk
Clerk II
Deputy Clerk III, M.C. Intermediate Typist-Clerk
Deputy Clerk III, Marshal Intermediate Typist-Clerk
Administrative Clerk, Intermediate Typist-Clerk
Marshal
Clerical Aide, Municipal Court Intermediate Typist-Clerk
Clerical Aide, M.C., NCS Intermediate Typist-Clerk
Office Services Assistant I, Intermediate Typist-Clerk
M.C., NCS
Office Services Assistant II, Intermediate Typist-Clerk
M.C., NCS
Office Services Assistant III, Intermediate Typist-Clerk
M.C., NCS
Senior Payroll Clerk, Payroll Clerk II
Marshal
Supervising Payroll Clerk, Supervising Payroll Clerk I
Marshal
Payroll Clerk, Marshal Assistant Payroll Clerk II
Marshall's Dispatcher I Communication Operator II, Sheriff
Marshall's Dispatcher II Communication Operator II, Sheriff
Supervising Deputy Clerk I, Supervising Typist-Clerk
M.C.
Deputy Clerk Supervisor, Supervising Typist-Clerk
NCS, LAMC
Senior Courtroom Clerk, Senior Judicial Assistant
M.C., NCS

Supply, Duplicating, and Miscellaneous Series

Supply and Reproduction Warehouse Worker II
Supervisor, Marshal
Supply and Reproduction Warehouse Worker II
Supervisor, Marshal
Warehouse Worker Aide, M.C. Warehouse Worker Aide
NCS
Procurement Assistant II, Procurement Assistant II
M.C.
Procurement Assistant II, Procurement Assistant II
M.C., NCS
Procurement Aide, M.C. Procurement Aide
Procurement Aid, M.C., Procurement Aide
NCS
Light Vehicle Driver, Communications Messenger
Marshal Driver
<table>
<thead>
<tr>
<th>Title</th>
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<tbody>
<tr>
<td>Light Vehicle Driver, M.C.</td>
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<tr>
<td>General Maintenance Supervisor, M.C., NCS</td>
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<td>General Maintenance Worker, M.C.</td>
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<td>General Maintenance Worker, M.C., NCS</td>
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<td>Warehouse Worker II, M.C.</td>
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<tr>
<td>Warehouse Worker II, M.C., NCS</td>
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<td>Warehouse Manager, M.C.</td>
<td>Warehouse Manager</td>
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<tr>
<td>Warehouse Manager, M.C., NCS</td>
<td>Warehouse Manager</td>
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<td>Graphic Artist, M.C.</td>
<td>Graphic Artist</td>
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<tr>
<td>Graphic Artist, M.C., NCS</td>
<td>Graphic Artist</td>
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<tr>
<td>Supervising Law Clerk, M.C.</td>
<td>Supervising Law Clerk (SC)</td>
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<tr>
<td>Law Clerk</td>
<td>Law Clerk (SC)</td>
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<tr>
<td>Interpreter, M.C., NCS</td>
<td>Interpreter (SC)</td>
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<tr>
<td>Management Information and Data Processing Series</td>
<td>Management Information and Data Processing Series</td>
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<td>Data Systems Coordinator, M.C.</td>
<td>Data Systems Coordinator</td>
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<td>Data Systems Coordinator, M.C., NCS</td>
<td>Data Systems Coordinator</td>
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<td>Data Systems Analyst I, M.C., NCS</td>
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<td>Data Conversion Supervisor I, M.C.</td>
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<td>EDP Staff Aide, M.C.</td>
<td>Systems Aide</td>
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</table>

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<table>
<thead>
<tr>
<th>Position</th>
<th>Salutation</th>
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<td>EDP Staff Aide, M.C., NCS</td>
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<td>Systems Aide</td>
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<td>Supervising Computer Operator, M.C.</td>
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<td>Supervising Computer Operator, M.C., NCS</td>
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<td>Computer Operations Supervisor, M.C.</td>
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<td>Computer Operations Supervisor, M.C., NCS</td>
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<td>Supervising Computer Operator</td>
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<tr>
<td>Computer Equipment Operator, M.C.</td>
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<td>Computer Equipment Operator</td>
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<tr>
<td>Computer System Operator, M.C.</td>
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<tr>
<td>Senior Data Control Clerk, M.C.</td>
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<td>Data Control Clerk, M.C.</td>
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<td>Senior Data Conversion Equipment Operator, M.C.</td>
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<tr>
<td>Data Conversion Equipment Operator I, M.C.</td>
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<td>Principal Programmer Analyst, M.C.</td>
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<td>Principal Programmer Analyst, M.C., NCS</td>
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<td>Senior Programmer Analyst, M.C.</td>
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<td>EDP Programmer Analyst II</td>
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<tr>
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<td>EDP Systems Programmer</td>
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<td>Computer Systems Operator</td>
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<td>Data Processing Specialist I, M.C., NCS</td>
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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 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

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Los Angeles County, and for all other participants in the marshal's department, the appointing 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 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 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 municipal court clerk I, deputy municipal court clerk II, deputy clerk III, M.C., or deputy clerk IV, M.C. 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, M.C. 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 or subdivision (k), (l), or (m) of Section 72755 be eligible to receive additional compensation pursuant to this subdivision, except for a deputy clerk III, M.C. assigned to the regular duties of a deputy clerk IV, M.C. as provided in subdivision (j) of Section 72755.

SEC. 7. 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:

<table>
<thead>
<tr>
<th>Title</th>
<th>Range/Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account Clerk, M.C.</td>
<td>50F</td>
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<tr>
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<tr>
<td>Accountant, M.C., NCS</td>
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<tr>
<td>Accounting Technician, M.C., NCS</td>
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<td>Administrative Assistant, M.C., NCS</td>
<td>N2 57A</td>
</tr>
<tr>
<td>Administrative Clerk, Marshal</td>
<td>57J</td>
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<tr>
<td>Administrative Services Manager, M.C., NCS</td>
<td>N23 R9</td>
</tr>
<tr>
<td>Assistant Capital Projects Manager, NCS, LAMC</td>
<td>N23 R8</td>
</tr>
<tr>
<td>Assistant Chief Deputy Clerk, M.C.</td>
<td>75F</td>
</tr>
<tr>
<td>Assistant Chief Staff Attorney, Planning and Research</td>
<td>94J NW</td>
</tr>
<tr>
<td>Assistant Chief, Systems Division, M.C., NCS</td>
<td>N23 R10</td>
</tr>
<tr>
<td>Assistant Court Administrator LAMC</td>
<td>N23 R15</td>
</tr>
<tr>
<td>Assistant Court Administrator (1 judge court)</td>
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<tr>
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<tr>
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<td>82C</td>
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<td>Assistant Court Administrator (7 judge court)</td>
<td>83C</td>
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<tr>
<td>Assistant Court Administrator (8 judge court)</td>
<td>84C</td>
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<td>Assistant Court Administrator (9 judge court)</td>
<td>85C</td>
</tr>
<tr>
<td>Assistant Court Administrator (10,11,12 judge court)</td>
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<tr>
<td>Assistant Division Chief, Operations</td>
<td>N23 R8</td>
</tr>
<tr>
<td>Assistant Division Chief, Operations, LAMC, NCS</td>
<td>N23 R8</td>
</tr>
<tr>
<td>Assistant Head, Fiscal &amp; Administrative Services, Marshall</td>
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<tr>
<td>Assistant Marshal</td>
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<td>Capital Projects Manager, M.C., NCS</td>
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<tr>
<td>Captain, Marshal</td>
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<tr>
<td>Chief Deputy Clerk</td>
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<tr>
<td>Chief Staff Attorney, Planning and Research</td>
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<tr>
<td>Chief, Systems Division, NCS, MC</td>
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<td>Commander, Marshal</td>
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<tr>
<td>Computer Equipment Operator, M.C.</td>
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<tr>
<td>Computer Operations Supervisor, M.C.</td>
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<td>Computer Operations Supervisor, M.C., NCS</td>
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<tr>
<td>Computer Systems Operator, M.C.</td>
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<tr>
<td>Court Administrator (1 judge court)</td>
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<td>Court Administrator (2 judge court)</td>
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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 ....................................... 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 ........................................... 75A
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

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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 .................. 88F
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 ....................... PH
Legal Services Specialist, Marshal ........................................ 56F
Lieutenant, Marshal ......................................................... 87L
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 I ...................................................... 56G
Marshal’s Dispatcher II ................................................... 62G
Municipal Court Clerk Trainee ............................................... FM
Office Services Assistant I, M.C., NCS ................................. N3 47L
Office Services Assistant II, M.C., NCS ............................... 51C
Office Services Assistant III, M.C., NCS ............................. 53K
Payroll Clerk, Marshal .................................................. 53F
Personnel Administrator, NCS, M.C. .................................... N23 R11
Personnel Assistant, M.C. .................................................. 54D
Personnel Assistant, M.C., NCS .......................................... 54D
Personnel Assistant, Marshal ............................................... 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 Budget Analyst, Planning and Research ..................... 91F
<table>
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<th>Position</th>
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<tr>
<td>Principal Clerk, Los Angeles</td>
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<td>Principal Personnel Assistant, M.C.</td>
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<td>Principal Personnel Assistant, M.C., NCS</td>
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<tr>
<td>Principal Programmer Analyst, M.C.</td>
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<tr>
<td>Principal Programmer Analyst, M.C., NCS</td>
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<td>Procurement Aide, M.C.</td>
<td>53J</td>
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<tr>
<td>Procurement Aide, M.C., NCS</td>
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<tr>
<td>Procurement Assistant II, M.C.</td>
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<td>Procurement Assistant II, M.C., NCS</td>
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<td>Safety Officer, Marshal</td>
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<td>Secretary, Marshal</td>
<td>60D</td>
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<td>Secretary, Muni Ct</td>
<td>58D</td>
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<tr>
<td>Secretary, M.C., NCS</td>
<td>58D</td>
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<tr>
<td>Secretary to Presiding Judge, LAMC</td>
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<td>Secretary to Presiding Judge, M.C., NCS</td>
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<td>Security Officer I, Marshal</td>
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<td>Senior Accountant, M.C.</td>
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<td>Senior Administrative Assistant, M.C., NCS</td>
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<td>Senior Courtroom Clerk, M.C., NCS</td>
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<td>Senior Court Manager, NCS, LAMC</td>
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<td>Senior Data Control Clerk, M.C.</td>
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<td>Senior Data Conversion Equipment Operator</td>
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<td>Senior Judicial Secretary, Muni Ct</td>
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<td>Senior Judicial Secretary, M.C., NCS</td>
<td>N3 65D</td>
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<td>Senior Management Secretary, LAMC</td>
<td>N3 72D</td>
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<tr>
<td>Senior Management Secretary, M.C., NCS</td>
<td>N3 72D</td>
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<td>Senior Payroll Clerk, Marshal</td>
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<td>Senior Personnel Assistant, M.C.</td>
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<td>Senior Personnel Assistant, M.C., NCS</td>
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<td>Senior Personnel Assistant, Marshal</td>
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<td>Senior Planning Analyst, Planning and Research</td>
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<td>Senior Program and System Analyst, M.C.</td>
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<td>Senior Secretary I, Muni Ct</td>
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<td>Senior Secretary I, M.C., NCS</td>
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<td>Senior Secretary II, Muni Ct</td>
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<td>Senior Secretary II, M.C., NCS</td>
<td>62D</td>
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<td>Senior Secretary III, Muni Ct</td>
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<td>Senior Secretary III, M.C., NCS</td>
<td>N3 65D</td>
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<td>Senior Staff Assistant, Marshal</td>
<td>73F</td>
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</table>
Senior Telecommunications Systems, Engineer, M.C., NCS

Sergeant, Marshal

Staff Assistant, Marshal

Staff Assistant, Muni Ct

Staff Assistant, M.C., NCS

Staff Attorney I, Planning and Research

Staff Attorney II, Planning and Research

Staff Attorney III, Planning and Research

Staff Development Specialist, Muni Ct

Staff Development Specialist, M.C., NCS

Statistical Analyst, M.C.

Statistical Analyst, M.C., NCS

Stenographer, M.C.

Stenographer, M.C., NCS

Supervising Accountant, M.C., NCS

Supervising Branch Clerk

Supervising Computer Operator, M.C.

Supervising Computer Operator, M.C., NCS

Supervising Deputy Clerk I, M.C.

Supervising Deputy Clerk II, M.C.

Supervising Law Clerk

Supervising Law Clerk, M.C., NCS

Supervising Payroll Clerk, Marshal

Supply and Reproduction Assistant, Marshal

Supply and Reproduction Supervisor, Marshal

Systems Programmer, M.C.

Systems Programmer, M.C., NCS

Telecommunications Technician, M.C.

Telecommunications Technician, M.C., NCS

Warehouse Manager, M.C.

Warehouse Manager, M.C., NCS

Warehouse Worker II, M.C.

Warehouse Worker II, M.C., NCS

Warehouse Worker Aide, M.C., NCS

The term "schedule" as used in this section refers to the salary schedule of the Los Angeles County Code. The term "range" as used in this section refers to the Performance-Based Pay Plan of Los Angeles County.

SEC. 8. Section 72610 of the Government Code is amended to read:

72610. In addition to any other fees or charges required by law, in all civil cases and proceedings, exclusive of small claims court cases, the clerk shall collect from all parties, private persons, firms, and corporations the same fee as collected by the clerk of the Superior Court of Los Angeles County.

Section 72004 shall apply to the collection and disposition of all sums collected pursuant to this section.

SEC. 9. Section 72627.5 of the Government Code is amended to
read:

72627.5. (a) The chief staff attorney, planning and research, municipal courts, may appoint:

(1) Two assistant chief staff attorneys, planning and research.
(2) One staff attorney III, planning and research.
(3) Four staff attorneys II, planning and research.
(4) One planning analyst, planning and research.
(5) One principal budget analyst, planning and research.
(6) One staff assistant, M.C.
(7) One senior secretary III, municipal courts, who shall receive a monthly salary at the rate specified for senior judicial secretary.
(8) One senior secretary II, municipal courts.
(9) One stenographer, municipal courts.
(10) Seven legal research assistants, planning and research.
(11) Three planning analyst aides, planning and research.
(12) Two senior planning analysts, planning and research.
(13) One data systems analyst I, municipal courts.
(14) One data systems analyst II, municipal courts.
(15) One head of management services, planning and research.
(16) Three principal program analysts.

(b) 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. 10. The heading of Article 1.6 (commencing with Section 72630) of Chapter 9 of Title 8 of the Government Code is amended to read:

Article 1.6. Presiding Judges Law

SEC. 11. 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-one 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) Forty 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. 12. 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) Deputies who shall be keepers, that 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.
(y) Five marshal's dispatchers II.
(z) Five personnel assistants, marshal.
(aa) One hundred thirty-six security officers I, marshal.
(bb) Seventy-five security officers II, marshal.
(cc) Three senior personnel assistants, marshal.

SEC. 13. Section 72702 of the Government Code is amended to read:

72702. There shall be one court administrator who shall be clerk of court and who shall be appointed by, and hold office at the pleasure of, the judges of the court and who shall receive a monthly salary at a rate specified in Section 72609 and who may be designated as a department head pursuant to Chapter 2.02 of the Los Angeles County Code. In addition to the duties prescribed by law, the judges of the court may delegate to the court administrator and clerk of court the administrative powers and duties that they deem necessary for the administration of the court.

SEC. 14. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) One chief, systems division; and 11 division chiefs, operations.
(b) Eighteen senior court managers, and one assistant chief, systems division.
(c) Eight principal administrative assistants, municipal court.
(d) One personnel administrator, municipal court.
(e) Four personnel technicians, municipal court.
(f) Six personnel assistants, municipal court.
(g) Sixteen senior administrative assistants, municipal court.
(h) Five administrative assistants, municipal court.
(i) Three accounting technicians, municipal court.
(j) Seven staff assistants, municipal court.
(k) Five accountants, municipal court.
(l) Seven intermediate accountants, municipal court.
(m) Four senior accountants, municipal court.
(n) Eleven account clerks, municipal court.
(o) One assistant capital projects manager, municipal court.
(p) One capital projects manager, municipal court.
(q) One court information officer, municipal court.
(r) Three head personnel technicians, municipal court.
(s) One judicial management intern, municipal court.
(t) One managing court reporter, municipal court.
(u) One personnel clerk, municipal court.
(v) One principal personnel assistant, municipal court.
(w) Three senior personnel assistants, municipal court.
(x) One procurement assistant II, municipal court.
(y) One supervising accountant, municipal court.
(z) One warehouse manager, municipal court.
(aa) Four warehouse workers II, municipal court.
(bb) Three warehouse worker aides, municipal court.
(cc) Forty court managers, municipal court.
(dd) Two graphic artists, municipal court.

SEC. 15. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) One hundred fifty-seven deputy clerks IV, plus one additional deputy clerk IV 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 secretary to the presiding judge.
(c) One executive secretary, Los Angeles Municipal Court.
(d) One senior management secretary, municipal court.
(e) Fourteen 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 III.
(g) Three hundred sixty-three deputy municipal court clerks II.
(h) Eleven senior secretaries II, municipal court.
(i) Six secretaries, municipal court.
(j) Four management secretaries, municipal court.
(k) Three facilities services assistants, municipal court.
(l) Two procurement aides, municipal court.
(m) One facilities planning assistant, municipal court.
(n) One statistical analyst.
(o) Three staff development specialists, municipal court.
(p) One municipal court clerk trainee.
(q) Five clerical aides.
(r) Thirty-three deputy clerk supervisors.
(s) One general maintenance supervisor, municipal court.
(t) Two general maintenance workers, municipal court.

SEC. 16. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint:

(a) One computer operations supervisor, municipal court.
(b) One data conversion supervisor I, municipal court.
(c) Two senior data conversion equipment operators.
(d) Twenty-four data systems analysts II, municipal court.
(e) Three data systems analysts I, municipal court.
(f) Two supervising computer operators, municipal court.
(g) Four computer systems operators, municipal court.
(h) Two computer equipment operators, municipal court.
(i) Two senior data control clerks, municipal court.
(j) Six data control clerks, municipal court.
(k) Twelve data systems coordinators, municipal court.
(l) Five senior program and systems analysts.
(m) One principal programmer analyst.
(n) Nine senior programmer analysts, municipal court.
(o) One systems programmer, municipal court.
(p) Two telecommunications technicians.
(q) One senior telecommunications systems engineer, municipal court.
(r) One data processing specialist I, municipal court.
(s) One EDP staff aide, municipal court.

SEC. 17. Section 72705 of the Government Code is amended to read:

72705. (a) 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.

(b) Not more than 29 deputy clerks IV or municipal court clerk trainees, while assigned to duties in divisions of the court requiring greater skill and responsibility, shall receive a two-schedule increase in compensation.

(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 that service, shall be compensated at the schedule provided for that appointment, promotion, or demotion in Chapter 1 of Ordinance 6222 (Title 6, Los Angeles County Code).

SEC. 18. Section 72719 of the Government Code is amended and renumbered to read:

72635. The executive committee of the presiding judges association of the municipal courts of Los Angeles County may appoint:

(a) One executive assistant, presiding judges' association.

(b) One planning analyst, planning and research.

SEC. 19. Section 72719.5 of the Government Code is repealed.

SEC. 20. Section 72755 of the Government Code is amended to read:

72755. In those positions for which this article provides a multistep rate of compensation, this section shall apply.

(a) Except in the case of transfer, demotion, promotion or where otherwise specifically provided, original appointments to these 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 service, the compensation shall be increased to the rate specified in the next
higher step of the salary schedule for the position occupied until the compensation equals the sum specified in the highest step of that schedule.

(c) A person for whom an "unsatisfactory" or "improvement needed" performance evaluation has been filed with the county director of personnel shall not be granted a step advancement in the position held when the rating was given until a "competent" or better rating is filed.

(d) When a person is promoted to a position on a multistep basis, he or she shall receive the lowest step rate in the salary schedule of the new position which results in an increase in salary. However, when the increase in salary is less than the equivalent of a one-schedule increase in salary, the person shall be placed on the next higher step of the position to which he or she is appointed. Step advancements thereafter shall be as otherwise provided in this section.

(e) When the increase in salary provided for in subdivision (d) is at least equivalent to a one-schedule increase in salary, but less than the equivalent of a two-schedule increase in salary, the person shall be entitled to advance to the next higher step of the position to which he or she was appointed in one-half of the time otherwise required. Step advancements thereafter shall be as otherwise provided.

(f) 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.

(g) 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.

(h) 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.

(i) Upon demotion, a person shall retain the anniversary date held in the higher position.

(j) Any deputy clerk III, M.C. who is necessarily assigned to the regular duties of a deputy clerk IV, M.C. because of an absence of a deputy clerk IV, M.C. shall, for any period of that 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.

(k) One deputy municipal court clerk I, deputy municipal court clerk II, or deputy clerk III, M.C. in each municipal court of six judges or fewer, who having met the stenographic skills proficiency qualification required by the County of Los Angeles for the county
position of stenographer, shall be entitled to receive a four-schedule increase in salary when regularly required to provide stenographic and secretarial services to the judge or judges of the court.

(1) Not more than one deputy clerk IV, M.C. in each municipal court having six judges or fewer, or two deputy clerks IV, M.C. 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 salary.

(m) Not more than a total of two deputy municipal court clerks I, deputy municipal court clerks II, or deputy clerks III, M.C. 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 (k) receive the compensation prescribed by this subdivision.

SEC. 21. 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.

(9) One data systems analyst II, M.C.

(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. 22. Section 72764 of the Government Code is amended to read:

72764. In the Beverly Hills 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) Seven deputy municipal court clerks I.

(2) Eleven deputy municipal court clerks II.

(3) Seven deputy clerks III, M.C.

(4) Eight deputy clerks IV, M.C.
(5) Four 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 that court.

SEC. 23. 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 court 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. 24. 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-two deputy municipal court clerks II.
(3) Twenty-two deputy clerks III, M.C.
(4) Fourteen deputy clerks IV, M.C.
(5) One senior administrative assistant, M.C.
(6) Six assistant chief deputy clerks, M.C.
(7) One data systems analyst II, M.C.
(8) One head departmental personnel technician.
(9) One senior judicial secretary, Muni Ct.
(10) One senior secretary III, Muni Ct.
(11) One student professional worker.
(12) Four student workers.
(13) Five supervising deputy clerks I, M.C.
(14) Five supervising deputy clerks II, M.C.
(15) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court and who shall serve at the
pleasure of the court administrator.

SEC. 25. Section 72767.1 is added to the Government Code, to read:

72767.1. Notwithstanding Section 72604, in the Compton Municipal Court District, official reporters shall be appointed as follows:

(a) The judges may appoint as many phonographic reporters, not exceeding twelve, as the business of the court may require. The reporters shall be known as official reporters and shall serve at the pleasure of the judges of the court.

(b) In lieu of any other compensation provided by law for his or her services in reporting testimony and proceedings in the court, each official reporter shall receive the same monthly salary and medical benefits received by official reporters of the Los Angeles Municipal Court District, pursuant to Section 72709. Fees for transcription shall be as provided in Article 9 (commencing with Section 69941) of Chapter 5.

SEC. 26. Section 72768 of the Government Code is amended to read:

72768. In the Culver 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.

(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 senior secretary I, Muni. Ct.
(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. 27. 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 Ct.
(8) Five student workers.
(9) Three supervising deputy clerks II, M.C.
(10) One procurement aide, 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. 28. 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) Fifteen deputy municipal court clerks II.
        (2) Seven deputy clerks III, M.C.
        (3) Seven deputy clerks IV, M.C.
        (4) One principal administrative assistant, M.C.
        (5) One senior secretary II, Muni Ct.
        (6) Two supervising deputy clerks I, M.C.
        (7) One supervising deputy clerk 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 that court.

SEC. 29. Section 72772 of the Government Code is amended to read:

72772. In the Inglewood 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) 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 that court.

SEC. 30. 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-six deputy municipal court clerks I.
   (2) Twenty-four deputy municipal court clerks II.
   (3) Twenty-one 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 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.
   (8) Seven supervising deputy clerks I, M.C.
   (9) Five supervising deputy clerks II, M.C.
   (10) Seven principal clerks, Los Angeles.
   (11) One senior secretary III, Muni Ct.
   (12) Two administrative assistants, 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. 31. 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) Seventeen deputy municipal court clerks II.
   (2) Three deputy clerks III, M.C.
   (3) Six 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 that court.
   (9) One data systems analyst II, M.C.

SEC. 32. Section 72782 of the Government Code is amended to read:
72782. In the South Bay 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 court administrator may appoint:
       (1) Seventeen deputy municipal court clerks I.
       (2) Seventeen deputy municipal court clerks II.
       (3) Fourteen deputy clerks III, M.C.
       (4) Fourteen deputy clerks IV, M.C.
       (5) One deputy clerk, accountant, M.C.
       (6) One deputy clerk, administrative assistant, M.C.
       (7) Four assistant chief deputy clerks, M.C.
       (8) One deputy clerk, data systems analyst I, M.C.
       (9) One deputy clerk, personnel assistant, M.C.
       (10) One deputy clerk, senior judicial secretary, Muni Ct.
       (11) One deputy clerk, senior secretary III, Muni Ct.
       (12) Six student workers.
       (13) One deputy clerk, assistant court administrator, who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 33. 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 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-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, Muni Ct.
       (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 that court.

SEC. 34. Section 72785 is added to the Government Code, to read:
72785. (a) Notwithstanding any other provision of this code, the judge of the Catalina Justice Court District may appoint a court administrator of a municipal court district in Los Angeles County to serve jointly as the court administrator/clerk of the Catalina Justice Court District. Any municipal court administrator so appointed shall serve at the pleasure of the judge and shall receive no additional compensation for that service.
   (b) The court administrator/clerk appointed pursuant to
subdivision (a) may appoint one deputy clerk, Catalina Justice Court, who shall receive the same salary and benefits as a person holding a municipal court classification of deputy clerk IV, M.C. Any person appointed to this position after January 1, 1992, shall serve at the pleasure of the court administrator/clerk and shall acquire no civil service status.

SEC. 35. 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 October 1, 1991, the four salary steps are as follows:

Step 1. Forty-four thousand seven hundred ninety-six dollars ($44,796).
Step 2. Forty-seven thousand forty dollars ($47,040).
Step 3. Forty-nine thousand three hundred ninety-two dollars ($49,392).
Step 4. Fifty-one thousand eight hundred sixty-four dollars ($51,864).

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. 36. Section 73351 of the Government Code is amended to read:

73351. There are the following classes of positions into which each of the positions of the municipal courts shall be assigned as prescribed in the section pertaining to each court:

(a) Deputy clerk-beginning level, which shall include all municipal court employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk-experienced level, which shall include all municipal court employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and for which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(e) Deputy clerk-senior level, which shall include all municipal court employments assigned complex clerical work involving responsibility for the establishment, maintenance, calendaring, issuance of process, and updating of case records using manual and automated systems.

(f) Deputy clerk-specialist level, which shall include all municipal court employments assigned clerical duties of a complex administrative nature, requiring exercise of initiative and discretion in work organization, methods, and priorities and which may include lead direction of a work section.

(g) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the processing and maintenance of a variety of documents and records.

(h) Deputy clerk-division supervisor, which shall include all municipal court employments assigned responsibility for planning,
organizing, and directing the clerical activities of a division or branch office in a municipal court including the supervision of clerical staff.

(i) Court operations coordinator, which shall include implementation of the calendar management and trial court delay reduction program, as directed by the judges, supervisory and management duties associated with the calendar management and trial court delay reduction program, and being responsible for court operations in the absence of the district court manager. Chief deputy clerks holding the position on January 1, 1989, shall be retitled court operations coordinator-A.

(j) District court manager, which shall include any municipal court position charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties. Clerk-administrators holding such position on January 1, 1989, shall be retitled district court manager A or B (Schedule A in a court with five to seven judges, inclusive; Schedule B in a court with two to four judges, inclusive). Whenever the single district court manager A position vacates, the salary shall be downgraded to that currently paid to district court manager B. Whenever a district court manager B position vacates, the salary shall be downgraded to that currently paid to district court manager C (in a court with two to four judges, inclusive).

(k) Court commissioner, which shall include all municipal court employments who exercise the same powers and duties of judges of the court with respect to traffic and small claims matters.

(l) Executive secretary, which shall be assigned to serve as the confidential secretary to the county municipal court administrator.

(m) Deputy clerk-senior data entry operator, which shall include all municipal court employments assigned to complex data entry activities of a varied nature. Positions of this class may assign and review the work of several deputy clerks-data entry operator I or II.

(n) County municipal court administrator, which shall be responsible for the overall administration of all municipal court judicial districts in the county.

(o) Assistant county municipal court administrator, which shall be responsible for assisting in the overall administration of all municipal court judicial districts in the county and may act for the county municipal court administrator in his or her absence.

(p) Municipal court systems manager, which shall be responsible for managing the development, implementation, and enhancement of court systems.

(q) Municipal court fiscal officer, which shall be responsible for planning, reviewing, and coordinating fiscal and accounting activities of the county's municipal courts.

(r) Municipal court training officer, which shall be responsible for planning, reviewing, and coordinating training and educational activities of the county's municipal courts, and related work as required.

(s) Municipal court management analyst, which shall be
responsible under general direction for planning, developing, and implementing projects and assignments for the county’s municipal courts, and related work as required.

The board of supervisors may create a new class or classes by specifying the number of positions for each new class and the compensation therefor, provided that the new class or classes shall be effective only until January 1 of the second year following the calendar year in which the classes are created.

SEC. 37. Section 73353 of the Government Code is amended to read:

73353. Effective October 1, 1991, classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

<table>
<thead>
<tr>
<th>Class Title</th>
<th>Salary Schedule</th>
<th>Pay Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Clerk-Beginning Level</td>
<td>C5-1189</td>
<td>1492-1813</td>
</tr>
<tr>
<td>Deputy Clerk-Experienced Level</td>
<td>C5-1359</td>
<td>1766-2147</td>
</tr>
<tr>
<td>Deputy Clerk-Senior Level</td>
<td>XB-1521</td>
<td>1979-2527</td>
</tr>
<tr>
<td>Deputy Clerk-Specialist Level</td>
<td>XC-1592</td>
<td>2125-2713</td>
</tr>
<tr>
<td>Deputy Clerk-DEO I</td>
<td>C5-1287</td>
<td>1645-2000</td>
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<tr>
<td>Deputy Clerk-DEO II</td>
<td>C5-1384</td>
<td>1813-2203</td>
</tr>
<tr>
<td>Deputy Clerk-Senior DEO</td>
<td>C5-1457</td>
<td>1950-2370</td>
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<tr>
<td>Deputy Clerk-Courtroom Clerk</td>
<td>C5-1753</td>
<td>2621-3186</td>
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<tr>
<td>Deputy Clerk-Division Supervisor</td>
<td>C5-1784</td>
<td>2704-3286</td>
</tr>
<tr>
<td>Court Operations Coordinator-B</td>
<td>C5-1956</td>
<td>3211-3903</td>
</tr>
<tr>
<td>Court Operations Coordinator-A</td>
<td>C5-2053</td>
<td>3538-4300</td>
</tr>
<tr>
<td>District Court Manager-A</td>
<td>C5-2383</td>
<td>4915-5975</td>
</tr>
<tr>
<td>District Court Manager-B</td>
<td>C5-2272</td>
<td>4404-5353</td>
</tr>
<tr>
<td>District Court Manager-C</td>
<td>C5-2102</td>
<td>3715-4516</td>
</tr>
<tr>
<td>Executive Secretary</td>
<td>C3-1759</td>
<td>2907-3205</td>
</tr>
<tr>
<td>Municipal Court Training Officer</td>
<td>C5-1973</td>
<td>3266-3970</td>
</tr>
<tr>
<td>Municipal Court Management Analyst</td>
<td>C5-2047</td>
<td>3517-4275</td>
</tr>
<tr>
<td>Municipal Court Systems Manager</td>
<td>C5-2116</td>
<td>3768-4580</td>
</tr>
<tr>
<td>Municipal Court Fiscal Officer</td>
<td>C5-2114</td>
<td>3760-4571</td>
</tr>
<tr>
<td>Assistant County Municipal Court Ad-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ministrator</td>
<td>C5-2359</td>
<td>4804-5839</td>
</tr>
<tr>
<td>County Municipal Court Administrator</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C1-2543</td>
<td>7018 F</td>
</tr>
</tbody>
</table>

SEC. 38. 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:

<table>
<thead>
<tr>
<th>Court Class</th>
<th>Equivalent County Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Clerk-Begining</td>
<td>Clerk-Begining</td>
</tr>
<tr>
<td>Deputy Clerk-Experienced</td>
<td>Clerk-Experienced</td>
</tr>
<tr>
<td>Deputy Clerk-Senior</td>
<td>Clerk-Senior</td>
</tr>
<tr>
<td>Deputy Clerk-Specialist</td>
<td>Clerk-Specialist</td>
</tr>
<tr>
<td>Deputy Clerk-DEO I</td>
<td>Data Entry Operator I</td>
</tr>
<tr>
<td>Deputy Clerk-DEO II</td>
<td>Data Entry Operator II</td>
</tr>
<tr>
<td>Deputy Clerk-Senior DEO</td>
<td>7.5% above Data Entry Operator II</td>
</tr>
<tr>
<td>Municipal Court Reporter</td>
<td>Superior Court Reporter</td>
</tr>
<tr>
<td>Deputy Clerk-Courtroom Clerk</td>
<td>17.8% above Clerk-Specialist</td>
</tr>
</tbody>
</table>

(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 A
- Court Operations Coordinator B
- 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. 39. Section 73358 of the Government Code is amended to read:

73358. The total number of positions authorized for operation of municipal courts in Contra Costa County is as follows:

<table>
<thead>
<tr>
<th>Class Title</th>
<th>Number of Positions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy clerk-(deep class), including beginning, experienced, senior, and specialist levels</td>
<td>230</td>
</tr>
<tr>
<td>Deputy clerk-DEO I or II</td>
<td>26</td>
</tr>
<tr>
<td>Deputy clerk-senior DEO</td>
<td>4</td>
</tr>
<tr>
<td>Deputy clerk-courtroom clerk</td>
<td>18</td>
</tr>
<tr>
<td>Deputy clerk-division supervisor</td>
<td>15</td>
</tr>
<tr>
<td>Court operations coordinator A</td>
<td>2</td>
</tr>
<tr>
<td>Court operations coordinator B</td>
<td>2</td>
</tr>
<tr>
<td>District court manager-A</td>
<td>1</td>
</tr>
<tr>
<td>District court manager-B</td>
<td>2</td>
</tr>
<tr>
<td>District court manager-C</td>
<td>1</td>
</tr>
<tr>
<td>Executive secretary</td>
<td>1</td>
</tr>
<tr>
<td>Municipal court training officer</td>
<td>1</td>
</tr>
<tr>
<td>Municipal court management analyst</td>
<td>1</td>
</tr>
<tr>
<td>Municipal court systems manager</td>
<td>1</td>
</tr>
<tr>
<td>Municipal court fiscal officer</td>
<td>1</td>
</tr>
<tr>
<td>Assistant county municipal court administrator</td>
<td>1</td>
</tr>
<tr>
<td>County municipal court administrator</td>
<td>1</td>
</tr>
</tbody>
</table>

SEC. 40. 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 II.
(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) Three collections officers II.
(l) One supervising accountant.
(m) One courier II.
(n) Fifty-seven court services assistants II.
(o) Six court services assistants III.
(p) Two fiscal assistants II.
(q) Four fiscal assistants III.
(r) One fiscal assistant IV.
(s) Two fiscal technicians I.
(t) One microfilm technician II.
(u) One inventory management assistant III.
(v) Twenty-three judicial assistants.
(w) Three judicial secretaries.
(x) One management assistant III.
(y) One management assistant IV-confidential.
(z) Two collections officers III.
(aa) One fiscal technician II.
(bb) Three data entry operators III.

SEC. 41. 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:

<table>
<thead>
<tr>
<th>Municipal Court Classification</th>
<th>Biweekly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manager Court Divisions</td>
<td>$1,257.00–1,605.00</td>
</tr>
<tr>
<td>Program Administrator III</td>
<td>1,422.00–1,815.00</td>
</tr>
<tr>
<td>Administrative Officer II</td>
<td>1,570.00–2,004.00</td>
</tr>
<tr>
<td>Administrative Assistant I</td>
<td>985.00–1,255.00</td>
</tr>
<tr>
<td>Administrative Aide</td>
<td>786.00–1,003.00</td>
</tr>
<tr>
<td>Supervising Accountant</td>
<td>1,609.00–2,054.00</td>
</tr>
<tr>
<td>Microfilm Technician II</td>
<td>655.00–837.00</td>
</tr>
<tr>
<td>Office Systems Coordinator I</td>
<td>1,080.00–1,382.00</td>
</tr>
<tr>
<td>Court Interpreter/Translator</td>
<td>1,660.00</td>
</tr>
<tr>
<td>Financial Evaluation Officer II</td>
<td>819.00–1,044.00</td>
</tr>
<tr>
<td>Clerical Supervisor III</td>
<td>997.00–1,272.00</td>
</tr>
<tr>
<td>Collections Officer II</td>
<td>779.00–994.00</td>
</tr>
<tr>
<td>Collections Officer III</td>
<td>819.00–1,044.00</td>
</tr>
<tr>
<td>Courier II</td>
<td>608.00–776.00</td>
</tr>
<tr>
<td>Court Services Assistant II</td>
<td>798.00–1,019.00</td>
</tr>
<tr>
<td>Court Services Assistant III</td>
<td>860.00–1,097.00</td>
</tr>
<tr>
<td>Fiscal Assistant II</td>
<td>655.00–836.00</td>
</tr>
<tr>
<td>Fiscal Assistant III</td>
<td>741.00–946.00</td>
</tr>
<tr>
<td>Fiscal Assistant IV</td>
<td>798.00–1,019.00</td>
</tr>
<tr>
<td>Fiscal Technician I</td>
<td>881.00–1,125.00</td>
</tr>
<tr>
<td>Fiscal Technician II</td>
<td>949.00–1,211.00</td>
</tr>
<tr>
<td>Inventory Management</td>
<td></td>
</tr>
<tr>
<td>Assistant III</td>
<td>706.00–901.00</td>
</tr>
<tr>
<td>Judicial Assistant</td>
<td>903.00–1,152.00</td>
</tr>
</tbody>
</table>
Judicial Secretaries................................................. 860.00–1,097.00
Management Assistant III........................................ 860.00–1,097.00
Management Assistant IV
   Confidential .................................................. 958.00–1,223.00
Senior Accountant .............................................. 1,254.00–1,602.00
Data Entry Operator III ........................................ 666.00– 850.00

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. 42. 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:

<table>
<thead>
<tr>
<th>Municipal Court Classification</th>
<th>County Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manager Court Divisions</td>
<td>Manager Court Divisions</td>
</tr>
<tr>
<td>Program Administrator III</td>
<td>Program Administrator III</td>
</tr>
<tr>
<td>Administrative Officer II</td>
<td>Administrative Officer II</td>
</tr>
<tr>
<td>Administrative Assistant I</td>
<td>Administrative Assistant I</td>
</tr>
<tr>
<td>Administrative Aide</td>
<td>Administrative Aide</td>
</tr>
<tr>
<td>Supervising Accountant</td>
<td>Supervising Accountant</td>
</tr>
<tr>
<td>Microfilm Technician II</td>
<td>Microfilm Technician II</td>
</tr>
<tr>
<td>Office Systems Coordinator I</td>
<td>Office Systems Coordinator I</td>
</tr>
<tr>
<td>Court Interpreter/Translator</td>
<td>Court Interpreter/Translator</td>
</tr>
<tr>
<td>Financial Evaluation Officer II</td>
<td>Financial Evaluation Officer II</td>
</tr>
<tr>
<td>Clerical Supervisor III</td>
<td>Clerical Supervisor III</td>
</tr>
<tr>
<td>Collections Officer II</td>
<td>Collections Officer II</td>
</tr>
<tr>
<td>Collections Officer III</td>
<td>Collections Officer III</td>
</tr>
</tbody>
</table>

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STATUTES OF 1992

SEC. 43. 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 374

An act to amend Section 21752 of, and to add Sections 21263.01, 21337, 21752.5, 21752.6, and 21752.7 to, the Government Code, relating to the Public Employees’ Retirement System.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 21263.01 is added to the Government Code, to read:

21263.01. Notwithstanding any other provision of this part, upon the member’s election to be subject to Section 21337, the benefits provided by Section 21263, 21263.1, 21263.2, 21263.3, 21263.4, or 21263.5, as applicable, shall be payable only to the member’s eligible surviving spouse and for his or her lifetime. The benefit shall not cease upon the remarriage of the surviving spouse.
SEC. 2. Section 21337 is added to the Government Code, to read: 21337. A member who elects to receive the unmodified allowance or optional settlement one, or optional settlement two, three, or four with or without making the election specified in Section 21336, and who names his or her spouse as the option beneficiary, and whose spouse is also an eligible survivor for the benefits provided by Section 21263, 21263.1, 21263.2, 21263.3, 21263.4, or 21263.5, and where the total benefit to the surviving spouse is at least 50 percent of the member’s unmodified allowance, may concurrently and irrevocably elect to have his or her allowance paid as a “qualified joint and survivor annuity.” Notwithstanding any other provision of this part, upon such an election, the survivor allowance shall be paid only to the member’s spouse and shall continue to be paid upon the remarriage of the spouse. Any cost due to this election shall be paid by the member through an actuarial reduction to his or her allowance.

For purposes of this section, a member's retirement allowance shall be determined without regard to any limitation required pursuant to Section 415 of the Internal Revenue Code, but the amount payable to the spouse shall be subject to those limits as if it were the retirement allowance of the member.

SEC. 3. Section 21752 of the Government Code is amended to read:

21752. (a) (1) In accordance with Section 21754 (former Section 21200.01), a member's annual retirement benefits, adjusted to the actuarial equivalent of a straight-life annuity if payable in a form other than a straight-life annuity or a qualified joint and survivor annuity as provided under Section 21337, and determined without regard to any employee contributions or rollover contributions, as defined in Sections 402(a)(5), 403(a)(4), and 408(d)(3) of the Internal Revenue Code, otherwise payable to the member under Part 3 (commencing with Section 20000) and under any other defined benefit plan maintained by the employer which is subject to Section 415 of the Internal Revenue Code, shall not exceed, in the aggregate, the lesser of:

(A) The dollar limit applicable pursuant to Section 415(b)(1)(A) of the Internal Revenue Code; as appropriately modified by Section 415(b)(2)(F) and (G).

(B) One hundred percent of the member's average compensation (within the meaning of Treasury Regulation Section 1.451-2(d)) for the three consecutive years of service which produces the highest aggregate amount.

(2) However, the annual retirement benefit payable to a member shall be deemed not to exceed the limitations prescribed in subparagraphs (A) and (B) of paragraph (1) if the benefit does not exceed ten thousand dollars ($10,000) and the member has at no time participated in a tax qualified defined contribution plan maintained by the employer.

(b) These limitations shall be applied pursuant to Section
415(b)(10) of the Internal Revenue Code.

(c) Part 3 (commencing with Section 20000) shall be construed as if it included this section.

SEC. 4. Section 21752.5 is added to the Government Code, to read:

21752.5. Notwithstanding any other provision of law, the retirement allowance of a member shall be increased to reflect cost-of-living adjustments to the limits contained in Section 415 of the Internal Revenue Code as provided in Section 415(d) of that code, provided that the member's allowance determined without regard to Section 415 equals or exceeds the applicable limit as indexed. Nothing in this section is intended to, nor shall be construed to, entitle a retired member to a cost-of-living adjustment to his or her allowance in excess of that provided pursuant to Part 3 (commencing with Section 20000).

SEC. 5. Section 21752.6 is added to the Government Code, to read:

21752.6. In addition to the benefit limitations specified in this part, if a member participates in other benefit plans maintained by the employer, to the extent the aggregation of benefits payable under those plans and pursuant to Part 3 (commencing with Section 20000) are subject to and exceed the limits prescribed by Section 415 of the Internal Revenue Code, the benefits payable pursuant to Part 3 (commencing with Section 20000) shall be reduced, but not below zero, to the extent necessary to satisfy Section 415, before adjustments under any other plans are made. Nothing in this section shall limit a member's entitlement to replacement benefits as provided by Section 21755.

SEC. 6. Section 21752.7 is added to the Government Code, to read:

21752.7. Internal Revenue Service Procedure 92-42 shall apply to all changes in benefit structure adopted by any employer regardless of whether the change was adopted before August 3, 1992, or on or after August 3, 1992. Internal Revenue Service Notice 89-45 shall not be applied to any changes in benefit structure adopted by any employer.
CHAPTER 375

An act to amend Section 44380 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 44380 of the Health and Safety Code is amended to read:

44380. (a) The state board shall adopt a regulation which does all of the following:

(1) Sets forth the amount of revenue which the district must collect to recover the reasonable anticipated cost which will be incurred by the state board and the Office of Environmental Health Hazard Assessment to implement and administer this part.

(2) Requires each district to adopt a fee schedule which recovers the costs of the district and which assesses a fee upon the operator of every facility subject to this part. A district may request the state board to adopt a fee schedule for the district if the district's program costs are approved by the district board and transmitted to the state board by April 1 of the year in which the request is made.

(3) Requires any district that has an approved toxics emissions inventory compiled pursuant to this part by August 1 of the preceding year to adopt a fee schedule, as described in paragraph (2), which imposes on facility operators fees which are, to the maximum extent practicable, proportionate to the extent of the releases identified in the toxics emissions inventory and the level of priority assigned to that source by the district pursuant to Section 44360.

(b) Commencing August 1, 1992, and annually thereafter, the state board shall review and may amend the fee regulation.

(c) The district shall notify each person who is subject to the fee of the obligation to pay the fee. If a person fails to pay the fee within 60 days after receipt of this notice, the district, unless otherwise provided by district rules, shall require the person to pay an additional administrative civil penalty. The district shall fix the penalty at not more than 100 percent of the assessed fee, but in an amount sufficient in its determination, to pay the district's additional expenses incurred by the person's noncompliance. If a person fails to pay the fee within 120 days after receipt of this notice, the district may initiate permit revocation proceedings. If any permit is revoked, it shall be reinstated only upon full payment of the overdue fee plus any late penalty, and a reinstatement fee to cover administrative costs of reinstating the permit.

(d) Each district shall collect the fees assessed pursuant to subdivision (a). After deducting the costs to the district to
implement and administer this part, the district shall transmit the remainder to the Controller for deposit in the Air Toxics Inventory and Assessment Account, which is hereby created in the General Fund. The money in the account is available, upon appropriation by the Legislature, to the state board and the Office of Environmental Health Hazard Assessment for the purposes of administering this part.

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 376

An act to add Section 15333.2 to the Government Code, relating to economic development.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 15333.2 is added to the Government Code, to read:

15333.2. The Office of Business Development shall implement a commercial space launch assistance program that shall do all of the following:

(a) Promote the State of California as a world center for commercial space launch-related research and business.

(b) Plan and coordinate activities associated with developing, retaining, and expanding commercial space launch business in California.

(c) Participate in and coordinate the negotiation of permits at the local, state, and federal level, and to respond to industry inquiries and complaints concerning local, state, and federal regulations.

(d) Serve as a clearinghouse for information about the commercial space launch business in California.

(e) Promote the use of commercial space launch vehicles to lift satellites into polar orbit from Vandenberg Air Force Base.

(f) Promote the establishment of commercial customer support facilities for contractors.
CHAPTER 377

An act to add Article 7.5 (commencing with Section 73580) and Article 34 (commencing with Section 74860) to Chapter 10 of Title 8 of the Government Code, relating to courts.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992]

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

SECTION 1. Article 7.5 (commencing with Section 73580) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 7.5. Lake County

73580. This article applies to the Lake County Municipal Court, which supersedes the Northlake and Southlake Justice Court Districts and embraces the entire County of Lake.

73581. There are two judges. One judge shall be elected from a division comprising the territory of the superseded Northlake Judicial District and one judge shall be elected from a division comprising the territory of the superseded Southlake Judicial District, and these divisions shall constitute the “districts” referred to in subdivision (b) of Section 16 of Article VI of the California Constitution for the purposes of the qualification and election of judges. However, the initial judges shall be selected pursuant to Sections 71080 and 71084.

73582. There shall be one municipal court executive officer who shall be appointed by a majority of the judges of the court. The municipal court executive officer shall receive a salary in the range of two thousand four hundred three dollars ($2,403) to two thousand nine hundred twenty dollars ($2,920) per month.

73583. The municipal court executive officer, with the budgetary approval of the board of supervisors, may fill the following positions, each of which shall receive a biweekly salary in the range specified:

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Salary Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Supervising court clerk</td>
<td>$751.16–$913.05</td>
</tr>
<tr>
<td>3</td>
<td>Court clerk III</td>
<td>$643.36–$782.02</td>
</tr>
<tr>
<td>11</td>
<td>Court clerk I/II</td>
<td>$558.04–$744.48</td>
</tr>
</tbody>
</table>

73584. The employees of the Lake County Municipal Court District shall be entitled to the same benefits and privileges as are granted to other employees of the County of Lake, as provided in the county’s salary ordinance and other ordinances, resolutions, and rules applicable to other county employees.

73585. The employees of the Lake County Municipal Court shall be governed by the personnel regulations, memoranda of understanding, management benefit package, and affirmative action
plan of the County of Lake.

73586. The salaries, benefits, and privileges of the Lake County Municipal Court may be adjusted, as directed by the board of supervisors as part of the county employee compensation plan. Any adjustment by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the adjustment occurs, unless ratified by the Legislature.

73587. The Sheriff of the County of Lake and his or her deputies specifically designated by him or her shall be ex officio marshal and deputy marshals, respectively, of the court and shall act as such without additional compensation.

SEC. 2. Article 34 (commencing with Section 74860) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 34. Tehama County

74860. This article applies to the Tehama County Municipal Court, which supersedes the Corning and Red Bluff Justice Court Districts and embraces the entire County of Tehama.

74861. There are two judges. The initial judges shall be selected pursuant to Sections 71080 and 71084.

74862. The Tehama County Sheriff shall be ex officio marshal.

74863. There shall be two deputy marshals. Any person serving as an elected constable on December 31, 1992, is entitled to serve as deputy marshal with the same compensation and terms of employment he or she had as constable, for the remainder of his or her elected term.

74864. Except as otherwise provided in this article, the designated deputies of the Sheriff of Tehama County shall act as ex officio deputy marshals of the Tehama County Municipal Court.

74865. Upon recommendation of the judges of the county, and with the approval of the board of supervisors, the court may appoint such 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 1 of the second calendar year following the year in which the appointment was made unless ratified by the Legislature. This section does not affect the application of Section 72150.

74866. (a) Whenever reference to a numbered salary range is made in this article, the salary and position schedule of the respective employee bargaining agreement in effect on July 1, 1992, shall apply.

(b) Except as otherwise provided in this article, employees shall receive step advances, promotions, and demotions as prescribed pursuant to the salary and classification procedures of the county for the respective position.

(c) Notwithstanding any other provision of law, the salary of any officer or employee may be increased by the board of supervisors in order to provide compensation that is comparable to that of county
employees of similar qualifications and experience, holding equal or comparable positions in the Tehama County classified service, as the comparability is determined by the board. Any pay increase authorized by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

74867. (a) The court executive officer, with the concurrence of a majority of the judges of the court, may appoint all of the following:

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Salary Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Court Services Supervisor</td>
<td>(M64)</td>
</tr>
<tr>
<td>2</td>
<td>Court Division Managers</td>
<td>(M57)</td>
</tr>
<tr>
<td>1</td>
<td>Municipal Court Clerk III</td>
<td>(T46)</td>
</tr>
<tr>
<td>6</td>
<td>Municipal Court Clerks II</td>
<td>(T42)</td>
</tr>
<tr>
<td>7</td>
<td>Municipal Court Clerks I</td>
<td>(T39)</td>
</tr>
<tr>
<td>2</td>
<td>Accounting Technicians</td>
<td>(T47)</td>
</tr>
</tbody>
</table>

(b) Employees of the Red Bluff and Corning Justice Courts assuming substantially the same positions in the Tehama County Municipal Court shall be placed at the same range and step they previously occupied.

74868. In addition to the compensation provided by this article, the employees, attachés, and other personnel of the court shall receive the same number of holidays, vacations, and other benefits as the employees of the County of Tehama pursuant to the adopted bargaining agreements of the respective units.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. 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 378

An act to amend Section 703.5 of the Insurance Code, relating to insurance.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 703.5 of the Insurance Code is amended to read:

703.5. Any person, including, but not limited to, persons licensed
or certificated under this code or exempted from regulation under this code, who as a part of any business advertises as, or holds himself or herself out as, qualified to advise the public concerning insurance or qualified to administer workers' compensation for employers and who in connection with or as part of that business also, with or without consideration, (a) suggests or recommends to an employer, or advises an employer, that the employer purchase aggregate excess or aggregate stop-loss workers' compensation insurance, or (b) names or suggests to an employer, or advises an employer of, a nonadmitted insurer from whom aggregate excess or aggregate stop-loss workers' compensation insurance might be purchased, is guilty of a misdemeanor. This section does not apply if the employer is a self-insured public entity, including any agency, board, or commission provided for by a joint exercise of powers agreement, or those who have been issued a certificate by the Director of the Department of Industrial Relations to self-insure.

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CHAPTER 379

An act to amend Section 995.660 of the Code of Civil Procedure, relating to bonds.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 995.660 of the Code of Civil Procedure is amended to read:

995.660. (a) Notwithstanding the provisions of any state or local law, including, but not limited to, any ordinance, resolution, policy, or other act, whenever an objection is made to the sufficiency of an admitted surety insurer on a bond or if the bond is required to be approved, the insurer shall submit to the court or officer the following documents:

(1) The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument entitling or authorizing the person who executed the bond to do so.

(2) A certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner.

(3) A certificate from the county clerk of the county in which the court or officer is located that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

(4) A financial statement of the assets and liabilities of the insurer at the end of the quarter calendar year prior to 30 days next preceding the date of the execution of the bond. The financial
statement shall be made by an officers' certificate as defined in Section 173 of the Corporations Code. In the case of a foreign insurer the financial statement may, instead of an officers' certificate, be verified by the oath of the principal officer or manager residing within the United States.

(b) If the admitted surety insurer complies with subdivision (a) and if it appears that the bond was duly executed, that the insurer is authorized to transact surety insurance in the state, and that its assets exceed its liabilities in an amount equal to or in excess of the amount of the bond, then notwithstanding the provisions of any state or local law, including, but not limited to, any ordinance, resolution, policy, or other act, the insurer is sufficient and shall be accepted or approved as surety on the bond, subject to Section 12090 of the Insurance Code.

CHAPTER 380

An act to amend Section 995.630 of the Code of Civil Procedure, relating to surety insurers.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 995.630 of the Code of Civil Procedure is amended to read:

995.630. An admitted surety insurer shall be accepted or approved by the court or officer as surety on a bond without further acknowledgment if the bond is executed in the name of the surety insurer under penalty of perjury or the fact of execution of the bond is duly acknowledged before an officer authorized to take and certify acknowledgments, and either one of the following conditions, at the option of the surety insurer, is satisfied:

(a) A copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the bond to do so for and in behalf of the insurer, is filed in the office of the clerk of the county in which the court or officer is located.

(b) A copy of a power of attorney is attached to the bond.
CHAPTER 381

An act to amend Sections 68097, 68097.1, and 68097.2 of the Government Code, relating to subpoenaed public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 68097 of the Government Code is amended to read:

68097. Witnesses in civil cases may demand the payment of their mileage and fees for one day, in advance, and when so demanded shall not be compelled to attend until the allowances are paid except for state employees, sheriffs, deputy sheriffs, marshals, deputy marshals, firefighters, and city police officers.

SEC. 2. Section 68097.1 of the Government Code is amended to read:

68097.1. Whenever an employee of the Department of Justice who is a peace officer or an analyst in a technical field, member of the California Highway Patrol, peace officer member of the State Fire Marshal's Office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer is required as a witness before any court or other tribunal in any civil action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties, a subpoena requiring his or her attendance may be served by delivering a copy either to the person personally or by delivering two copies to his or her immediate superior or agent designated by that immediate superior to receive that service.

(b) Whenever any other state employee is required as a witness before any court or other tribunal in any civil action or proceeding in connection with a matter, event, or transaction concerning which he or she has expertise gained in the course of his or her duties, a subpoena requiring his or her attendance may be served by delivering a copy either to the person personally or by delivering two copies to his or her immediate superior or agent designated by that immediate superior to receive that service.

(c) The attendance of any person described in subdivisions (a) and (b) may be required pursuant to this section only in accordance with Section 1989 of the Code of Civil Procedure.

(d) As used in this section and in Sections 68097.2 and 68097.5, "tribunal" means any person or body before whom or which attendance of witnesses may be required by subpoena, including an arbitrator in arbitration proceedings.

SEC. 3. Section 68097.2 of the Government Code is amended to read:
68097.2. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, any firefighter, or any state employee, who is obliged by a subpoena issued pursuant to Section 68097.1 to attend as a witness, shall receive the salary or other compensation to which he or she is normally entitled from the public entity by which he or she is employed during the time that he or she travels to and from the place where the court or other tribunal is located and while he or she is required to remain at that place pursuant to the subpoena. He or she shall also receive from the public entity by which he or she is employed the actual necessary and reasonable traveling expenses incurred by him or her in complying with the subpoena.

(b) The party at whose request the subpoena is issued shall reimburse the public entity for the full cost to the public entity incurred in paying the peace officer, firefighter, or state employee his or her salary or other compensation and traveling expenses as provided for in this section, for each day that the peace officer, firefighter, or state employee is required to remain in attendance pursuant to the subpoena. The amount of one hundred fifty dollars ($150), together with the subpoena, shall be tendered to the public entity for each day that the peace officer, firefighter, or state employee is required to remain in attendance pursuant to the subpoena.

(c) If the actual expenses should later prove to be less than the amount tendered, the excess of the amount tendered shall be refunded.

(d) If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid to the public entity by the party at whose request the subpoena is issued.

(e) If a court continues a proceeding on its own motion, no additional witness fee shall be required prior to the issuance of a subpoena or the making of an order directing the peace officer, firefighter, or state employee to appear on the date to which the proceeding is continued.

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 help prevent further deterioration of the state's economic situation by ensuring immediate reimbursement of subpoenaed public employee compensation and travel costs, it is necessary that this act take effect immediately.
An act to amend Sections 300 and 361 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 300 of the Welfare and Institutions Code is amended to read:

300. Any minor who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the minor, or the willful or negligent failure of the minor's parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the minor
from suffering serious physical harm or illness. In making its
determination, the court shall consider (1) the nature of the
treatment proposed by the parent or guardian (2) the risks to the
minor posed by the course of treatment or nontreatment proposed
by the parent or guardian (3) the risk, if any, of the course of
treatment being proposed by the petitioning agency, and (4) the
likely success of the courses of treatment or nontreatment proposed
by the parent or guardian and agency. The minor shall continue to
be a dependent child pursuant to this subdivision only so long as is
necessary to protect the minor from risk of suffering serious physical
harm or illness.

(c) The minor is suffering serious emotional damage, or is at
substantial risk of suffering serious emotional damage, evidenced by
severe anxiety, depression, withdrawal, or untoward aggressive
behavior toward self or others, as a result of the conduct of the parent
or guardian or who has no parent or guardian capable of providing
appropriate care. No minor shall be found to be a person described
by this subdivision if the willful failure of the parent or guardian to
provide adequate mental health treatment is based on a sincerely
held religious belief and if a less intrusive judicial intervention is
available.

(d) The minor has been sexually abused, or there is a substantial
risk that the minor will be sexually abused, as defined in Section
11165.1 of the Penal Code, by his or her parent or guardian or a
member of his or her household, or the parent or guardian has failed
to adequately protect the minor from sexual abuse when the parent
or guardian knew or reasonably should have known that the minor
was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe
physical abuse by a parent, or by any person known by the parent,
if the parent knew or reasonably should have known that the person
was physically abusing the minor. For the purposes of this
subdivision, "severe physical abuse" means any of the following: any
single act of abuse which causes physical trauma of sufficient severity
that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act
of sexual abuse which causes significant bleeding, deep bruising,
or significant external or internal swelling; or more than one act of
physical abuse, each of which causes bleeding, deep bruising,
significant external or internal swelling, bone fracture, or
unconsciousness; or the willful, prolonged failure to provide
adequate food. A minor may not be removed from the physical
custody of his or her parent or guardian on the basis of a finding of
severe physical abuse unless the probation officer has made an
allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing
the death of another child through abuse or neglect.

(g) The minor has been left without any provision for support; the
minor's parent has been incarcerated or institutionalized and cannot
arrange for the care of the minor; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor’s sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the minor.

It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to protect children who are at risk of that harm. This protection includes provision of a full array of social and health services to help the child and family and to prevent reabuse of children. That protection shall focus on the preservation of the family whenever possible. Nothing in this section is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court’s determination pursuant to this section shall center upon whether a parent’s disability prevents him or her from exercising care and control.
As used in this section "guardian" means the legal guardian of the child.

SEC. 2. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. Any limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated unless the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the custody of the parent or guardian with whom the minor resided at the time of injury.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25 or 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the
whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

(c) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (b), whether it was reasonable under the circumstances not to make any such efforts. The court shall state the facts on which the decision to remove the minor is based.

(d) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

CHAPTER 383

An act to amend Section 10201.1 of the Health and Safety Code, relating to vital statistics, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992]

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

SECTION 1. Section 10201.1 of the Health and Safety Code is amended to read:

10201.1. The State Registrar, at his or her discretion, may incorporate computer or telephone facsimile technology, or both, in the statewide program of death and fetal death registration, including, but not limited to, the issuing of permits for disposition of human remains.

Nothing in this section shall limit the ability of local districts to file certificates of death and fetal death manually within the local registration districts.

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

In order to facilitate the most efficient administration of provisions relating to the processing of death certificates, it is necessary that this act take effect immediately.
An act to amend Section 4982.25 of, and to add Sections 2960.5, 2960.6, 3757, 4982.1, 4986.75, and 4992.35 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 2960.5 is added to the Business and Professions Code, to read:

2960.5. The board may refuse to issue any registration or license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or registration pursuant to this section.

SECTION 2. Section 2960.6 is added to the Business and Professions Code, to read:

2960.6. The board may deny any application for, or may suspend or revoke a license or registration issued under this chapter for, any of the following:

(a) The revocation, suspension, or other disciplinary action imposed by another state on a license, certificate, or registration issued by that state to practice psychology shall constitute grounds for disciplinary action for unprofessional conduct against that licensee or registrant in this state. A certified copy of the decision or judgment of the other state shall be conclusive evidence of that action.

(b) The revocation, suspension, or other disciplinary action by any board established in this division, or the equivalent action of another state’s licensing agency, of the license of a healing arts practitioner shall constitute grounds for disciplinary action against that licensee or registrant under this chapter. The grounds for the action shall be substantially related to the qualifications, functions, or duties of a psychologist or psychological assistant. A certified copy of the decision or judgment shall be conclusive evidence of that action.

SECTION 3. Section 3757 is added to the Business and Professions Code, to read:

3757. The committee may refuse to issue a license or an authorization to work as a “respiratory care practitioner applicant” whenever it appears that the applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or authorization pursuant to this section.

SECTION 4. Section 4982.1 is added to the Business and Professions
Code, to read:

4982.1. The board may refuse to issue any registration or license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or registration pursuant to this section.

SEC. 5. Section 4982.25 of the Business and Professions Code is amended to read:

4982.25. The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

(a) The revocation, suspension, or other disciplinary action imposed by another state on a license, certificate, or registration issued by that state to practice marriage counseling or marriage, family, and child counseling, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant in this state. A certified copy of the decision or judgment of the other state shall be conclusive evidence of that action.

(b) The revocation, suspension, or other disciplinary action by the Board of Psychology, or equivalent action in another state, of a license or certificate to practice psychology issued by this state or another state to a licensee or registrant, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(c) The revocation, suspension, or other discipline by the board of a license or certificate to practice as a clinical social worker or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

SEC. 6. Section 4986.75 is added to the Business and Professions Code, to read:

4986.75. The board may refuse to issue any license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license pursuant to this section.

SEC. 7. Section 4992.35 is added to the Business and Professions Code, to read:

4992.35. The board may refuse to issue any registration or license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or registration pursuant to this section.
An act to amend Section 17204 of, and to add Sections 17209 and 17536.5 to, the Business and Professions Code, relating to business regulation.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for any relief pursuant to this chapter may be prosecuted by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by the city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

SEC. 2. Section 17209 is added to the Business and Professions Code, to read:

17209. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate department of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

SEC. 3. Section 17536.5 is added to the Business and Professions Code, to read:

17536.5. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate department of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the
person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

CHAPTER 386

An act to amend Sections 156, 6409.1, and 6413 of, and to repeal Section 155 of, the Labor Code, relating to employment.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 155 of the Labor Code is repealed.
SEC. 2. Section 156 of the Labor Code is amended to read:
156. An annual report containing statistics on California work injuries and occupational diseases andfatalities by industry classifications shall be completed and published by the Division of Labor Statistics and Research no later than December 31 of the following calendar year. All of the reports and statistics shall be available to the public.
SEC. 3. Section 6409.1 of the Labor Code is amended to read:
6409.1. (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, to each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid, with the Department of Industrial Relations, through its Division of Labor Statistics and Research or, if an insured employer, with the insurer, on a form prescribed for that purpose by the Division of Labor Statistics and Research. A report shall be filed concerning each injury and illness which has, or is alleged to have, arisen out of and in the course of employment, within five days after the employer obtains knowledge of the injury or illness. Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the case of an insured employer, the insurer shall file with the division immediately upon receipt, a copy of the employer's report, which has been received from the insured employer. In the event an employer has filed a report of injury or illness pursuant to this subdivision and the employee subsequently dies as a result of the
reported injury or illness, the employer shall file an amended report indicating the death with the Department of Industrial Relations, through its Division of Labor Statistics and Research or, if an insured employer, with the insurer, within five days after the employer is notified or learns of the death. A copy of any amended reports received by the insurer shall be filed with the division immediately upon receipt.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or telegraph.

SEC. 4. Section 6413 of the Labor Code is amended to read:

6413. (a) The Department of Corrections, and every physician or surgeon who attends any injured state prisoner, shall file with the Division of Labor Statistics and Research a complete report, on forms prescribed under Sections 6409 and 6409.1, of every injury to each state prisoner, resulting from any labor performed by the prisoner unless disability resulting from such injury does not last through the day or does not require medical service other than ordinary first aid treatment.

(b) Where the injury results in death a report, in addition to the report required by subdivision (a), shall forthwith be made by the Department of Corrections to the Division of Labor Statistics and Research by telephone or telegraph.

(c) Except as provided in Section 6304.2, nothing in this section or in this code shall be deemed to make a prisoner an employee, for any purpose, of the Department of Corrections.

(d) Notwithstanding subdivision (a), no physician or surgeon who attends any injured state prisoner outside of a Department of Corrections institution shall be required to file the report required by subdivision (a), but the Department of Corrections shall file the report.

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CHAPTER 387

An act to amend Section 3260 of the Civil Code, relating to works of improvement.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 3260 of the Civil Code is amended to read:

3260. (a) This section is applicable with respect to all contracts entered into on or after July 1, 1991, relating to the construction of any private work of improvement. However, the amendments made to this section during the 1992 portion of the 1991–92 Regular Session
of the Legislature are applicable only with respect to contracts entered into on or after January 1, 1993 relating to the construction of any private work of improvement.

(b) The retention proceeds withheld from any payment by the owner from the original contractor, or by the original contractor from any subcontractor, shall be subject to this section.

(c) Within 45 days after the date of completion, the retention withheld by the owner shall be released. "Date of completion," for purposes of this section, means any of the following:

(1) The date of issuance of any certificate of occupancy covering the work by the public agency issuing the building permit.

(2) The date of completion indicated on a valid notice of completion recorded pursuant to Section 3093.

(3) The date of completion as defined in Section 3086.

However, release of retentions withheld for any portion of the work of improvement which ultimately will become the property of a public agency, may be conditioned upon the acceptance of the work by the public agency. In the event of a dispute between the owner and the original contractor, the owner may withhold from the final payment an amount not to exceed 150 percent of the disputed amount.

(d) Subject to subdivision (e), within 10 days from the time that all or any portion of the retention proceeds are received by the original contractor, the original contractor shall pay each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received. However, if a retention payment received by the original contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor, if the payment is consistent with the terms of the subcontract.

(e) The original contractor may withhold from a subcontractor its portion of the retention proceeds if a bona fide dispute exists between the subcontractor and the original contractor. The amount withheld from the retention payment shall not exceed 150 percent of the estimated value of the disputed amount.

(f) In the event that retention payments are not made within the time periods required by this section, the owner or original contractor withholding the unpaid amounts shall be subject to a charge of 2 percent per month on the improperly withheld amount, in lieu of any interest otherwise due. Additionally, in any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs.

(g) It shall be against public policy for any party to require any other party to waive any provision of this section.

(h) This section shall not be construed to apply to retentions withheld by a lender in accordance with the construction loan agreement.

(i) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which
is chaptered on or before January 1, 1996, deletes or extends that
date. Notwithstanding its repeal, this section shall continue to apply
to all contracts entered into on or after July 1, 1991, and before
January 1, 1996.

CHAPTER 388

An act to add Section 99245.2 to the Public Utilities Code, relating
to transportation.

[Approved by Governor July 29, 1992. Filed with
Secretary of State July 30, 1992.]

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

SECTION 1. Section 99245.2 is added to the Public Utilities Code,
to read:

99245.2. (a) A transit district or other provider of public
transportation services subject to an audit pursuant to Section 99245,
that receives funds from other sources which also require a fiscal
audit, may expand the scope of its audit performed pursuant to
Section 99245 to include the conditions and purposes of those other
funds.

(b) A transportation planning agency, transit development board,
county transportation commission, air quality management district,
air pollution control district, or local transportation authority shall
not require any additional fiscal audit of an entity if that entity has
completed an expanded audit pursuant to subdivision (a) that
encompasses the scope, time period, and funding condition of the
agency providing funding.

CHAPTER 389

An act to amend Sections 8576 and 8586.7 of the Fish and Game
Code, relating to gill nets.

[Approved by Governor July 29, 1992. Filed with
Secretary of State July 30, 1992.]

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

SECTION 1. Section 8576 of the Fish and Game Code is amended
to read:

8576. (a) Drift gill nets shall not be used to take shark or
swordfish from February 1 to April 30, inclusive.

(b) Drift gill nets shall not be used to take shark or swordfish in
ocean waters within 75 nautical miles from the mainland coastline
between the westerly extension of the California-Oregon boundary line and the westerly extension of the United States-Republic of Mexico boundary line from May 1 to August 14, inclusive.

(c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit issued under Section 8561 or 8681.

(d) Notwithstanding the closure from May 1 to August 14, inclusive, in subdivision (b), a permittee may land swordfish or thresher shark taken in ocean waters more than 75 nautical miles from the mainland coastline in that period if, for each landing during that closed period, the permittee signs a written declaration under penalty of perjury that the fish landed were taken more than 75 nautical miles from the mainland coastline.

(e) If any person is convicted of falsely swearing a declaration under subdivision (d), in addition to any other penalty prescribed by law, the following penalties shall be imposed:

1. The fish landed shall be forfeited, or, if sold, the proceeds from the sale shall be forfeited, pursuant to Sections 12159, 12160, 12161, and 12162.

2. All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 8630 or 12157.

3. The shark or swordfish drift gill net permit shall be revoked by the director upon written findings pursuant to Section 8561.

4. The commercial fishing license of the permittee shall be revoked and is forfeited pursuant to Section 12153.

(f) From August 15 of the year of issue to January 31, inclusive, of the following year, swordfish may be taken under a permit issued pursuant to this article.

SEC. 2. Section 8586.7 of the Fish and Game Code is amended to read:

8586.7. (a) Drift gill nets shall not be used to take shark or swordfish from February 1 to April 30, inclusive.

(b) Drift gill nets shall not be used to take shark or swordfish in ocean waters within 75 nautical miles from the mainland coastline between the westerly extension of the California-Oregon boundary line and the westerly extension of the United States-Republic of Mexico boundary line from May 1 to August 14, inclusive.

(c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit issued under Section 8585.2.

(d) Notwithstanding the closure from May 1 to August 14, inclusive, in subdivision (b), a permittee may land swordfish or thresher shark taken in ocean waters more than 75 nautical miles from the mainland coastline in that period if, for each landing during that closed period, the permittee signs a written declaration under penalty of perjury that the fish landed were taken more than 75 nautical miles from the mainland coastline.

(e) If any person is convicted of falsely swearing a declaration under subdivision (d), in addition to any other penalty prescribed by law, the following penalties shall be imposed:

1. The fish landed shall be forfeited or, if sold, the proceeds from
the sale shall be forfeited, pursuant to Sections 12159, 12160, 12161, and 12162.

(2) All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 8630 or 12157.

(3) The limited entry experimental swordfish permit shall be revoked by the director upon written findings pursuant to Section 8585.2.

(4) The commercial fishing license of the permittee shall be revoked and is forfeited pursuant to Section 12153.

(f) From August 15 of the year of issue to January 31, inclusive, of the following year, swordfish may be taken under a permit issued pursuant to this article.

SEC. 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.

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CHAPTER 390

An act to amend Section 4136 of the Public Resources Code, relating to forestry and fire protection.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 4136 of the Public Resources Code is amended to read:

4136. (a) A seller of real property which is located within a state responsibility area determined by the board, pursuant to Section 4125, shall disclose to any prospective purchaser the fact that the property is located within a wildland area which may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291.

(b) Except for property located within a county which has assumed responsibility for prevention and suppression of all fires pursuant to Section 4129, the seller shall also disclose to any prospective buyer that it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the department has entered into a cooperative agreement with a local agency for those purposes pursuant to Section
4142.
   (c) Disclosures required pursuant to this section may be set forth in, and made on a copy of, the disclosure form required by Section 1102.6 or 1102.6a of the Civil Code.
   (d) Disclosure is required pursuant to this section when the seller has actual knowledge that the location of the property is within a state responsibility area, or when a map, which includes the area in which the property is located, has been provided to the county assessor pursuant to subdivision (b) of Section 4125. A notice shall be posted at the offices of the county recorder, county assessor, and county planning commission that identifies the location of the map, and of any information received by the county subsequent to the receipt of the map regarding changes to state responsibility areas within the county.

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 391

An act to amend Sections 35400 , 35401.5, and 35780 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 35400 of the Vehicle Code is amended to read:
   35400. (a) No vehicle shall exceed a length of 40 feet.
   (b) This section does not apply to any of the following:
      (1) A vehicle used in a combination of vehicles when the excess length is caused by auxiliary parts, equipment, or machinery not used as space to carry any part of the load, except that the combination of vehicles shall not exceed the length provided for combination vehicles.
      (2) A vehicle when the excess length is caused by any parts necessary to comply with the fender and mudguard regulations of this code.
      (3) An articulated bus or articulated trolley coach which does not exceed a length of 60 feet.
      (4) A semitrailer while being towed by a motortruck or truck.
tractor, if the distance from the kingpin to the rearmost axle of the semitrailer does not exceed 40 feet for semitrailers having two or more axles, or 38 feet for semitrailers having one axle if the semitrailer does not, exclusive of attachments, extend forward of the rear of the cab of the motortruck or truck tractor.

(5) A bus when the excess length is caused by the projection of a front safety bumper or a rear safety bumper, or both. The safety bumper shall not cause the length of the vehicle to exceed the maximum legal limit by more than one foot in the front and one foot in the rear. For the purposes of this chapter, "safety bumper" means any device which is fitted on an existing bumper or which replaces the bumper and is constructed, treated, or manufactured to absorb energy upon impact.

(6) A bus when the excess length is caused by a device, located in front of the front axle, for lifting wheelchairs into the bus. That device shall not cause the length of the bus to be extended by more than 18 inches, inclusive of any front safety bumper.

(7) A bus when the excess length is caused by a device attached to the rear of the bus designed and used exclusively for the transporting of bicycles. This device may be up to 10 feet in length, if the device, along with any other device permitted pursuant to this section, does not cause the total length of the bus, including any device or load, to exceed 50 feet.

(8) A bus operated by a public agency or a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, used in transit system service, other than a schoolbus, when the excess length is caused by a folding device attached to the front of the bus which is designed and used exclusively for transporting bicycles. The device, including any bicycles transported thereon, shall be mounted in a manner that does not materially affect efficiency or visibility of vehicle safety equipment, and shall not extend more than 36 inches from the front of the bus when fully deployed. A device described in this paragraph may not be used on any bus which, exclusive of the device, exceeds 40 feet in length or on any bus having a device attached to the rear of the bus pursuant to paragraph (7).

(9) A bus of a length of up to 45 feet when operating on those highways specified in subdivision (a) of Section 35401.5. The Department of Transportation or local authorities, with respect to highways under their respective jurisdictions, shall not deny reasonable access to a bus of a length of up to 45 feet between the highways specified in subdivision (a) of Section 35401.5 and points of loading and unloading for motor carriers of passengers as required by the federal Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240).

As used in this paragraph, "reasonable access" means access substantially similar to that authorized for combinations of vehicles pursuant to subdivision (c) of Section 35401.5 and access authorized through a process substantially similar to that authorized for
combinations of vehicles pursuant to subdivision (d) of Section 35401.5.

(c) The Legislature, by increasing the maximum permissible kingpin to rearmost axle distance to 40 feet effective January 1, 1987, as provided in paragraph (4) of subdivision (b), does not intend this action to be considered a precedent for any future increases in truck size and length limitations.

SEC. 2. Section 35401.5 of the Vehicle Code is amended to read:
35401.5. (a) A combination of vehicles consisting of a truck tractor and semitrailer, or of a truck tractor, semitrailer, and trailer, is not subject to the limitations of Sections 35400 and 35401, when operating on the National System of Interstate and Defense Highways or when using those portions of federal-aid primary system highways that have been qualified by the United States Secretary of Transportation for that use, or when using routes appropriately identified by the Department of Transportation or local authorities as provided in subdivision (c) or (d), if all of the following conditions are met:

(1) The length of the semitrailer in exclusive combination with a truck tractor does not exceed 48 feet. A semitrailer not more than 53 feet in length shall satisfy this requirement when configured with two or more rear axles, the rearmost of which is located 40 feet or less from the kingpin or when configured with a single axle which is located 38 feet or less from the kingpin. For purposes of this paragraph, a motor truck used in combination with a semitrailer, when that combination of vehicles is engaged solely in the transportation of motor vehicles, is considered to be a truck tractor.

(2) Neither the length of the semitrailer nor the length of the trailer when simultaneously in combination with a truck tractor exceeds 28 feet 6 inches.

(b) Subdivisions (b), (c), (d), and (e) of Section 35402 do not apply to combinations of vehicles operated subject to the exemptions provided by this section.

(c) Combinations of vehicles operated pursuant to subdivision (a) may also use highways not specified in subdivision (a) which provide reasonable access to terminals and facilities for purposes limited to fuel, food, lodging, and repair when that access is consistent with the safe operation of the combinations of vehicles and when the facility is within one road mile of identified points of ingress and egress to or from highways specified in subdivision (a) for use by those combinations of vehicles.

(d) The Department of Transportation or local authorities may establish a process whereby access to terminals or services may be applied for upon a route not previously established as an access route. The denial of a request for access to terminals and services shall be only on the basis of safety and an engineering analysis of the proposed access route. If a written request for access has been properly submitted and has not been acted upon within 90 days of receipt by the department or the appropriate local agency, the
access shall be deemed automatically approved. Thereafter, the route shall be deemed open for access by all other vehicles of the same type regardless of ownership. In lieu of processing an access application, the Department of Transportation or local authorities with respect to highways under their respective jurisdictions may provide signing, mapping, or a listing of highways as necessary to indicate the use of specific routes as terminal access routes. For purposes of this subdivision, "terminal" means either of the following:

1. A facility where freight originates, terminates, or is handled in the transportation process.
2. A facility where a motor carrier maintains operating facilities.
3. Nothing in subdivision (c) or (d) authorizes state or local agencies to require permits of terminal operators or to charge terminal operators fees for the purpose of attaining access for vehicles described in this section.
4. Notwithstanding subdivision (d), the limitations of access specified in that subdivision do not apply to licensed carriers of household goods when directly enroute to or from a point of loading or unloading of household goods, if travel on highways other than those specified in subdivision (a) is necessary and incidental to the shipment of the household goods.
5. The Legislature finds and declares that, in authorizing the use of 53-foot semitrailers, it is its intent to conform with subsection (b) of Section 2311 of Title 49 of the United States Code by permitting the continued use of semitrailers of the dimensions as those that were in actual and legal use on December 1, 1982, and does not intend this action to be a precedent for future increases in any of those vehicles parameters that adversely affect the turning maneuverability of vehicle combinations.

SEC. 3. Section 35780 of the Vehicle Code is amended to read:

35780. (a) The Department of Transportation or local authorities, with respect to highways under their respective jurisdictions, may, at their discretion upon application and if good cause appears, issue a special permit authorizing the applicant:

1. To operate or move a vehicle or combination of vehicles or special mobile equipment of a size or weight of vehicle or load exceeding the maximum specified in this code.
2. To use corrugations on the periphery of the movable tracks on a traction engine or tractor, the propulsive power of which is not exerted through wheels resting upon the roadway but by means of a flexible band or chain.
3. Under emergency conditions, to operate or move a type of vehicle otherwise prohibited hereunder, upon any highway under the jurisdiction of the party granting the permit and for the maintenance of which the party is responsible.
4. To operate or move a vehicle or combination of vehicles transporting loads composed of logs only for the purpose of crossing a highway from one private property to another without complying
with any or all of the equipment requirements of Division 12 (commencing with Section 24000) and Division 13 (commencing with Section 29000). These crossings shall be as near to a right angle to the roadway as is practical and shall not include any travel parallel to the roadway. The Department of Transportation shall determine standards and conditions upon which permits shall be issued and any permit not in compliance with those standards and conditions shall be invalid, except that a permit may contain more restrictive conditions if the issuing authority deems it appropriate.

(b) Under conditions prescribed by the Department of Transportation or the local authority, the Department of Transportation or local authority may accept applications made by, and issue permits directly to, an applicant or permit service by any of the following processes:

1. In writing.
2. By an authorized facsimile process.
3. Through an authorized computer and modem connection.

CHAPTER 392

An act to amend Sections 5152, 5157, and 5158 of the Civil Code, relating to family law.

[Approved by Governor July 29, 1992. Filed with Secretary of State July 30, 1992.]

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

SECTION 1. Section 5152 of the Civil Code is amended to read:

5152. (a) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if the conditions as set forth in any of the following paragraphs are met:

1. This state (A) is the home state of the child at the time of commencement of the proceeding, or (B) had been the child’s home state within six months before commencement of the proceeding and the child is absent from this state because of his or her removal or retention by a person claiming his or her custody or for other reasons, and a parent or person acting as parent continues to live in this state.

2. It is in the best interest of the child that a court of this state assume jurisdiction because (A) the child and his or her parents, or the child and at least one contestant, have a significant connection with this state, and (B) there is available in this state substantial evidence concerning the child’s present or future care, protection, training, and personal relationships.

3. The child is physically present in this state and (A) the child has been abandoned or (B) it is necessary in an emergency to protect
the child because he or she has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent. "Subjected to or threatened with mistreatment or abuse" for the purposes of this subdivision includes a child who has a parent who is a victim of domestic violence, as defined in Section 542 of the Code of Civil Procedure.

(4) It (A) appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph (1), (2), or (3) or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and (B) is in the best interest of the child that this court assume jurisdiction.

(b) Except under the conditions specified in paragraphs (3) and (4) of subdivision (a), physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his or her custody.

SEC. 2. Section 5157 of the Civil Code is amended to read:

5157. (a) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction for purposes of adjudication of custody if this is just and proper under the circumstances.

(b) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(c) Where the court declines to exercise jurisdiction upon petition for an initial custody decree pursuant to subdivision (a), the court shall notify the parent or other appropriate person and the prosecuting attorney of the appropriate jurisdiction in the other state. If a request to that effect is received from the other state, the court shall order the petitioner to appear with the child in a custody proceeding instituted in the other state in accordance with Section 5169. If no such request is made within a reasonable time after the notification, the court may entertain a petition to determine custody by the petitioner if it has jurisdiction pursuant to Section 5152.

(d) Where the court refuses to assume jurisdiction to modify the custody decree of another state pursuant to subdivision (b) or pursuant to Section 5163, the court shall notify the person who has legal custody under the decree of the other state and the prosecuting attorney of the appropriate jurisdiction in the other state and may
order the petitioner to return the child to the person who has legal custody. If it appears that the order will be ineffective and the legal custodian is ready to receive the child within a period of a few days, the court may place the child in a foster care home for that period, pending return of the child to the legal custodian. At the same time, the court shall advise the petitioner that any petition for modification of custody must be directed to the appropriate court of the other state which has continuing jurisdiction, or, in the event that court declines jurisdiction, to a court in a state which has jurisdiction pursuant to Section 5152.

(e) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees and the cost of returning the child to another state.

(f) In making a determination pursuant to subdivisions (a) to (e), inclusive, the court shall not consider as a factor weighing against the petitioner any taking of the child, or retention of the child after a visit or other temporary relinquishment of physical custody, from the person who has legal custody, if there is evidence that the taking or retention of the child was a result of domestic violence against the petitioner, as defined in Section 542 of the Code of Civil Procedure.

SEC. 3. Section 5158 of the Civil Code is amended to read:

5158. (a) Every party in a custody proceeding in his or her first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. However, where there are allegations of domestic violence or child abuse, any addresses of the party alleging abuse and of the child which are unknown to the other party shall be confidential and shall not be disclosed in the pleading or affidavit. In this pleading or affidavit every party shall further declare under oath as to each of the following whether:

(1) He or she has participated, as a party, witness, or in any other capacity, in any other litigation concerning the custody of the same child in this or any other state.

(2) He or she has information of any custody proceeding concerning the child pending in a court of this or any other state.

(3) He or she knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(b) If the declaration as to any of the above items is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(c) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of
which he or she obtained information during this proceeding.

CHAPTER 393

An act to amend Section 17210.2 of the Financial Code, relating to escrow agents.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 17210.2 of the Financial Code is amended to read:

17210.2. (a) No escrow agent shall disseminate, or cause or permit to be disseminated, in any manner whatsoever, any statement or representation which is false, misleading, or deceptive, or which omits to state material information, or which refers to the supervision of that agent by the State of California or any department or official thereof.

(b) A licensed escrow agent, in referring to the corporation’s licensure under this law in any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communications media, shall only use the following statement: “This escrow company holds Department of Corporations Escrow License No. _________.”

(c) The commissioner may order any person to desist from any conduct which the commissioner finds to be a violation of this section.

CHAPTER 394

An act to add Section 2400.6 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 2400.6 is added to the Vehicle Code, to read:

2400.6. The commissioner shall enforce all laws regulating the operation of vehicles on, and the use of any portion of, State Highway Route 1 in the City of Malibu, if requested by the city, and if a contract is entered into between the state and the city. The contract shall require that an amount be paid to the commissioner that is equal to the costs incurred by the department for services provided
under the contract.

CHAPTER 395

An act to amend Section 610 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 610 of the Revenue and Taxation Code is amended to read:

610. (a) Land once described on the roll need not be described a second time, but any person, claiming and desiring to be assessed for it, may have his or her name inserted with that of the assessee.

(b) A person is "claiming" property for purposes of subdivision (a) only if he or she provides the assessor with one of the following supporting documents:

(1) A certified copy of a deed, judgment, or other instrument that creates or legally verifies that person's ownership interest in the property.

(2) A certified copy of a document creating that person's security interest in the property.

(3) His or her declaration, under penalty of perjury, that he or she currently has possession of the property and intends to be assessed for the property in order to perfect a claim in adverse possession.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. 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 396

An act to add Section 10133.4 to the Business and Professions Code, relating to real estate brokers.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 10133.4 is added to the Business and Professions Code, to read:

10133.4. (a) The provisions of subdivision (b) of Section 10131 do not apply to persons acting in the capacity of a film location representative in connection with a transaction which complies with the requirements of subdivision (c).

(b) As used in this section:

1. "Film location representative" means an employee of a principal arranging for the use of real property for photographic purposes.

2. "Principal" means the person who will use the real property for photographic purposes.

(c) In every transaction arranged by a film location representative, the principal shall maintain liability insurance insuring both that principal and the real property owner against death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the real property which is the subject of the transaction. The amount of the insurance coverage shall not be less than five hundred thousand dollars ($500,000) per person or one million dollars ($1,000,000) per occurrence for personal injury and five hundred thousand dollars ($500,000) for property damage. It must be issued by an insurance carrier authorized to sell such insurance in California.

CHAPTER 397

An act to amend Section 1764.1 of the Insurance Code, relating to insurance.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 1764.1 of the Insurance Code is amended to read:

1764.1. (a) Every nonadmitted insurer, in the case of insurance to be purchased by a resident of this state pursuant to Section 1760,
and surplus lines broker, in the case of any insurance with a nonadmitted carrier to be transacted by the surplus lines broker, shall be responsible to ensure that, at the time of accepting an application for any insurance policy issued by a nonadmitted insurer, the signature of the applicant on the disclosure statement set forth in subdivision (b) is obtained. This disclosure shall be signed by the applicant, and is not subject to any limited power of attorney agreement between the applicant and an agent or broker, or a surplus lines broker. The disclosure statement shall be in boldface 16-point type on a freestanding document. In addition, every policy issued by a nonadmitted insurer shall contain the disclosure statement set forth in subdivision (b) in boldface 16-point type on the front page of the policy.

(b) The following notice shall be provided to policyholders and applicants for insurance as provided by subdivision (a). The surplus lines broker and nonadmitted insurer shall use the appropriate bracketed language for application and issued policy disclosures:

"NOTICE:

1. THE INSURANCE POLICY THAT YOU [HAVE PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING ISSUED BY AN INSURANCE COMPANY THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINES" INSURERS.

2. THE INSURANCE COMPANY IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT WHICH APPLIES TO CALIFORNIA LICENSED COMPANIES.

3. THE INSURANCE COMPANY DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURANCE COMPANY BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.

4. FOR ADDITIONAL INFORMATION ABOUT THE INSURANCE COMPANY YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINES" BROKER OR YOU MAY CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE."

(c) When a contract is issued to an industrial insured neither the nonadmitted insurer nor the surplus line broker is required to provide the notice required in this section except on the confirmation of insurance, the certificate of placement, or the policy, whichever is first provided to the insured, nor is the insurer or surplus line broker required to obtain the insured’s signature.

(1) An industrial insured is an insured:

(A) Which employs at least 25 employees on average during the prior 12 months; and

(B) Which has aggregate annual premiums for insurance for all risks other than workers’ compensation and health coverage totaling no less than twenty-five thousand dollars ($25,000); or
(C) Which obtains insurance through the services of a full-time employee acting as an insurance manager or a continuously retained insurance consultant. A "continuously retained insurance consultant" does not include: (i) Any agent or broker through whom the insurance is being placed, (ii) any subagent or subproducer involved in the transaction, or (iii) any agent or broker which is a business organization employing or contracting with any person mentioned in clauses (i) and (ii).

(2) The surplus lines broker shall be responsible to ensure that the applicant is an industrial insured.

(d) In the case of commercial insurance coverages, for purposes of compliance with the requirement of subdivision (a) that the signature of the applicant be obtained, the following shall apply:

(1) Where the insurance transaction is not conducted at an in-person, face-to-face meeting, the applicant's signature on the disclosure form may be transmitted by the applicant to the agent or broker via facsimile or comparable electronic transmittal.

(2) Where an applicant requires that insurance coverage be bound immediately, either because existing coverage will lapse within two business days of the time the insurance is bound or because the applicant is required to have coverage in place within two business days, and the applicant cannot meet in person with the agent or broker to sign the disclosure form, the agent or broker may obtain the signature of the applicant within five days of binding coverage, provided that the applicant may cancel the insurance so placed within five days of receiving the disclosure form from the agent or broker. The cancellation shall be on a pro rata basis, and the applicant shall be entitled to the rescission or return of any broker's fees charged for the placement.

CHAPTER 398

An act to amend Section 1177 of the Health and Safety Code, and to amend Section 14499.5 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 1177 of the Health and Safety Code is amended to read:

1177. The authority is hereby declared to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.

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(c) To adopt a seal and alter it at pleasure.
(d) To take by grant, purchase, gift, devise, or lease, to hold, use and enjoy, and to lease, convey or dispose of, real and personal property of every kind, within or without the boundaries of the authority, necessary or convenient to the full exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property within or without the boundaries of the authority necessary to the full or convenient exercise of its powers.
(e) To make and enter into contracts with any public agency or person for the purposes of this part. Members of the board shall be disqualified from voting on contracts in which they have a financial interest. Notwithstanding any other provision of law, such members shall not be disqualified from continuing to serve as a member of the board and such contract may not be avoided solely because of such member's financial interest.
(f) To appoint and employ an executive director and such other employees as may be necessary, including legal counsel, fix their compensation and define their powers and duties. The board shall prescribe the amounts and forms of fidelity bond of its officers and employees. The cost of these bonds shall be borne by the authority. The authority may also contract for the services of an independent contractor.
(g) To incur indebtedness not exceeding revenue in any year.
(h) To purchase supplies, equipment, materials, property, or services.
(i) To establish policies relating to its purposes.
(j) To acquire or contract to acquire, rights-of-way, easements, privileges, or property of every kind within or without the boundaries of the authority, and construct, equip, maintain, and operate any and all works or improvements within or without the boundaries of the authority necessary, convenient, or proper to carry out any of the provisions, objects or purposes of this part, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.
(k) To make contracts and enter into stipulations of any nature whatsoever upon such terms and conditions as the board finds is for the best interest of the authority for the full exercise of the powers granted in this division.
(l) To accept gifts, contributions, grants or loans from any public agency or person for the purposes of this division. The authority may do any and all things necessary in order to avail itself of the gifts, contributions, grants or loans, and cooperate under any federal or state legislation on the effective date of this part or enacted after that date.
(m) To manage its moneys and to provide depository and auditing services pursuant to either of the methods applicable to special districts as set forth in the Government Code.
(n) To negotiate with service providers rates, charges, fees and rents, and to establish classifications of health care systems operated
by the authority. Members of the board who are county officers and employees may vote to approve arrangements and agreements between the authority and the county as a service provider and such directors shall not thus be disqualified solely for the reason that they are employed by the county.

(o) To develop and implement health care delivery systems to promote quality care and cost efficiency and to provide appeal and grievance procedures available to both providers and consumers.

(p) To provide health care delivery systems for any or all of the following:

(1) For all persons who are eligible to receive medical benefits under the Medi-Cal Act, as set forth in Sections 14000 and following, of the Welfare and Institutions Code in the county through waiver, pilot project, or otherwise.

(2) For all persons in the county who are eligible to receive medical benefits under both Titles XVIII and XIX of the federal Social Security Act.

(3) For all persons in the county who are eligible to receive medical benefits under Title XVIII of the federal Social Security Act.

(4) For all persons in the county who are eligible to receive medical benefits under publicly supported programs if the authority, and participating providers acting pursuant to subcontracts with the authority, agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the authority does not ensure sufficient funding to cover program benefits.

(q) To insure against any accident or destruction of its health care system or any part thereof. It may insure against loss of revenues from any cause whatsoever. The district may also provide insurance as provided in Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.

(r) To exercise powers which are expressly granted and powers which are reasonably implied from such express powers and necessary to carry out the purposes of this division.

(s) To do any and all things necessary to carry out the purposes of this division.

SEC. 2. Section 14499.5 of the Welfare and Institutions Code is amended to read:

14499.5. (a) (1) In carrying out the intent of this article, the director shall contract for the operation of one local pilot program. Special consideration shall be given to approving a program contracted through county government in Santa Barbara County.

(2) Notwithstanding the limitations contained in Section 14490, the director may enter into, or extend, contracts with the local pilot program in Santa Barbara County pursuant to paragraph (1) for periods that do not exceed three years.

(b) The establishment of a pilot program pursuant to this section shall be contingent upon the availability of state and federal funding. The program shall include the following components:
(1) Local authority for administration, fiscal management, and delivery of services, but not including eligibility determination.

(2) Physician case management.

(3) Cost containment through provider incentives and other means.

(c) The program for the pilot project shall include a plan and budget for delivery of services, administration, and evaluation. During the first year of the pilot program, the amount of the state contract shall equal 95 percent of total projected Medi-Cal expenditures for delivery of services and for administration based on fee-for-service conditions in the program county. During the remaining years of the pilot project, Medi-Cal expenditures in the program county shall be no more than 100 percent of total projected expenditures for delivery of services and for administration based on any combination of the following paragraphs:

(1) Relevant prior fee-for-service Medi-Cal experience in the program county.

(2) The fee-for-service Medi-Cal experience in comparable counties or groups of counties.

(3) Medi-Cal experience of the pilot project in the program county if, as determined by the state department, the scope, level, and duration of, and expenditures for, any services used in setting the rates under this paragraph would be comparable to fee-for-service conditions were they to exist in the program county and would be more actuarially reliable for use in ratesetting than data available for use in applying paragraph (1) or (2).

The projected total expenditure shall be determined annually according to an acceptable actuarial process. The data elements used by the department shall be shared with the proposed contractor.

(d) The director shall accept or reject the proposal within 30 days after the date of receipt. If a decision is made to reject the proposal, the director shall set forth the reasons for this decision in writing. Upon approval of the proposal, a contract shall be written within 60 days. After signature by the local contractor, the State Department of Health Services, the Department of General Services, and the Department of Finance shall execute the contract within 60 days.

(e) The director shall seek the necessary state and federal waivers to enable operation of the program. If the federal waivers for delivery of services under this plan are not granted, the department is under no obligation to contract for implementation of the program.

(f) For purposes of Section 1343 of the Health and Safety Code, the Santa Barbara County Special Health Care Authority shall be considered to be a county-operated pilot program contracting with the State Department of Health Services pursuant to this article, and notwithstanding any other provision of law, during the period that this contract is in effect, the contractor shall be exempt from the provisions of the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the
Health and Safety Code, relative to the services provided to Medi-Cal beneficiaries under the terms and provisions of the pilot program.

(g) Nothing in this section shall be construed to include dental services within the services provided in this pilot program.

(h) Any federal demonstration funding for this pilot program shall be made available to the county within 60 days upon notification of the award without the state retaining any portion not previously specified in the grant application as submitted.

(i) An independent evaluation of the program shall be conducted and a report submitted to the Legislature and the director by January 1, 1988. The independent evaluation of the program commissioned by the federal Health Care Financing Administration may fulfill the purposes of this part. This evaluation and report shall include, but is not limited to, the following:

1. An assessment of the cost of medical services as compared to the cost of the existing Medi-Cal fee-for-service delivery mode.

2. An assessment of utilization levels of specialist and emergency services.


4. Recommendations for future policy on delivery of services.

CHAPTER 399

An act to amend Section 12660 of the Vehicle Code, relating to drivers' licenses.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992 ]

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

SECTION 1. Section 12660 of the Vehicle Code is amended to read:

12660. (a) The department may establish a program authorizing a driving school licensed pursuant to Chapter 1 (commencing with Section 11100) of Division 5 to issue a student license to operate a class 3 vehicle to any applicant 15 years of age or older, subject to the conditions specified in subdivision (d).

(b) The department may charge any driving school participating in the program a fee not to exceed two dollars ($2) per applicant to recover the department's cost in establishing and monitoring the program. The fee that a participating school may charge an applicant for a student license may not exceed the fee which the department charges the school for the license.

(c) The department may remove a driving school from the program if the department determines that the school has issued a student license fraudulently, or has otherwise not followed the
requirements of the program. Any such fraudulent conduct may result in cause for suspension or revocation of the driving school license.

(d) Applicants shall meet the qualification standards specified in regulations adopted by the department pursuant to Section 12661. The student license application shall be accompanied by a statement signed by the parents or guardian, or person having custody of the minor, consenting to the issuance of a student license to the applicant.

No licensed driving school shall issue a student license to any applicant under the age of 17 years and six months unless that applicant shows either proof of enrollment in, or satisfactory completion of, an approved course in driver education, pursuant to standards specified in Section 12507.

(e) A driving school owner or an independent instructor licensed under Section 11105.5 shall maintain liability insurance for bodily injury or property damage caused by the use of a motor vehicle in driving instruction, and for the liability of the driving school, the instructor, and the student, in accordance with Section 11103.

(f) The department shall submit a report to the Legislature on the progress of the program established pursuant to subdivision (a) within two years after the program is implemented. The report shall include, but not be limited to, an analysis of the costs and benefits of the program and shall include recommendations by the department.

(g) The director may terminate the program at any time the department determines that continued operation of the program would have an adverse effect on traffic safety. The finding upon which the termination is based shall be reported to the Legislature within 30 days following termination of the program.

CHAPTER 400

An act to amend Sections 66424 and 66427 of the Government Code, relating to subdivisions.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 66424 of the Government Code is amended to read:

66424. "Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous
units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 of the Civil Code, a community apartment project, as defined in subdivision (d) of Section 1351 of the Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the Civil Code. As used in this section, “agricultural purposes” means the cultivation of food or fiber or the grazing or pasturing of livestock.

SEC. 2. Section 66427 of the Government Code is amended to read:

66427. A map of a condominium project, a community apartment project, or of the conversion of five or more existing dwelling units to a stock cooperative project need not show the buildings or the manner in which the buildings or the airspace above the property shown on the map are to be divided, nor shall the governing body have the right to refuse approval of a parcel, tentative, or final map of the project on account of design or location of buildings on the property shown on the map not violative of local ordinances or on account of the manner in which airspace is to be divided in conveying the condominium. Fees and lot design requirements shall be computed and imposed with respect to those maps on the basis of parcels or lots of the surface of the land shown thereon as included in the project. Nothing herein shall be deemed to limit the power of the legislative body to regulate the design or location of buildings in such a project by or pursuant to local ordinances.

If the governing body has approved a parcel map or final map for the establishment of condominiums on property pursuant to the requirements of this division, the separation of a three-dimensional portion or portions of the property from the remainder of the property or the division of that three-dimensional portion or portions into condominiums shall not constitute a further subdivision as defined in Section 66424, provided each of the following conditions has been satisfied:

(a) The total number of condominiums established is not increased above the number authorized by the local agency in approving the parcel map or final map.

(b) A perpetual estate or an estate for years in the remainder of the property is held by the condominium owners in undivided interests in common, or by an association as defined in subdivision (a) of Section 1351 of the Civil Code, and the duration of the estate in the remainder of the property is the same as the duration of the estate in the condominiums.

(c) The three-dimensional portion or portions of property are described on a condominium plan or plans, as defined in subdivision (e) of Section 1351 of the Civil Code.
CHAPTER 401

An act to amend Section 12772 of the Government Code, relating to American Indian programs.

[Approved by Governor August 1, 1992 Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 12772 of the Government Code is amended to read:

12772. American Indian grantees shall be limited to tribes and other Indian organizations in urban or rural off-reservation areas who demonstrate community governance, such as Indian nonprofit organizations, who meet the criteria of eligible entity as defined in subdivision (e) of Section 12730. In a county having a population of over 7,000,000 persons, the County Community Action Agency may serve as the grantee if (1) requested to serve in this capacity by a commission composed of representatives of American Indian beneficiaries in that county and (2) the board of supervisors of the county shares grant allocation authority with an appropriate American Indian entity. American Indian programs funded under this article shall coordinate their plans and activities with other grantees funded by the department to avoid duplication of services and to maximize services for eligible beneficiaries.

CHAPTER 402

An act to amend Sections 592 and 607 of the Penal Code, relating to water.

[Approved by Governor August 1, 1992 Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 592 of the Penal Code is amended to read:

592. (a) Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume, or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating, generation of power, or domestic uses is guilty of a misdemeanor.

(b) If the total retail value of all the water taken is more than four hundred dollars ($400), or if the defendant has previously been convicted of an offense under this section or any former section that would be an offense under this section, or of an offense under the laws of another state or of the United States that would have been
an offense under this section if committed in this state, then the violation is punishable by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 2. Section 607 of the Penal Code is amended to read:

607. Every person who willfully and maliciously cuts, breaks, injures, or destroys, or who, without the authority of the owner or managing agent, operates any gate or control of, any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp, overflow, tide, or marsh land, or to store or conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or willfully or maliciously makes, or causes to be made, any aperture or plows up the bottom or sides in the dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same; or draws up, cuts, or injures any piles fixed in the ground for the purpose of securing any sea bank, sea wall, dock, quay, jetty, or lock; or who, between the first day of October and the fifteenth day of April of each year, plows up or loosens the soil in the bed on the side of any natural water course, reclamation ditch, or drainage ditch, with an intent to destroy the same without removing the soil within 24 hours from the water course, reclamation ditch, or drainage ditch, or who, between the fifteenth day of April and the first day of October of each year, plows up or loosens the soil in the bed or on the sides of the natural water course, reclamation ditch, or drainage ditch, with an intent to destroy the same and does not remove therefrom the soil so plowed up or loosened before the first day of October next thereafter, is guilty of vandalism under Section 594. Nothing in this section shall be construed so as to in any manner prohibit any person from digging or removing soil from any water course, reclamation ditch, or drainage ditch for the purpose of mining.

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 403

An act to repeal Section 11004.8 of the Business and Professions Code, relating to subdivisions.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 11004.8 of the Business and Professions Code is repealed.

CHAPTER 404

An act to amend Section 54222 of the Government Code, relating to surplus government land.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 54222 of the Government Code is amended to read:

54222. Any agency of the state and any local agency disposing of surplus land shall, prior to disposing of that property, send a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local public entity as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, shall, upon written request, be sent a written offer to sell or lease surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and shall include the location and a description of the property. With respect to any offer to purchase or lease pursuant to this subdivision, priority shall be given to development of the land to provide affordable housing for lower income elderly or disabled persons or households, and other lower income households.

(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the
area in which the land is situated.

(4) To the State Resources Agency or any agency which may succeed to its powers.

(c) A written offer to sell or lease land suitable for school facilities construction or use by a school district for open-space purposes shall be sent to any school district in whose jurisdiction the land is located.

(d) A written offer to sell or lease for enterprise zone purposes any surplus property in an area designated as an enterprise zone pursuant to Section 7073 shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.

(e) A written offer to sell or lease any surplus property in a designated program area, as defined in subdivision (i) of Section 7082, shall be sent to the program area agent.

(f) The entity or association desiring to purchase or lease the surplus land for low- and moderate-income housing purposes, or for park or recreation purposes, or for open-space purposes, or for public school purposes, or for enterprise zone purposes, shall notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land.

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 405

An act to amend Sections 82018, 84101, 87500, and 91010 of, and to repeal Section 89501, as added by Chapter 857 of the Statutes of 1991 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 82018 of the Government Code is amended to read:

82018. (a) Except as provided in subdivisions (b), (c), and (d),
"cumulative amount" means the amount of contributions received or expenditures made in the calendar year.

(b) For a filer required to file a campaign statement or independent expenditure report in one year in connection with an election to be held in another year, the period over which the cumulative amount is calculated shall end on the closing date of the first semiannual statement filed after the election.

(c) For a filer required to file a campaign statement in connection with the qualification of a measure which extends into two calendar years, the period over which the cumulative amount is calculated shall end on the closing date for the campaign statement required by subdivision (f) of Section 84200.5.

(d) For a person filing a campaign statement with a period modified by the provisions of this section, the next period over which the cumulative amount is calculated shall begin on the day after the closing date of the statement.

SEC. 2. Section 84101 of the Government Code is amended to read:

84101. (a) Every committee which is a committee by virtue of subdivision (a) of Section 82013 shall file with the Secretary of State a statement of organization within 10 days after it has qualified as a committee. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign a number to each committee which files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the clerk of each county which he or she deems appropriate. A county clerk who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of such statement to the clerk of each city in the county which he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.7 or 84200.8, the committee shall file, by telegram or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) For purposes of this section, in calculating whether one
thousand dollars ($1,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate's personal funds.

SEC. 3. Section 87500 of the Government Code is amended to read:

87500. Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the clerk of the county in which the candidate resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, and member of the board of supervisors—one original with the county clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city attorney, and mayor—one original with the city clerk who shall make and retain
a copy and forward the original to the commission which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission—one original with the agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(h) Members of the Fair Political Practices Commission—one original with the commission which shall make and retain a copy and forward the original to the office of the Attorney General which shall be the filing officer.

(i) Judges, court commissioners, and candidates for the office of judge—one original with the clerk of the court who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(j) Except as provided for in subdivision (k), heads of agencies, members of boards or commissions not under a department of state government or members of boards or commissions not under the jurisdiction of a local legislative body—one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer. In its discretion, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(k) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body, one original to the agency or board or commission which shall be the filing officer, unless at its discretion the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency or board or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(l) Designated employees of the Legislature—one original with the house of the Legislature by which the designated employee is employed. In its discretion, each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the commission, and that no copies be retained by that house.

(m) Designated employees under contract to more than one joint powers insurance agency and who elect to file a multiagency statement pursuant to Section 87350, the original of the statement with the commission which shall be the filing officer, and a statement with each agency with which they are under contract, declaring that their statement of economic interests is on file with the commission and available upon request.

(n) Members of a state licensing or regulatory board, bureau, or commission—one original with the agency, which shall make and
retain a copy and forward the original to the commission, which shall be the filing officer.

(o) Persons not mentioned above—one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency’s conflict of interest code.


SEC. 5. Section 91010 of the Government Code is amended to read:

91010. No request to the civil prosecutor pursuant to Section 91007 shall be made or filed in connection with a report or statement required by Chapter 4 (commencing with Section 84100) until the time when an audit and investigation could be begun under subdivision (c) of Section 90002.

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 406

An act to amend Section 27101 of the Elections Code, relating to elections.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 27101 of the Elections Code is amended to read:

27101. (a) Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of registered voters.

(b) Each section of a recall petition shall be filed with the elections official of the county in which it was circulated.

(c) Each section of the petition shall be filed by the proponents or by any person or persons authorized, in writing, by a proponent. Every person authorized in writing by a proponent to file a section or sections of the petition shall submit a copy of the written authorization to the elections official each time he or she files a section or sections of a petition.

(d) Thirty days after a recall has been initiated, and every 30 days thereafter, the elections official shall determine from the records of registration what number of registered voters have signed recall petitions.

(e) Upon each submission, if less than 500 signatures are submitted to the elections official, he or she shall count the number
of signatures and submit those results to the Secretary of State. If 500
or more signatures are submitted, the elections official may verify,
using a random sampling technique, either 3 percent of the
signatures submitted, or 500, whichever is less. The random sample
of signatures to be verified shall be drawn in such a manner that
every signature filed with the elections official shall be given an
equal opportunity to be included in the sample. Upon completion of
the signature verification, the elections official shall report the
results to the Secretary of State.

(f) Immediately after the deadline for submission of all signatures,
the elections official shall verify the signatures in the same manner
set forth in subdivisions (b), (c), (d), (e), (f), and (g) of Section 3520,
and Section 3521. This verification process shall apply to all signatures
submitted to each county elections official.

(g) The elections official, upon the completion of each
examination, shall forthwith attach to the petition a certificate,
properly dated, showing the result of the examination, and submit a
copy of the petition, except as to the signatures appended thereto,
to the Secretary of State and file a copy of the certificate in his or her
office.

CHAPTER 407

An act to add Part 30 (commencing with Section 55001) to Division
2 of the Revenue and Taxation Code, relating to taxes and fees.

[Approved by Governor August 1, 1992. Filed with
Secretary of State August 3, 1992.]

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

SECTION 1. Part 30 (commencing with Section 55001) is added
to Division 2 of the Revenue and Taxation Code, to read:

PART 30. FEE COLLECTION PROCEDURES LAW

Chapter 1. General Provisions and Definitions

55001. This chapter shall be known and may be cited as the Fee
Collection Procedures Law.
55002. "Person" means an individual, trust firm, joint stock
company, business concern, corporation, including, but not limited
to, a government corporation, partnership, and association. "Person"
also includes any city, county, city and county, district, commission,
the state or any department, agency, or political subdivision thereof,
any interstate body, and the United States and its agencies and
instrumentalities to the extent permitted by law.
55003. "Board" means the State Board of Equalization.
55004. "Feepayer" means any person liable for the payment of the fees collected pursuant to this part.

CHAPTER 2. FEE

55021. Every person who owes a fee which is subject to this part shall register with the board. 55022. The board, whenever it deems necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be reasonable, taking into account the circumstances of that person. The board may sell the security at public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail.

If service is made by mail, the notice shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. 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 at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

CHAPTER 3. DETERMINATIONS

Article 1. Returns and Payments

55041. The board for good cause may extend, for not to exceed one month, the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time if a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the fee, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5 from the date on which the fee would have been due without the extension until the date of payment.

55042. If the fee is not paid to the board within the time prescribed for the payment of the fee, a penalty of 10 percent of the amount of the fee shall be added thereto on account of the delinquency.

55043. All fees not paid on the date when due and payable shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date until paid.
55044. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 55042 and 55086.

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.

55045. (a) If the board finds that a person's failure to make a timely report or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the fees imposed or administered under this part and any penalty or interest added thereto.

(b) For purposes of this section, a person's failure to make a timely report 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 the fee 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 the fee, or stating the conditions under which the activity or transaction is subject to the fee.

3. The liability for fees 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 all of the following:

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.

Article 2. Deficiency Determinations

55061. (a) If the board is dissatisfied with the return filed or the amount of the fee paid to the state by any feepayer, or if no return has been filed or no payment of the fee has been made to the state
by a feepayer, the board may compute and determine the amount to be paid, based upon any information available to it. One or more additional determinations may be made of the amount of the fee due for one, or for more than one period. The amount of the fee so determined shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount of the fee, or any portion thereof, became due and payable until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized regulations, a penalty of 10 percent of the amount of the determination shall be added, plus interest as provided in subdivision (a).

(c) If any part of the deficiency for which a determination of an additional amount due is found to be occasioned by fraud or an intent to evade this part or authorized regulations, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided in subdivision (a).

(d) The board shall give to the feepayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the feepayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, sub-post office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

55062. Except in the case of fraud, intent to evade this part, authorized rules and regulations, or failure to make a return, every notice of a determination of an additional amount due shall be given within three years after the date when the amount should have been paid. In the case of failure to make a return, the notice of determination shall be mailed within eight years after the date the return was due.

55063. In the case of a deficiency arising under this part during the lifetime of a decedent, a notice of deficiency determination shall be mailed within four months after written request therefor, in the form required by the board, by the fiduciary of the estate or trust or by any other person liable for the fee or any portion thereof.

55064. If before the expiration of the time prescribed in Section
for the mailing of a notice of deficiency determination the feepayer has consented in writing to the mailing of the notice after that time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Article 3. Redeterminations

55081. Any person from whom an amount is determined to be due under Article 2 (commencing with Section 55061), or any person directly interested, may petition for a redetermination thereof within 30 days after service upon him or her of notice of the determination. If a petition for redetermination is not filed within the 30-day period, the amount determined to be due becomes final at the expiration thereof.

55082. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon the petition for redetermination.

55083. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the amount determined to be due, and if the person has so requested in his or her petition, the board shall grant him or her an oral hearing and shall give him or her 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

55084. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the 25-percent penalty imposed by subdivision (c) of Section 55061 applies to the amount of the determination as originally made or as increased, the claim for increase must be asserted within eight years after the date the return for the period for which the increase is asserted was due.

55085. The order or decision of the board upon a petition for redetermination shall become final 30 days after service upon the petitioner of notice thereof.

55086. All amounts determined to be due by the board under Article 2 (commencing with Section 55061) are due and payable at the time they become final, and if not paid when due and payable, a penalty of 10 percent of the amount determined to be due shall be added to the amount due and payable.

55087. Any notice required by this article shall be served personally or by mail in the same manner as prescribed for service of notice by subdivision (d) of Section 55061.

Article 4. Jeopardy Determinations
55101. If the board believes that the collection of any amount of the fee will be jeopardized by delay, it shall thereupon make a determination of the amount of the fee due, noting that fact upon the determination, and the amount of the fee shall be immediately due and payable. If the amount of the fee, interest, and penalty specified in the jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the feepayer of notice of determination, the determination becomes final, and the delinquency penalty and interest provided in Sections 55042 and 55043 shall be attached to the amount of the fee specified therein.

55102. The feepayer against whom a jeopardy determination is made may file a petition for redetermination thereof, pursuant to Article 3 (commencing with Section 55081), with the board within 10 days after the service upon the feepayer of notice of the determination, but he or she shall, within the 10-day period, deposit with the board any security that it deems necessary to ensure compliance with the provisions of this part. The security may be sold by the board at public sale if it becomes necessary to do so 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 same manner as prescribed for service of notice by Section 55061. Upon any such sale, the surplus, if any, above the amount due under this part shall be returned to the person who deposited the security.

55103. In accordance with any rules and regulations that the board may prescribe, the person against whom a jeopardy determination is made may apply for an administrative hearing for one or more of the following purposes:

(a) To establish that the determination is excessive.

(b) To establish that the sale of property that may be seized after issuance of the jeopardy determination, or any part thereof, shall be delayed pending the administrative hearing because the sale would result in irreparable injury to the person.

(c) To request the release of all or a part of the property to the person.

(d) To request a stay of collection activities.

The application shall be filed within 30 days after service of the notice of jeopardy determination and shall be in writing and state the specific factual legal grounds upon which it is founded. The person shall not be required to post any security in order to file the application and to obtain the hearing. However, if the person does not deposit, within the 10-day period prescribed in Section 55102, the security that the board deems necessary to ensure compliance with this part, the filing of the application shall not operate as a stay of collection activities, except the sale of property seized after issuance of the jeopardy determination. Upon a showing of good cause for failure to file a timely application for an administrative hearing, the board may allow a filing of the application and grant the person an
administrative hearing. The filing of an application pursuant to this section shall not affect the provisions of Section 55101 relating to the finality date of the determination or to penalty and interest.

CHAPTER 4. COLLECTION OF FEE

Article 1. Suit for Fee

55121. The board may bring any legal action that is necessary to collect any deficiency in the fee required to be paid, and upon the board's request, the Attorney General shall bring the action.

55122. In any suit brought to enforce the rights of the state with respect to the fee, a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the fee, the delinquency of the amount of the fee, interest, and penalty set forth therein, and compliance by the board with all provisions of this part in relation to the computation and levy of the fee. In the action, a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure.

Article 2. Judgment for Fee

55141. (a) If any person fails to pay any amount imposed pursuant to this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent.

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board.

(3) For amounts determined under Section 55101, the date the notice of the board's finding is mailed or issued.

(4) For all other amounts, the date the assessment is final.

55142. (a) If the board determines that the amount of the fee, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the fee, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.

(b) If the board finds that the liability represented by the lien imposed under this article, including any interest accrued thereon,
is legally unenforceable, the board may release the lien.

(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances, is conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Article 3. Warrant for Collection

55161. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board, or its authorized representative, may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the manner and with the same effect as a levy of, and sale pursuant to, a writ of execution.

55162. The board may pay or advance to the sheriff, marshal, or constable, the same fees, commissions, and expenses for their services as are provided by law for similar services pursuant to writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

55163. The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from him or her by virtue of the warrant or in any other manner provided in this part for the collection of the fee.

Article 4. Seizure and Sale

55181. Whenever any feepayer is delinquent in the payment of the fee, the board, or its authorized representative, may seize any property, real or personal, of the feepayer, and sell at public auction the property seized, or a sufficient portion thereof, to pay the fee due, together with any penalties imposed for the delinquency and all costs that have been incurred on account of the seizure and sale.

55182. Notice of the sale, and the time and place thereof, shall be given to the delinquent feepayer and to all persons who have an interest of record in the property at least 20 days before the date set for the sale in the following manner:

The notice shall be personally served or enclosed in an envelope addressed to the feepayer or other person at his or her last known residence or place of business in this state as it appears upon the records of the board, if any, and deposited in the United States registered mail, postage prepaid. The notice shall be published pursuant to Section 6063 of the Government Code in a newspaper of general circulation published in the city in which the property or a
part thereof is situated if any part thereof is situated in a city or, if not, in a newspaper of general circulation published in the county in which the property thereof is located.

Notice shall also be posted in both of the following manners:

(a) One public place in the city in which the interest in property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the county in which the interest to the property is to be sold.

(b) One conspicuous place on the property.

The notice shall contain a description of the property to be sold, a statement of the amount due, including the fee, interest, penalties, and costs, the name of the feepayer, and the further statement that unless the amount due is paid on or before the time fixed in the notice of the sale, the property, or so much thereof as may be necessary, will be sold in accordance with law and notice.

55183. At the sale, the property shall be sold by the board, or by its authorized agent, in accordance with law and notice, and the board shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the feepayer.

55184. If, after the sale, the money received exceeds the amount of all fees, penalties, and costs due the state from the feepayer, the board shall return the excess to him or her and obtain his or her receipt. If any persons having an interest in or lien upon the property files with the board prior to the sale notice of his or her interest, the board shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If the receipt of the feepayer is not available, the board shall deposit the excess moneys with the Treasurer, as trustee for the owner, subject to the order of the feepayer, his or her heirs, successors, or assigns.

Article 5. Miscellaneous

55201. If any feepayer is delinquent in the payment of any obligation imposed by this part, or if any determination has been made against a feepayer which remains unpaid, the board may, not later than three years after the payment becomes delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof, personally or by first-class mail, to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the feepayer, or owing any debts to the feepayer. In the case of any state officer, department, or agency, the notice shall be given to the officer, department, or agency prior to the time it presents the claim of the delinquent feepayer to the Controller.
55202. After receiving the notice, the persons so notified shall not transfer or make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days after the receipt of the notice, whichever occurs first.

55203. All persons so notified shall immediately, after receipt of the notice, advise the board of all credits, other personal property, or debts in their possession, or under their control, or owing by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, to be effective, shall state the amount, interest, and penalty due from the person and shall be delivered or mailed to the branch or office of the bank at which the deposit is carried or mailed to the branch or office of the bank at which the deposit is carried or at which the credits or personal property is held. Notwithstanding any other provision of law, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of the amount, interest, and penalty due from the person.

55204. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld, to the extent of the value of the property or the amount of the debts thus transferred or paid, he or she shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given, if solely by reason of that transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

55205. 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 the feepayer or other person liable for any amount under this part to withhold from these credits or other personal property the amount of the fee, interest, or penalties due from the feepayer or other person, or the amount of any liability incurred under this part, and to transmit the amount withheld to the board at the time it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the feepayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property are held, unless another branch or office is designated by the financial institution to receive the notice.

55206. The remedies of the state provided for in this chapter are cumulative, and no action taken by the board or by the Attorney General constitutes an election by the state or any of its officers to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.
55207. The amounts required to be paid by any person under this part, together with interest and penalties, shall be satisfied first in any of the following cases:
(a) Whenever the person is insolvent.
(b) Whenever the person makes a voluntary assignment of his or her assets.
(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all debts due from the deceased.
(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over a lien or security interest which was recorded or perfected prior to the time when the state records or files its lien, as provided in Section 7171 of the Government Code.

The preference given to the state by this section is subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

CHAPTER 5. OVERPAYMENTS AND REFUNDS

Article 1. Claim for Refund

55221. If the board determines that any amount of the fee, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control, the excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

However, in the case of a determination by the board that an amount not to exceed 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.

55222. (a) Except as provided in subdivision (b), no refund shall be approved by the board after three years from the due date of the payment for the period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 55061) of Chapter 3, within six months after the determinations have become final, or six months from the date of overpayment, whichever period expires later, unless a claim therefor
is filed with the board within that period. No credit shall be approved by the board after the expiration of that period, unless a claim for credit is filed with the board within that period or unless the credit relates to a period for which a waiver is given pursuant to Section 55064.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 55064 if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

55223. Failure to file a claim within the time prescribed in this article constitutes a waiver of all demands against the state on account of the overpayment.

55224. Within 30 days after disallowing any claim, in whole or in part, the board shall serve written notice of its action on the claimant pursuant to Section 55061.

55225. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the calendar month following the month during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is earlier.

(b) In the case of a credit, to the same date as to that to which interest is computed on the fee or amount against which the credit is applied.

55226. If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Article 2. Suit for Refund

55242. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been duly filed.

55243. Within 90 days after the mailing of the notice of the board’s action upon a claim for refund or credit, the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in the County of Sacramento for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

55244. If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the
mailing of notice by the board, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

55245. Failure to bring suit or action within the time specified in this article constitutes a waiver of all demands against the state on account of any alleged overpayments.

55246. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any fee due from the plaintiff, and the balance shall be refunded to the plaintiff.

55247. In any judgment, interest shall be allowed at the modified adjusted rate per annum established for overpayments pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

55248. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any fee paid when the action is brought by or in the name of an assignee of the feepayer paying the fee or by any person other than the person who has paid the fee.

As used in this section, "assignee" does not include a person who has acquired the business of the feepayer which gave rise to the fee and who is thereby a successor in interest to the feepayer.

Article 3. Recover of Erroneous Refunds

55261. The Controller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and the action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General, orders a change of place of trial. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Article 4. Cancellations

55281. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined, either by the person filing the return or by the board, the board shall certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined, either
by the person filing a return or by the board, the board, without
certifying this fact to the State Board of Control, shall authorize the
cancellation of the amount upon the records of the board.

CHAPTER 6. ADMINISTRATION AND TAXPAYERS' BILL OF RIGHTS

Article 1. Administration

55301. The board shall enforce this part and may prescribe, 
adopt, and enforce rules and regulations relating to the 
administration and enforcement of this part.
55302. The board may make examinations of the books and 
records of any feepayer as it may deem necessary in carrying out this 
part.
55303. The board may employ accountants, auditors, 
investigators, and other expert and clerical assistance necessary to 
enforce its powers and perform its duties under this part.
55304. A certificate by the board or an employee of the board 
stating that a notice required by this part was given by mailing or 
personal service shall be prima facie evidence in any administrative 
or judicial proceeding of the fact and regularity of the mailing or 
personal service in accordance with any requirement of this part for 
the giving of a notice. Unless otherwise specifically required, any 
notice provided by this part to be mailed or served may be given 
either by mailing or by personal service in the manner provided for 
giving notice of a deficiency determination.

Article 2. The California Taxpayers' Bill of Rights

55321. The board shall administer this article. Unless the context 
indicates otherwise, the provisions of this article shall apply to this 
part.
55322. (a) The board shall establish the position of the 
Taxpayers' Rights Advocate. The advocate or his or her designee 
shall be responsible for facilitating resolution of taxpayer complaints 
and problems, including any taxpayer complaints regarding 
unsatisfactory treatment of taxpayers by board employees, and 
staying actions where taxpayers have suffered or will suffer 
irreparable loss as the result of those actions. Applicable statutes of 
limitation shall be tolled during the pendency of a stay. Any penalties 
and interest that would otherwise accrue shall not be affected by the 
granting of a stay.
(b) The advocate shall report directly to the executive officer of 
the board.
55323. (a) The board shall develop and implement an education 
and information program directed at, but not limited to, all of the 
following groups:
(1) Taxpayers newly registered with the board.

55470
(2) Board audit and compliance staff.

(b) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.

(2) Participation in seminars and similar programs organized by federal, state, and local agencies.

(3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.

(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance of inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

55324. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Fee Collection Procedures Law which may further improve voluntary compliance and the relationship between taxpayers and government.

55325. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedure, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

55326. (a) The 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 production quotas or goals.

(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).

55327. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

55328. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases
which take more time than the appropriate standard timeframe.

55329. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

55330. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fees and expenses with the State Board of Control.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was found unreasonable.

55331. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit,
restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include hazardous substances tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

55332. The board’s executive officer or his or her designee may settle any tax matter disputes involving a disputed tax liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.

55333. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers’ Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

55334. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

55335. (a) A taxpayer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the taxpayer and not waived for reimbursement by the financial institution. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:
(1) The erroneous levy or notice to withhold was caused by board error.

(2) Prior to the levy or notice to withhold, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

55336. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 4 (commencing with Section 55101) of Chapter 3.

(c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but not later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

55337. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, including any of the following:
   (A) Reasonable court costs.
   (B) Prevailing market rates for the kind or quality of services
furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceedings, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party’s case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connections with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer’s position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

CHAPTER 7. VIOLATIONS

55361. Any person who refuses to furnish any return or report required to be made, or who refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor and subject to a fine not to exceed five hundred dollars ($500) for each offense.

55362. Any person who knowingly or willfully files a false return or report with the board, and any person who refuses to permit the board or any of its authorized representatives to make any inspection or examination for which provision is made in this part, or who fails to keep any records prescribed by the board, or who fails to preserve the records for the inspection of the board for the time that the board deems necessary, or who alters, cancels, or obliterates entries in the records for the purpose of falsifying the records, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000), by imprisonment in the county jail for not less than one month or more than six months, or by both.

55363. Any person who willfully evades or attempts in any manner to evade or defeat the payment of the fee imposed by this part is guilty of a felony punishable by imprisonment in the state prison for 16 months, 2, or 3 years and a fine of not more than five thousand dollars ($5,000).

55364. Every person convicted for a violation of any provision of
this part for which another penalty or punishment is not specifically provided for in this part is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500), by imprisonment in the county jail for not more than six months, or by both.

55365. Any prosecution for violation of any provision of this part shall be instituted within three years after the commission of the offense.

**CHAPTER 8. DISCLOSURE OF INFORMATION**

55381. (a) The board shall provide any and all information obtained under this part to the State Department of Health Services.

(b) The State Department of Health Services and the board may utilize any information obtained pursuant to this part to develop data on the treatment, storage, or distribution of water.

(c) It shall be unlawful for the board, or any person having an administrative duty under this part to make known, in any manner whatsoever, the business affairs, operations, or any other information pertaining to a feepayer which was submitted to the board in a report or return required by this part, or to permit any report or copy thereof to be seen or examined by any person not expressly authorized by subdivision (a) and this subdivision. 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.

(d) Notwithstanding subdivision (c), the successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information regarding the determination of any unpaid fees or the amount of the fees, interest, or penalties required to be collected or assessed.

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 408

An act to amend Section 10012 of the Elections Code, relating to elections.

Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 10012 of the Elections Code is amended to read:

10012. (a) Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, may prepare a candidate's statement on an appropriate form provided by the clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself. However, the governing body of the local agency may authorize an increase in the limitations on words for the statement from 200 to 400 words. The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in the office of the clerk when his or her nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. The statement shall be filed in the office of the clerk no later than the 88th day before the election, if it is for an election for which nomination papers are not required to be filed. If a runoff election or general election occurs within 88 days of the primary or first election, the statement shall be filed with the clerk by the third day following the governing body's declaration of the results from the primary or first election. Except as provided in Section 10012.3, the statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

(b) The clerk shall send to each voter together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing. The clerk shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide that translation from the list of approved Spanish language translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

(c) The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of
complying with the Voting Rights Act of 1965, as amended, and may require each candidate filing a statement to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voter's pamphlet. In the event the estimated payment is required, the receipt for the payment shall include a written notice that the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the clerk may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

(d) Nothing in this section shall be deemed to make any such statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet.

(e) Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement sent to each voter. This decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his or her representative at the time he or she picks up the nomination papers.

(f) For purposes of this section, and Section 10012.5, the board of supervisors shall be deemed the governing body of judicial elections.

CHAPTER 409

An act to amend Section 18437 of the Financial Code, relating to financial institutions.

[Approved by Governor August 1, 1992.Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 18437 of the Financial Code is amended to read:

18437. (a) Except as provided in subdivision (b), an industrial loan company shall not make loans to, or purchase any obligations from, persons who do not reside or have a place of business in the State of California, unless those loans or obligations comply with all of the following conditions:
(1) If the loan or obligation is unsecured, then only if the loan or obligation bears the unqualified written guaranty of a financially responsible person, considering the amount of the obligation, who resides or has a place of business in the State of California.

(2) If the documents and security for the loan or obligation and all records relating to the transaction are in California at the time the loan or obligation is made or acquired and are thereafter kept in California while the loan or obligation remains unsatisfied, except that where the security is aircraft, the security need not be in California at the time the loan or obligation is made or acquired, nor need it thereafter be held in California while the loan or obligation remains unsatisfied.

(b) Notwithstanding subdivision (a), an industrial loan company may make loans to, or purchase any obligations from, persons who do not reside or have a place of business in the State of California not to exceed 20 percent, in the aggregate, of a company's total assets. Upon application to and approval by the commissioner, an industrial loan company may increase its loans to, or purchases of, obligations from persons who do not reside or have a place of business in this state not to exceed 30 percent, in the aggregate, of a company's total assets. The application shall include all of the following information:

(1) A description of the company's proposed plan of business.

(2) The character, business qualifications, and other experience of the proposed officers and managers directing the line of business for which authorization is requested.

(3) Any other facts and circumstances bearing on the proposal that, as determined by the commissioner, may be relevant.

CHAPTER 410

An act to add Sections 5411.5 and 5412.5 to the Health and Safety Code, relating to sanitation.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 5411.5 is added to the Health and Safety Code, to read:

5411.5. (a) Any person who, without regard to intent or negligence, causes or permits any sewage or other waste, or the effluent of treated sewage or other waste to be discharged in or on any waters of the state, or discharged in or deposited where it is, or probably will be, discharged in or on any waters of the state, as soon as that person has knowledge of the discharge, shall immediately notify the local health officer or the director of environmental health of the discharge.
(b) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or imprisonment for less than one year, or both the fine and imprisonment.

(c) The notification required by this section shall not apply to a discharge authorized by law and in compliance with waste discharge requirements or other requirements established by the appropriate regional water quality control board or the State Water Resources Control Board.

SEC. 2. Section 5412.5 is added to the Health and Safety Code, to read:

5412.5. (a) Any person who, without regard to intent or negligence, causes or permits any sewage or other waste, or the effluent of treated sewage or other waste to be discharged in or on any waters of the state, or discharged in or deposited where it is, or probably will be, discharged in or on any waters of the state that may cause contamination of waters used for a water-contact sport, as defined in Section 24155, shall reimburse the local health officer or the director of environmental health for the necessary and actual costs incurred to mitigate the threat of contamination and to protect the health and safety of the public.

(b) The governing body of the county shall establish the amount of payment at a level sufficient to pay the necessary and reasonable costs incurred by the local health officer or environmental health director administering this section and Section 5411.5.

(c) For the purposes of this section "mitigate" includes, but is not limited to, actions taken by the local health officer or the director of environmental health in the affected tributaries and waters used for a water-contact sport to investigate the waste discharge, to collect and analyze water samples to determine the areas of contamination, to close or restrict use, to post closure signs, and to notify the public of closures or restrictions.

(d) This section shall not apply to discharge authorized by law and in compliance with waste discharge requirements or other requirements established by the appropriate regional water quality control board or the State Water Resources Control Board.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution as a result of costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, 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.
Also, 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 and add Title 5.7 (commencing with Section 4760)
of Part 5 of Division 4 of the Civil Code, relating to family law, and
declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1992. Filed with
Secretary of State August 3, 1992 ]

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

SECTION 1. Title 5.7 (commencing with Section 4760) of Part 5
of Division 4 of the Civil Code is repealed.
SEC. 2. Title 5.7 (commencing with Section 4760) is added to
Part 5 of Division 4 of the Civil Code, to read:

TITLE 5.7. FAMILY LAW PILOT PROJECTS

CHAPTER 1. GENERAL PROVISIONS

4760. The Legislature finds and declares that child and spousal
support are serious legal obligations. In addition, children are
frequently left in limbo while their parents engage in protracted
litigation concerning custody and visitation. The current system for
obtaining child and spousal support orders is suffering because the
family courts are unduly burdened with heavy case loads and
personnel insufficient to meet the needs of increased demands on
the courts.

The Legislature further finds and declares that there is a
compelling state interest in the development of a child and spousal
support system which is cost-effective and accessible to families with
middle or low incomes. The Legislature further finds and declares
that there is a compelling state interest in first implementing such
a system on a small scale.

The Legislature further finds and declares that there is a
compelling state interest in the development of a speedy,
conflict-reducing method of resolving custody and visitation
disputes.

Therefore, it is the intent of the Legislature in enacting this title
to provide a means for experimenting with and evaluating
procedural innovations with significant potential to improve the
California child and spousal support systems, and the system for mediation, evaluation, and litigation of custody and visitation disputes.

4761. The superior courts of the Counties of Santa Clara and San Mateo may conduct pilot projects pursuant to this title. Chapter 2 (commencing with Section 4763) shall govern the San Mateo County Pilot Project, and Chapter 3 (commencing with Section 4779) shall govern the Santa Clara County Pilot Project.

4762. The duration of the pilot projects shall be two years.

CHAPTER 2. SAN MATEO COUNTY PILOT PROJECT

4763. The San Mateo County Pilot Project shall apply to hearings on motions for temporary child support, temporary spousal support, and temporary health insurance issuable in proceedings under this part or Part 7 (commencing with Section 7000) of this code or under Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure, where at least one party is unrepresented by counsel.

4764. Motions for temporary orders under this title shall be heard as soon as practicable, consistent with the rules governing other civil actions.

4765. The court shall appoint a Family Law Evaluator, who shall be available to assist parties. By local rule the superior court may designate the duties of the Family Law Evaluator, which may include, but shall not be limited to, the following:

(a) Requiring litigants in actions which involve temporary child support, temporary spousal support, and temporary maintenance of health insurance in which at least one litigant is unrepresented, to meet with the Family Law Evaluator prior to the support hearing.

(b) Preparing support schedules based on standardized formulae accessed through existing up-to-date computer technology.

(c) Drafting stipulations to include all issues agreed to by the parties.

(d) Prior to, or at, any hearing pursuant to this chapter, reviewing the paperwork by the court, advising the judge whether or not the matter is ready to proceed, and making a recommendation to the court regarding child support, spousal support, and health insurance.

(e) Assisting the clerk in maintaining records.

(f) Preparing a formal order consistent with the court's announced oral order, unless one of the parties is represented by an attorney.

(g) Assisting the court with research and such other responsibilities which will enable the court to be responsive to the litigants' needs.

4766. The court shall provide the Family Law Evaluator at no cost to the parties.

4767. The clerk shall stamp all moving papers in which a party is not represented by counsel with a notice of a requirement to see the
Family Law Evaluator. The unrepresented party shall serve the stamped pleadings on the other party.

4768. The court shall adopt a protocol wherein all litigants, both unrepresented by counsel and represented by counsel, have ultimate access to a hearing before the court.

4769. The court may elect to publish a low-cost booklet describing this program.

4770. The Family Law Evaluator shall be an attorney, licensed to practice in this state.

4771. Orders for temporary support issued pursuant to this title shall comply with the uniform guidelines set forth in Title 5 (commencing with Section 4700) of this part and shall be based on the economic evidence supplied by the parties or otherwise available to the court.

4772. Where it appears from a party's application for an order under this title or otherwise in the proceedings that the custody of, or visitation with, a minor child is contested, the court shall set those issues for mediation pursuant to Section 4607. The pendency of the mediation proceedings shall not delay a hearing on any other matter for which a temporary order is required, including child support, and a separate hearing, if required, shall be scheduled respecting the custody and visitation issues following mediation in accordance with Section 4607. However, the court may grant a continuance for good cause shown.

4773. In a contested proceeding for temporary child or spousal support under this title, both the moving party and the responding party shall provide all of the following documents to the Family Law Evaluator, and to the court at the time of the hearing:

(a) Copies of the last two federal and state income tax returns filed.

(b) Paycheck stubs for all paychecks received in the four months immediately prior to the hearing.

4774. A party who fails to submit documents to the court as required by this section may, in the court's discretion, not be granted the relief that he or she has requested, or the court may impose evidentiary sanctions.

4775. The tax return submitted pursuant to this section may be reviewed by the other party. A party may be examined by the other party as to the contents of such a tax return.

4776. (a) Except as provided in subdivision (c):

(1) Nothing in this chapter shall be construed to apply to a child for whom services are provided or required to be provided by a district attorney pursuant to Section 11475.5 of the Welfare and Institutions Code.

(2) The court shall not hear or enter any order under this chapter in a matter involving such a child.

(b) Any order entered contrary to the provisions of subdivision (a) shall be void and without legal effect.

(c) For purposes of enabling a custodial parent receiving
assistance under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code to participate in a pilot project authorized by this chapter, the district attorney, upon the request of the custodial parent, may execute a limited waiver of the obligation or representation under Section 11475.1 of the Welfare and Institutions Code. These limited waivers shall be signed by both the district attorney and custodial parent and shall only permit the custodial parent to participate in the proceedings under this title. It is not the intent of the Legislature in enacting this section to limit the duties of district attorneys with respect to seeking child support payments or to in any way limit or supersede other provisions of this part respecting temporary child support.

4777. (a) The costs of the Family Law Evaluator, such staff as is necessary to assist the Family Law Evaluator, and the cost of the booklet describing the program, if any, shall be borne by an increase and an equalization of filing fees in San Mateo County to one hundred fifty dollars ($150) for all petitions for marital dissolution, annulment, and legal separation, and all first papers on behalf of respondents in actions for marital dissolution, annulment, and legal separation. Alternatively, the costs associated with this pilot program may be paid from other funding sources.

(b) A donation of computers, printers, software, and other equipment shall be solicited from existing hardware and software providers.

4778. (a) The presiding judge of the San Mateo County Superior Court, in conjunction with judges of the family law court and with attorneys practicing therein selected by the presiding judge, shall conduct a study of the effectiveness of the San Mateo Pilot Project in making the California child support system more equitable, responsive, cost-effective, and accessible, particularly to those with middle and low incomes, and shall make a report of its findings to the Legislature on or before July 1, 1994.

(b) The satisfaction of participating parties shall be determined by requiring litigants entering the pilot project to fill out a simple exit poll. The response of at least 70 percent of those questionnaires shall be analyzed by the Senate Office of Research to decide whether the program has been deemed satisfactory by the participants.

4778.5. (a) It is estimated that under the pilot project authorized by this chapter, approximately 2,200 litigants will be served annually and that the following savings will occur:

(1) The program would save 520 hours, or 65 days, of court time per year.

(2) There would be a concomitant saving of time by litigants due to the expedited proceedings and, in addition, there would be a saving to litigants of wages that would otherwise be lost due to time off from work.

(b) The estimated costs of the pilot project are as follows:

(1) The salaries of the family law evaluator and such staff as will be necessary for the evaluator to carry out his or her functions.
(2) The cost of a booklet, if any, describing the program.
(c) There would be no cost for the following:
(1) Computers, printers, or other equipment. This equipment is already available in the family law department.
(2) Training for the family law evaluator or his or her staff. They will be trained by already existing judicial personnel.

CHAPTER 3. SANTA CLARA COUNTY PILOT PROJECT

4779. The superior court of the County of Santa Clara may conduct a pilot project pursuant to this chapter.
4780. The duration of the pilot project shall be two years.
4781. The pilot project shall apply to all hearings, for temporary or permanent child or spousal support, modifications thereof, health insurance, custody, or visitation under this part or Part 7 (commencing with Section 7000).
4782. (a) Each and every hearing under Part 7 (commencing with Section 7000) or under this part in which child or spousal support is at issue, including related contempt matters, shall be set by the clerk of the court for hearing within 30 days of filing.
(b) At any hearing in which child or spousal support is at issue, each party, both moving and responding, shall bring to the hearing, copies of the last two federal and state income tax returns filed by the party and pay stubs from the last four full months immediately preceding the hearing received by the party, and shall serve those documents on the opposing party at least five days in advance of the hearing date. Willful failure to comply with these requirements or any of the requirements of this pilot project may result in a citation for contempt under Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure, or in the court's discretion, the court may refuse to grant relief requested or may impose evidentiary sanctions on a party who fails to submit these documents. The clerk shall cause to be placed on the face sheet of any moving papers for child or spousal support at the time of filing, a notice informing the parties of the requirements of this section. The notice shall also inform the parties that prior to the hearing, they must meet with the Attorney Mediator pursuant to Section 4784. That meeting may occur in advance of the hearing dates by agreement of the parties, or on the day of the hearing.
(c) No continuance of any hearing involving child or spousal support shall be granted by a court without an order setting an interim support level unless the parties stipulate otherwise or the court finds good cause therefor.
4783. The court shall have the option of passing a local rule which suspends the use of the Income and Expense Declaration mandated by California Rule of Court 1285.50 in some or all proceedings during the pendency of the pilot project, provided that substitute forms are developed and adopted to solicit substantially the same information in a simplified format. The court may, notwithstanding the adoption
of a local form, require the use of the Income and Expense Declaration mandated by California Rule of Court 1285.50 in appropriate cases on the motion of either party or on the court's own motion.

4784. (a) An attorney, known as an Attorney Mediator, shall be hired to assist the court in resolving child and spousal support disputes and develop community outreach programs and to undertake other duties as assigned by the court.

(b) The Attorney Mediator shall be an attorney, licensed to practice in this state, with mediation or litigation experience or both in the field of family law.

(c) By local rule, the superior court may designate the duties of the Attorney Mediator, which may include, but shall not be limited to, the following:

(1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance. Actions in which one or both of the parties are unrepresented by counsel shall have priority.

(2) Preparing support schedules based on statutory guidelines accessed through existing up-to-date computer technology.

(3) Drafting stipulations to include all issues agreed to by the parties, which may include issues other than those specified in Section 4781.

(4) If the parties are unable to resolve issues with the assistance of the Attorney Mediator, prior to or at the hearing, and at the request of the court, the Attorney Mediator shall review the paperwork, examine documents, prepare support schedules, advise the judge whether or not the matter is ready to proceed.

(5) Assisting the clerk in maintaining records.

(6) Preparing formal orders consistent with the court's announced order in cases where both parties are unrepresented.

(7) Serving as a special master to hear proceedings and make findings to the court unless he or she has served as a mediator in that case.

(8) Assisting the court with research and such other responsibilities which will enable the court to be responsive to the litigants' needs.

(9) Developing programs for bar and community outreach through day and evening programs, videotapes, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to Family Court. These programs shall specifically include information concerning under-utilized legislation, such as expedited temporary support orders (Section 4357.5), modification of support orders (Sections 4700.1 and 4801.9) and preexisting, court-sponsored programs, such as supervised visitation and appointment of attorneys for children.

(d) The court shall develop a protocol wherein all litigants, both unrepresented by counsel and represented by counsel, have ultimate
access to a hearing before the court.

4785. Orders for temporary support issued pursuant to this title shall comply with the uniform guidelines set forth in Title 5 (commencing with Section 4700) of this part and shall be based on the economic evidence supplied by the parties or otherwise available to the court.

4786. Upon motion by either party or on the court's own motion, any proceeding which would otherwise fall within this pilot project may by judicial order be exempted from its requirements.

4787. (a) Except as provided in subdivision (c):

(1) Nothing in this chapter shall be construed to apply to a child for whom services are provided or required to be provided by a district attorney pursuant to Section 11475.1 of the Welfare and Institutions Code.

(2) The court shall not hear or enter any order under this chapter in a matter involving such a child.

(b) Any order entered contrary to subdivision (a) shall be void and without legal effect.

(c) For purposes of enabling a custodial parent receiving assistance under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code to participate in a pilot project authorized by this chapter, the district attorney, upon the request of the custodial parent, may execute a limited waiver of the obligation of representation under Section 11475.1 of the Welfare and Institutions Code. These limited waivers shall be signed by both the district attorney and custodial parent and shall only permit the custodial parent to participate in the proceedings under this chapter. It is not the intent of the Legislature in enacting this section to limit the duties of district attorneys with respect to seeking child support payments or to in any way limit or supersede other provisions of this part respecting temporary child support.

4788. (a) In any case where either party has filed a motion regarding a custody or visitation dispute and has not yet scheduled an appointment for the mediation orientation class by the time of the hearing on the order to show cause, the court shall order all parties to go to Family Court Services that day to schedule an appointment. The mediation orientation shall be scheduled within 14 days. Mediation orientation shall be conducted by Family Court Services and shall include general information on the effect of separation and dissolution on children and parents, the developmental and emotional needs of children in those circumstances, time sharing considerations and various options concerning legal and physical custody of children, the effect of exposure to domestic violence and extreme conflict on children and parents, the nature of the mediation process and other Family Court Services procedures, and related community resources.

(b) After the mediation orientation, the parties may elect to utilize private mental health professionals, in which case the parties or the court may modify the fast track time guidelines provided for
in this section.

(c) If, after orientation, either party requests mediation, and both parties complete Family Court Services mediation petitions, an appointment shall be scheduled within four weeks after both petitions are submitted and both parties shall attend the mediation as scheduled.

(d) At the mediation, if the parties agree to all of the issues regarding custody or visitation, the mediator shall memorialize the agreement in writing, and shall mail copies of the document to the attorneys and parents. Unless written objections to the agreement are sent to Family Court Services within 20 days of mailing the agreement, it will be submitted to the court and become a court order. A copy of the order shall be sent with proof of service to the parties and attorneys by the Family Court.

(e) If mediation is completed and there are remaining disputes, the mediator shall write a memorandum of any partial agreement and shall outline the remaining disputes which shall be sent to the attorneys and parties acting in propria persona. The mediator shall refer the parties to the Early Resolution Project. The parties shall meet and confer within 14 days of the referral to determine if a solution can be formulated. If there are remaining issues to be settled after the meeting, an early resolution judicial conference shall be scheduled within 30 days of the request of either party.

(f) At the early resolution conference, the judge may take stipulations resolving the issues of custody or visitation. The judge may also request the staff of Family Court Services to provide assessments and expedited evaluations to be held on the same day as the conference, in which case the judge, upon stipulation of the parties, may also order a hearing as soon as the same day on the issues. The judge may also order counseling, a mental health special master, psychological testing, or an extended evaluation by Family Court Services or a private evaluator on some or all issues.

(g) When the court at the early resolution judicial conference orders an extended evaluation, the parties shall complete all paperwork, submit deposits to Family Court Services, or both, within five days of the early resolution judicial conference. An evaluator shall be assigned to the case within 10 days thereafter.

(h) Evaluation shall be completed within 60 days of assignment to the evaluator, and the evaluator shall submit a report and recommendations which include a proposed order resolving all disputed issues. This report shall be served by certified mail on the attorneys of record, or on the parties if they are appearing in propria persona. If there are objections to the proposed order, the parties shall file written objections, meet with the evaluator within 30 days of service of the report, and serve a copy of the order on Family Court Services within the 30-day period. If a stipulation is reached, it shall be filed with the court. If a dispute remains, a judicial settlement conference shall be scheduled within 14 days of the meeting with the evaluator. Parties, counsel, and the evaluator shall
be present at this judicial settlement conference. If there is no resolution at this settlement conference, a trial shall be set within 30 days from the settlement conference by the settlement conference judge. If no objections are filed, Family Court Services shall file the proposed order with the court, and it shall become the court's order.

(i) For good cause shown, all deadlines in this section may be altered by the court.

4789. (a) The costs of the pilot project shall be borne by an equalization of filing fees in Santa Clara County for all petitions for marital dissolution, annulment, and legal separation, and all first papers on behalf of respondents in actions for marital dissolution, annulment, and legal separation and by equalization of filing fees for motions and responsive pleadings.

(b) A donation of computers, printers, software, and other equipment shall be solicited from existing hardware and software providers.

(c) The court shall administer funds for the various components of the pilot program.

4790. The court may elect to publish a low-cost booklet describing the program.

4791. The court shall centralize, augment, and coordinate all presently existing programs under the court’s supervision which relate to children, including, but not limited to, mental health special masters, appointment of attorneys for children, supervised visitation, and other supporting personnel.

4792. (a) The presiding judge of the Santa Clara County Superior Court, in conjunction with judges of the family law court and with attorneys practicing therein selected by the presiding judge, shall conduct a study of the effectiveness of the Santa Clara County Pilot Project in making the California child and spousal support system more equitable, responsive, cost-effective, and accessible, particularly to those with middle and low incomes, and the effectiveness of the pilot project in expediting resolution and reducing conflict in custody and visitation disputes, and shall make a report of its findings to the Legislature on or before July 1, 1994.

(b) The satisfaction of participating parties shall be determined by requiring litigants entering the pilot project to fill out a simple exit poll. The response of at least 70 percent of those questionnaires shall be analyzed by the Senate Office of Research to determine whether the program has deemed satisfactory by the participants.

4793. (a) It is estimated for Santa Clara County's participation in the pilot project authorized by this chapter, that 4,000 litigants will be served annually, and that the following savings will occur:

(1) With an estimated 20 percent reduction in the use of court time over the current system, the county would save approximately 178 hours per year of court time, or approximately 22 workdays per year.

(2) With an estimated cost savings in incomes of judges, court reporters, clerks, bailiffs, and sheriffs, the project is expected to save
approximately twenty thousand dollars ($20,000) per year. Cases involving child support obligations which the district attorney's office was required to handle in one participating county, for the 1989–90 fiscal year, number 2,461. The average time spent on a typical child support order is approximately five hours. There is a potential of 12,500 man-hours per year that could be saved, resulting in a savings of three hundred sixty-seven thousand eight hundred seventy-five dollars ($367,875) per year in attorney salaries alone. This does not take into consideration costs for documents, filing, and other district attorney personnel.

(3) The average savings personally to litigants who otherwise would require private representation would be from fifty dollars ($50) to two hundred fifty dollars ($250) per hour of court time and other preparation work.

(b) The satisfaction of participating parties will be determined by requiring the litigants using the pilot project to fill out a simple exit poll. The response of at least 70 percent of those questionnaires will be analyzed to decide whether the program has been deemed satisfactory by the participants.

(c) The estimated cost of the program is as follows:

(1) The estimated salary for an Attorney-Mediator is sixty thousand dollars ($60,000) to sixty-five thousand dollars ($65,000) per year, plus an additional 25 percent of salary to cover the costs of benefits for that position. In addition, there may be other costs connected with this position for support staff at the court.

(2) The costs of exit polling and any informational materials to be handed out to the public by the Attorney-Mediator is undetermined and cannot be estimated.

(d) The estimated income to cover the costs of this program will be as follows:

(1) There are approximately 10,000 dissolution of marriage petitions filed in Santa Clara County each year. Of those cases, approximately one-third of them have responses filed. At the present time, it costs one hundred sixty-five dollars ($165) to have a petition for dissolution of marriage filed and one hundred twenty-seven dollars ($127) to have a response filed, for a cost differential of thirty-eight dollars ($38). By equalizing the response fee with the petition fee, income generated would be approximately one hundred twenty-five thousand four hundred dollars ($125,400) per year. This does not include the cost of fourteen dollars ($14) for each responsive declaration filed to a motion or order to show cause, the annual number of which is significantly greater than 3,300. It is estimated that an additional fifty thousand dollars ($50,000) per year could be generated by equalizing the responsive fees to a motion or order to show cause with the filing of those motions. These fees generated would more than offset the costs of the program.

(2) It is also anticipated that the Attorney-Mediator will develop public information and outreach programs which will be paid for by any excess revenue generated from the pilot project and ultimately
will result in savings to the public and the court. The public will save by not having to pay attorneys for certain information regarding child support matters, and the court will save by not having to educate the public from the bench, thus expediting the handling of support and custody cases.

(e) The cost of computers, printers, and other equipment will be defrayed by contributions.

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 ($1,000,000,000), 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 improve the California child and spousal support systems and to expedite resolution of disputes regarding the custody and visitation of children, it is necessary that this act takes effect immediately.

CHAPTER 412

An act to add Section 27470.5 to the Government Code, relating to autopsies.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 27470.5 is added to the Government Code, to read:

27470.5. Any county with a population under 250,000 that has elected to implement a trauma care system plan pursuant to Section 1797.257 of the Health and Safety Code may charge any actual costs incurred in the performance of an autopsy upon a person who was a resident of another county to the county of origin of that person. Nothing in this section shall be construed to restrict the jurisdiction of the county coroner or medical examiner in the county performing the autopsy over any inquiry or investigation into the cause of death.
of that person.

CHAPTER 413

An act to amend Section 53 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 53 of the Revenue and Taxation Code is amended to read:
53. (a) Except as provided in subdivision (b), the initial base year value for fruit and nut trees and grapevines subject to exemption pursuant to subdivision (i) of Section 3 of Article XIII of the California Constitution shall be the full cash value of those properties as of the lien date of their first taxable year.

(b) A county board of supervisors may, after consultation with affected local agencies within the county's boundaries, provide by ordinance that the initial base year value for replacement grapevines that are planted to replace grapevines less than 15 years of age that were removed solely as a result of phylloxera infestation, as certified in writing by the county agricultural commissioner, shall be the base year value of the removed vines factored to the lien date of the first taxable year of the replacement vines. The base year replacement value is limited to grapevines that are substantially equivalent to the vines that were replaced, and are planted on the same parcel as the replaced vines. For purposes of this subdivision, vines are substantially equivalent to vines replaced if the vines are a similar type and are planted at a similar density.

CHAPTER 414

An act to amend Sections 8396 and 8397 of, and to add and repeal Sections 8046.1 and 8399.5 of, the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 8046.1 is added to the Fish and Game Code, to read:
8046.1. (a) In addition to the requirements of Section 8046, any
person landing groundfish subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) shall keep a copy of the landing receipt on board the fishing vessel for a period of 30 days following the date of landing.

(b) This section shall become inoperative on April 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. Section 8396 of the Fish and Game Code is amended to read:

8396. (a) The owner or operator of a commercial fishing vessel and all divers 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) To qualify for a permit an applicant shall meet both of the following criteria:

(1) Prove to the director's satisfaction that the applicant 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.

(c) In order to renew a sea cucumber permit, an applicant shall have been issued a sea cucumber permit in the immediately preceding year.

(d) Permits are nontransferable. Not more than one permit shall be issued to any person.

(e) The fee for sea cucumber permits shall be two hundred fifty dollars ($250).

(f) 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.

(g) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(h) 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.

(i) Any person denied a permit under this section, who can demonstrate to the satisfaction of the department on or before April 1, 1993, that he or she had a vessel and trawl gear, capable of fishing for sea cucumbers, under construction or conversion during the period between January 1, 1991, and December 31, 1991, and who otherwise was unable to meet the minimum landing requirements, may appeal to the director. The person shall provide proof of the construction or conversion work based on the submission of documents satisfactory to the department, which may include, but
not be limited to, cancelled checks, receipts, and contracts, that substantiate the claimant's appeal. The appeal shall be in a form prescribed by the department. Appeals that are postmarked or presented after April 1, 1993, shall not be considered.

(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. 3. Section 8397 of the Fish and Game Code is amended to read:

8397. (a) The owner or operator of a commercial fishing vessel 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.

(c) Permits are nontransferable. Not more than one permit shall be issued to any person.

(d) The fee for hagfish permits shall be two hundred fifty dollars ($250).

(e) 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.

(f) Each permittee shall complete and submit an accurate record of all hagfish fishing activities on forms provided by the department.

(1) 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.

(g) 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.

(h) 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. 4. Section 8399.5 is added to the Fish and Game Code, to read:

8399.5. (a) In district 16 and those portions of district 17 south of a line running 252 degrees magnetic north from the Moss Landing Harbor entrance, it is unlawful to engage in the following activities:

(1) Take squid that have been attracted by light displayed from another boat.
(2) Operate or be on board any boat that is displaying light and, is either attracting squid or has attracted squid within the preceding 12-hour period, when the squid are taken other than by the persons on board the boat displaying the light.

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

In order for this act to be effective in the next fishing season, it is necessary that this act take effect immediately.

CHAPTER 415

An act to amend Sections 7286.30, 7286.33, and 7286.34 of the Revenue and Taxation Code, and to amend Section 2 of Chapter 259 of the Statutes of 1992, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 7286.30 of the Revenue and Taxation Code, as added by Chapter 259 of the Statutes of 1992, is amended to read:

7286.30. The Legislature hereby finds and declares that in the County of San Diego justice-related facilities are so inadequate as to significantly impede the administration of justice, that jail and court facilities are so overcrowded as to create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house and prosecute them, and that law enforcement and crime prevention are so inadequately funded as to endanger the safety of persons and property in San Diego County. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a special tax so that justice-related facility needs and law enforcement and crime prevention needs may be addressed in an expeditious and appropriate fashion.

SEC. 2. Section 7286.33 of the Revenue and Taxation Code, as added by Chapter 259 of the Statutes of 1992, is amended to read:

7286.33. The ordinance shall state the tax rate and may state a term during which the tax will be imposed. The ordinance shall state the appropriate requirements for voter approval pursuant to Section 7286.32. The ordinance may authorize the board of supervisors to reduce the tax rate to one-quarter of 1 percent at its discretion, if the
board determines that revenue from the reduced rate would be sufficient to fund the justice-related facility obligations incurred in connection with this act.

SEC. 3. Section 7286.34 of the Revenue and Taxation Code, as added by Chapter 259 of the Statutes of 1992, is amended to read:

7286.34. The board of supervisors shall have sole discretion to determine the specific activities and projects financed with revenues generated by the tax. However, those activities and projects shall be limited to the provision, construction, and operation of justice-related facilities, the funding of law enforcement and crime prevention projects and activities, the funding of the costs incurred by the county to conduct the election authorized by Section 7286.32, and the cost of any legal actions incurred by the county related to the tax.

SEC. 4. Section 2 of Chapter 259 of the Statutes of 1992 is amended to read:

Sec. 2. 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, justice-related facilities and law enforcement and crime prevention in the County of San Diego.

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 adequate justice-related facilities as soon as possible to house and prosecute persons who are a danger to society, and to provide adequate funding to meet law enforcement and crime prevention needs, it is necessary that this act take effect immediately.

CHAPTER 416

An act to amend Section 14132.76 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 14132.76 of the Welfare and Institutions Code is amended to read:

14132.76. (a) (1) Notwithstanding any other provision of this chapter, the department shall establish a pilot demonstration program under which no treatment authorization requests shall be required for the provision of prosthetic devices, including
replacement or repair of these devices, which do not exceed five hundred dollars ($500), and of orthotic devices which do not exceed two hundred fifty dollars ($250).

(2) The purpose of the pilot demonstration program shall be to evaluate the cost-effectiveness of the Medi-Cal program.

(b) (1) The department shall review the effectiveness of the pilot demonstration program implemented pursuant to subdivision (a) and report its conclusions to the appropriate committees of the Legislature by December 31, 1993.

(2) The review and report required by paragraph (1) may also consider the potential effectiveness of eliminating the use of treatment authorizations in the containment of Medi-Cal costs.

(c) 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 prior to January 1, 1994, deletes or extends that date.

CHAPTER 417

An act to amend Sections 262.3 and 92640 of, and to repeal Section 264 of, the Education Code, relating to postsecondary education.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 262.3 of the Education Code is amended to read:

262.3. (a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a school district, the governing board of a community college district, or the president of a campus of the California State University, pursuant to this article, to the State Department of Education, the Board of Governors of the California Community Colleges, or the Chancellor of the California State University, as applicable.

(b) Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other orders may also be available to complainants. The educational institution shall make this information available by publication in appropriate informational materials.

SEC. 2. Section 264 of the Education Code is repealed.

SEC. 3. Section 92640 of the Education Code is amended to read:

92640. (a) The Regents of the University of California shall develop policies and procedures to ensure that each campus of the university, in administering any test or examination, permits any
student who is eligible to undergo the test or examination to do so, without penalty, at a time when that activity would not violate the student's religious creed. This requirement shall not apply in the event that administering the test or examination at an alternate time would impose an undue hardship that could not reasonably have been avoided. In any court proceeding in which the existence of an undue hardship that could not reasonably have been avoided is an issue, the burden of proof shall be upon the institution.

(b) The regents shall report to the Legislature, no later than July 1, 1993, regarding the actions taken to implement this section.

CHAPTER 418

An act to add Sections 13555.2 and 13555.3 to the Water Code, relating to water.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 13555.2 is added to the Water Code, to read:

13555.2. The Legislature hereby finds and declares that many local agencies deliver reclaimed water for nonpotable uses and that the use of reclaimed water is an effective means of meeting the demands for new water caused by drought conditions or population increases in the state. It is the intent of the Legislature to encourage the design and construction of water delivery systems on private property that deliver water for both potable and nonpotable uses in separate pipelines.

SEC. 2. Section 13555.3 is added to the Water Code, to read:

13555.3. (a) Water delivery systems on private property that could deliver reclaimed water for nonpotable uses described in Section 13550, that are constructed on and after January 1, 1993, shall be designed to ensure that the water to be used for only potable domestic uses is delivered, from the point of entry to the private property to be served, in a separate pipeline which is not used to deliver the reclaimed water.

(b) This section applies to water delivery systems on private property constructed within either of the following jurisdictions:

(1) One that has an urban water management plan that includes the intent to develop reclaimed water use.

(2) One that does not have an urban water management plan that includes reclaimed water use, but that is within five miles of a jurisdiction that does have an urban water management plan that includes reclaimed water use, and has indicated a willingness to serve the water delivery system.

(c) This section does not preempt local regulation of the delivery
of water for potable and nonpotable uses and any local governing body may adopt requirements which are more restrictive than the requirements of this section.

CHAPTER 419

An act to add Section 1716.1 to the Business and Professions Code, relating to dentistry.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 1716.1 is added to the Business and Professions Code, to read:

1716.1. Notwithstanding Section 1716, the board may, by regulation, reduce the renewal fee for a licensee who has practiced dentistry for 20 years or more in this state, has reached the age of retirement under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.), and customarily provides his or her services free of charge to any person, organization, or agency. In the event that charges are made, these charges shall be nominal. In no event shall the aggregate of these charges in any single calendar year be in an amount that would render the licensee ineligible for full social security benefits. The board shall not reduce the renewal fee under this section to an amount less than one-half of the regular renewal fee.

CHAPTER 420

An act to amend Section 13133 of the Health and Safety Code, relating to fire and panic safety.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 13133 of the Health and Safety Code is amended to read:

13133. (a) The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, as defined in Section 1502, and residential care facilities for the elderly, as defined in Section 1569.2. Notwithstanding Sections 13143.2, 13143.5, and 13869.7, building standards adopted by the State Fire Marshal pursuant to this section and published in the State Building
Standards Code relating to fire and panic safety, and other regulations adopted by the State Fire Marshal pursuant to this section, shall apply uniformly throughout the state, and no city, county, city and county, including a charter city or charter county, or fire protection district shall adopt or enforce any ordinance or local rule or regulation relating to fire and panic safety in buildings or structures subject to this section that is inconsistent with building standards adopted by the State Fire Marshal pursuant to this section and published in the State Building Standards Code relating to fire and panic safety, or other regulations adopted by the State Fire Marshal pursuant to this section.

(b) Notwithstanding subdivision (a), a city, county, city and county, including a charter city or charter county may pursuant to Section 13143.5, or a fire protection district may pursuant to Section 13869.7, adopt standards more stringent than those contained in subdivision (a) that are reasonably necessary to accommodate local climate, geological, or topographical conditions relating to roof coverings for residential care facilities for the elderly.

CHAPTER 421

An act to amend Section 1695.7 of the Labor Code, relating to farm labor contractors.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 1695.7 of the Labor Code is amended to read:

1695.7. (a) (1) Prior to entering into any contract or agreement to supply agricultural labor or services to an agricultural grower, every person acting in the capacity of a farm labor contractor shall first provide to the grower a copy of his or her current valid state license. A failure to do so is a violation of this chapter.

(2) In the event that the licensee or prospective licensee has fulfilled all the requirements for a license, but the Labor Commissioner has not been able to timely issue or renew a license, the Labor Commissioner shall issue to the person applying for a license, or renewal of a license, a letter of authorization permitting that person to operate or continue to operate as a farm labor contractor. For purposes of this section, a "valid state license" shall include such letter of authorization.

(3) No grower shall enter into a contract or agreement with a person who fails to provide a copy of his or her license, without first making reasonable inquiry, to ensure that the person possesses a valid license.
(4) If a contract or agreement entered into with a farm labor contractor extends beyond the expiration date of his or her license, or beyond the date contained in the letter of authorization to operate, the grower shall make reasonable inquiry of the contractor prior to each time he or she utilizes the licensee’s services after that date unless the contractor provides, in lieu thereof, a copy of his or her current valid license or a copy of a letter of authorization issued by the Labor Commissioner.

(b) A failure by the person acting as a farm labor contractor to provide a copy of the license to the agricultural grower shall not constitute a defense against liability under this section for an agricultural grower who subsequently fails to make reasonable inquiry about whether that person has a valid state license.

(c) (1) Any person who acts in the capacity of a farm labor contractor, as defined in this chapter, without first securing a license is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than six months, or both, and is subject to other sanctions under this chapter, including subdivisions (b) and (c) of Section 1697.

(2) Any grower who enters into a contract or agreement in violation of this section, shall be subject to a civil action by an aggrieved worker for any claims arising from the contract or agreement that are a direct result of any violation of any state law regulating wages, housing, pesticides, or transportation committed by the unlicensed farm labor contractor. The court shall grant a prevailing plaintiff reasonable attorney’s fees and costs.

(3) Any aggrieved worker who, claims a violation of this section, may bring a civil action for injunctive relief and, upon prevailing, shall recover reasonable attorney’s fees and costs.

(d) As used in this section:

(1) “Reasonable inquiry” shall mean that, if the person acting in the capacity as a farm labor contractor does not provide an agricultural grower with a copy of his or her current valid license when required to do so, the agricultural grower shall inquire of, and inspect the license of, each such person prior to entering into any contract or agreement. The agricultural grower shall only be required to ascertain that the license presented is valid on its face.

(2) “Agricultural grower” means any person who owns or leases land used for the planting, cultivation, production, harvesting, or packing of any farm products, and includes a packing shed, whether or not he or she owns or leases the land, if he or she hires or uses persons acting as farm labor contractors.
CHAPTER 422

An act to amend Section 972 of the Military and Veterans Code, relating to county veteran service officers.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 972 of the Military and Veterans Code is amended to read:

972. The board of supervisors may provide the county veteran service officer with any assistance and facilities which it determines to be necessary. If such a position is created and filled, the compensation and expenses of the county veteran service officer shall be a county charge, but the Department of Veterans Affairs, out of state moneys available therefor, shall pay each county a portion of those costs in an amount determined by the department, conditioned upon the observance of standards and regulations adopted by, and in compliance with the direction of, the department and its authorized representatives. State money available for paying counties any portion of the cost of the compensation and expenses of county veteran service officers shall not include any funds of the Veterans' Farm and Home Building Fund of 1943.

CHAPTER 423

An act to repeal Section 3 of Chapter 2056 of the Statutes of 1961 and to repeal Section 1 of Chapter 896 of the Statutes of 1973, relating to Lake Elsinore, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 3 of Chapter 2056 of the Statutes of 1961 is repealed.

SEC. 2. Section 1 of Chapter 896 of the Statutes of 1973 is repealed.

SEC. 3. The Elsinore Special Deposit Fund is hereby abolished and any existing balances, including unappropriated balances and encumbered and unencumbered balances, shall be transferred to the State Parks and Recreation Fund.

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

In order to provide urgently needed funding for the state park system at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 424

An act to amend Section 226.3 of the Labor Code, relating to employment.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 226.3 of the Labor Code is amended to read:

226.3. Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law. In enforcing this section, the Labor Commissioner shall take into consideration whether the violation was inadvertent, and in his or her discretion, may decide not to penalize an employer for a first violation when that violation was due to a clerical error or inadvertent mistake.

CHAPTER 425

An act relating to school funding.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) Financing for the kindergarten to grade 12 education system in California constitutes a multibillion dollar budget comprised of state, local, federal, and state lottery funds. School funding from all sources in the 1991-92 fiscal year is nearly $27 billion, with General Fund moneys comprising 61 percent, or $16.5 billion of that amount.
(b) The current principal apportionment system of certifications that allocates and distributes funds from state budget appropriations to 58 county offices of education and to 1,012 school districts was established by statute in 1963 and is in need of comprehensive review and improvement.

(c) The financing of the state public school system is a complex matter. The principal apportionment system of certifications has created a process that is cumbersome for both local educational agencies and the State Department of Education to effectively implement. In addition, the lack of synchronization with the state budget process makes it difficult for the Governor and the Legislature to receive the data necessary to make timely kindergarten to grade 12 budgetary decisions.

(d) In order to simplify and streamline the principal apportionment system of certifications, it is the intent of the Legislature to require the State Department of Education to review, evaluate, and submit recommendations for improvements in the current system.

(e) The improvement of the current system should be designed to result in a reduction in reporting requirements for local educational agencies and the department and to provide reliable data to the Governor and the Legislature during the state budget process.

SEC. 2. The State Department of Education shall develop a plan to streamline the principal apportionment system of certifications for submission to the Legislature on or before March 15, 1993, in order to allow for the implementation of the revised system in the 1993–94 fiscal year through appropriate legislation. The areas to be examined by the department for possible elimination, consolidation, or revision shall include, but not be limited to, the advance apportionment, the first principal apportionment (P-1), the second principal apportionment (P-2), and the annual apportionment.

The department shall ensure that the plan submitted to the Legislature is revenue neutral to the General Fund. In developing the plan, the Superintendent of Public Instruction shall consult representatives of county offices of education, school districts, educational organizations and associations, the Legislature, the Department of Finance, and the Office of the Legislative Analyst.
An act to repeal and add Section 13609 of, and to repeal Sections 13610, 13611, and 13612 of, the Water Code, relating to water.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 13609 of the Water Code is repealed.
SEC. 2. Section 13609 is added to the Water Code, to read:
13609. The money in the State Clean Water Grants Administration Revolving Fund is transferred to the State Clean Water Fund to pay, upon appropriation, for administrative costs relating to adjustments of grant processing fees paid pursuant to this chapter.
SEC. 3. Section 13610 of the Water Code is repealed.
SEC. 4. Section 13611 of the Water Code is repealed.
SEC. 5. Section 13612 of the Water Code is repealed.

CHAPTER 427

An act to amend Sections 472.3, 2530, 2530.1, 8025.1, 17770, and 19549.9 of, and to amend the heading of Chapter 5.3 (commencing with Section 2530) and Chapter 7.7 (commencing with Section 3500) of Division 2 of, the Business and Professions Code, to amend Sections 56.10, 224.50, 798.17, 1714.10, 1722, 4602, and 4801 of the Civil Code, to amend Section 473 of the Code of Civil Procedure, to amend Section 1201 of the Commercial Code, to amend Sections 25604, 25608, 27006, 27103, and 31500 of the Corporations Code, to amend Sections 8803, 8804, 32295, 41204, 46201, and 66015 of the Education Code, to amend Sections 3520 and 6555 of, and to repeal the heading of Article 3 (commencing with Section 9210) of Chapter 3 of Part 3 of Division 7 of, the Elections Code, to amend Sections 1876.1, 14354, 17208, 18104, 18340, 18341, 22212, 24212, 26212, and 30203 of the Financial Code, to amend Section 10740 of the Fish and Game Code, to amend Section 55613 of, and to amend and renumber Section 13132 of, the Food and Agricultural Code, to amend Sections 850.8, 926.17, 8597, 11041, 12945.2, 14562.4, 15399.37, 18004, 18930, 19846, 20017.6, 20862.7, 21235.5, 26205.1, 31460.1, 31680.6, 53114.1, 53313.8, 53314.6, 54740.5, 55606, 55607, 55608, 55640, 55641, 68097.2, 72703, 72704, 76104, and 76238 of, to amend and renumber Section 53313.8 of, and to repeal Sections 20750.22 and 20755.2 of, the Government Code, to repeal Section 1201.6 of the Harbors and Navigation Code, to amend Sections 436.815, 1356, 1356.1, 1797.109, 1797.132, 4027.6, 12003, 13009, 13009.5, 13053, 13054, 13104.5, 13108.5, 13140.5, 13159.4, 25180.1, 25198.3, 25198.5, 25355.7, 25915.2, 41809, 44223, 44244.1, 50590,
and 50668.5 of, to amend and renumber Sections 436.70 and 436.75 of, and to repeal Sections 11380.1, 18114.1, and 40501.2 of, the Health and Safety Code, to amend Sections 789.6, 1033, 1063.2, 1066.8, 1194.87, 1875.10, and 11624.09 of, and to amend and renumber Section 1872.95 of, the Insurance Code, to amend Sections 1193.6, 1194, 3212, 3600.3, and 6393 of the Labor Code, to amend Sections 118.1, 384a, 384b, 409.6, 830.2, 830.37, 830.7, 1208.2, 1208.5, 7514, 12276, and 13510.5 of the Penal Code, to amend Sections 4129, 4371, 4431, 5003.6, 5093.68, 5096.124, 6311, 14501, 14549.5, 25633, 25634, 25634.1, 30404, 30620, 44201, 44203, and 44205 of the Public Resources Code, to repeal Sections 140005 and 142009 of the Public Utilities Code, to amend Sections 2191.3, 5096, 6359.5, 6480.16, 10753.1, and 18682 of, to add a heading to Article 3 (commencing with Section 8721) of Chapter 3 of Part 3 of Division 2 of, and to repeal Section 42300 of, the Revenue and Taxation Code, to add Section 384.1 to the Streets and Highways Code, to amend Sections 1808.4, 1817, 9911, 24007.5, and 40611 of the Vehicle Code, to amend Sections 1058.5, 11761, 11910, 11910.1, 11912, and 13263.5 of the Water Code, to amend Sections 601.3, 653, 740, 1760.5, and 14132.44 of the Welfare and Institutions Code, to amend Section 36 of Chapter 19 of the Statutes of 1990, to amend Section 16 of Chapter 1190 of the Statutes of 1991, and to repeal Section 2 of Chapter 837 of the Statutes of 1989, relating to the maintenance of the codes.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 472.3 of the Business and Professions Code is amended to read:

472.3. (a) The department, in accordance with the time intervals prescribed pursuant to subdivision (d) of Section 472.1, 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 472.1 and the monitoring and inspection information described in subdivision (c) of Section 472.4, 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. 2. The heading of Chapter 5.3 (commencing with Section 2530) of Division 2 of the Business and Professions Code is amended to read:

CHAPTER 5.3. SPEECH-LANGUAGE PATHOLOGISTS AND AUDILOGISTS

SEC. 3. Section 2530 of the Business and Professions Code is amended to read:

2530. This act may be cited as the "Speech-Language Pathologists and Audiologists Licensure Act."

SEC. 4. Section 2530.1 of the Business and Professions Code is amended to read:

2530.1. The Legislature finds and declares that the practice of speech-language pathology and audiology in California affects the public health, safety, and welfare and there is a necessity for those professions to be subject to regulation and control.

SEC. 5. The heading of Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code is amended to read:

CHAPTER 7.7. PHYSICIAN ASSISTANTS

SEC. 6. Section 8025.1 of the Business and Professions Code is amended to read:

8025.1. (a) In addition to the causes for discipline or denial of certification set forth in Section 8025, the board may suspend or revoke any certificate, or deny certification, on any of the following grounds:

(1) That the applicant or licensee is incapable of performing the duties of a certified shorthand reporter due to physical or mental infirmity or incapacity.

(2) That the applicant or licensee is unable to perform the duties of a certified shorthand reporter due to the abuse of chemical substances or alcohol.
(b) For purposes of determining the existence or nonexistence of grounds for denial, suspension, or revocation of a license as set forth in this section, the board may, based upon a reasonable belief that grounds exist, require the applicant or licensee to submit to a physical or mental examination or examinations by a licensed physician as designated by the board. Failure to submit to or to schedule a physical or mental examination within 10 days of written demand by the board shall result in the automatic suspension of any license or the denial of any application. The denial of an application on any of the grounds set forth in this section shall be subject to Sections 11504 and 11504.5 of the Government Code. The licensee may request a hearing to contest an automatic suspension of licensure under this section by sending a written request for hearing to the offices of the board within 12 days of the date that the board mails a notice of suspension to the licensee. If a hearing is requested, it shall be convened within 30 days after the receipt by the board of the written request for the 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. The sole issue for determination in the hearing, whether for denial or suspension of license, shall be whether the licensee failed or refused to submit to the physical or mental examination after being duly ordered to do so by the board. Evidence that the licensee has, since the date of automatic suspension, submitted to a mental or physical examination shall be considered as mitigation of any failure or refusal to comply with the board's order, and may, in the sound discretion of the administrative law judge, constitute cause to set aside any automatic suspension. A decision shall be rendered by the administrative law judge within 10 days of the hearing and shall constitute the final determination as to the continuing status of any automatic suspension.

(c) Following a physical or mental examination pursuant to subdivision (b), the physician conducting the examination shall determine whether the applicant or licensee is incapable of performing the duties of a certified shorthand reporter due to physical or mental infirmity or incapacity, or whether the applicant or licensee is unable to perform the duties of a certified shorthand reporter due to the abuse of chemical substances or alcohol. Where a medical determination is made that an impairment exists, and the finding is reported to the board, the board shall deny any application and any license shall be automatically suspended. The denial of an application on these grounds shall be subject to Sections 11504 and 11504.5 of the Government Code. The licensee may request a hearing to contest an automatic suspension of licensure under this section by sending a written request for hearing to the offices of the board within 12 days of the date that the board mails a notice of suspension to the licensee. If a hearing is requested, it shall be convened within 30 days after the receipt by the board of the written request 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. The sole issue for determination in the hearing, whether for denial or suspension of license, shall be whether the applicant or licensee is incapable of performing the duties of a certified shorthand reporter due to physical or mental infirmity or incapacity, or whether the applicant or licensee is unable to perform the duties of a certified shorthand reporter due to the abuse of chemical substances or alcohol.

(d) For purposes of the hearing conducted pursuant to subdivision (c), the applicant or licensee shall, at a minimum, have the following rights:

(1) To be represented by counsel.
(2) To have a record made of the proceedings, copies of which may be obtained by the applicant or licensee upon payment of any reasonable charges associated with the record.
(3) To call, examine, and cross-examine witnesses.
(4) To present and rebut evidence determined to be relevant.
(5) To present oral argument.

(e) The statutory period governing reapplication for licensure following denial of the application as set forth in Section 486 shall not apply to licenses denied under this section.

SEC. 7. Section 17770 of the Business and Professions Code is amended to read:

17770. All fees and penalties and all receipts of any kind and nature received under the provisions of this chapter, shall be paid into the State Treasury and shall be credited to the State Corporations Fund.

SEC. 8. Section 19549.9 of the Business and Professions Code is amended to read:

19549.9. Notwithstanding subdivision (d) of Section 19531 and Section 19549, the board may allocate up to 10 additional weeks of harness racing to the Los Angeles County Fair, or its lessee, to be raced at the fairgrounds in Pomona.

SEC. 9. 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 1250) 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.

SEC. 10. 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.

(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.

SEC. 11. Section 798.17 of the Civil Code is amended to read:

798.17. (a) Rental agreements meeting the criteria of
subdivision (b) shall be exempt from any ordinance, rule, regulation,
or initiative measure adopted by any local governmental entity
which establishes a maximum amount that a landlord may charge a
tenant for rent. The terms of such a rental agreement shall prevail
over conflicting provisions of such an ordinance, rule, regulation, or
initiative measure limiting or restricting rents in mobilehome parks
only during the term of the rental agreement or one or more
uninterrupted, continuous extensions thereof. If the rental
agreement is not extended and no new rental agreement in excess
of 12 months’ duration is entered into, then the last rental rate
charged for the space under the previous rental agreement shall be
the base rent for purposes of applicable provisions of law concerning
rent regulation, if any.

The first paragraph of a rental agreement entered into pursuant
to this section shall contain a provision notifying the homeowner that
the rental agreement will be exempt from any ordinance, rule,
regulation, or initiative measure adopted by any local governmental
entity which establishes a maximum amount that a landlord may
charge a tenant for rent.

(b) Rental agreements subject to this section shall meet all of the
following criteria:

(1) The rental agreement shall be in excess of 12 months’
duration.

(2) The rental agreement shall be entered into between the
management and a homeowner for the personal and actual
residence of the homeowner.

(3) The homeowner shall have at least 30 days from the date the
rental agreement is first offered to the homeowner to accept or
reject the rental agreement.

(4) The homeowner who executes a rental agreement offered
pursuant to this section may void the rental agreement by notifying
management in writing within 72 hours of the homeowner’s
execution of the rental agreement.

(c) The homeowner shall have the option to reject the offered
rental agreement and instead accept a rental agreement for a term
of 12 months or less from the date the offered rental agreement begins. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month-to-month rental agreement, the rental agreement shall contain the same "rental charges" terms and conditions as the offered rental agreement during the first 12 months, except for options contained in the offered rental agreement to extend or renew the rental agreement.

(d) Nothing in subdivision (c) shall be construed to prohibit the management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

(e) With respect to any space in a mobilehome park which is exempt under subdivision (a) from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the mobilehome park shall be exempt from any fee or other exaction imposed pursuant to such an ordinance, rule, regulation, or initiative measure or imposed for the purpose of defraying the cost of administration thereof.

(f) At the time the rental agreement is first offered to the homeowner, the management shall provide written notice to the homeowner of the homeowner’s right (1) to have at least 30 days to inspect the rental agreement, and (2) to void the rental agreement by notifying management in writing within 72 hours of the acceptance of a rental agreement. The failure of the management to provide the written notice shall make the rental agreement voidable at the homeowner’s option upon the homeowner’s discovery of the failure. The receipt of any written notice provided pursuant to this subdivision shall be acknowledged in writing by the homeowner.

(g) This section does not apply to or supersede other provisions of this part or other state law.

SEC. 12. Section 1714.10 of the Civil Code is amended to read:

1714.10. (a) No cause of action against an attorney for a civil conspiracy with his or her client arising from any attempt to contest or compromise a claim or dispute, and which is based upon the attorney’s representation of the client, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes the claim for civil conspiracy to be filed after the court determines that the party seeking to file the pleading has established that there is a reasonable probability that the party will prevail in the action. The court may allow the filing of a pleading claiming liability based upon such a civil conspiracy following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed
pleading, and accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.

(b) Failure to obtain a court order where required by subdivision (a) shall be a defense to any action for civil conspiracy filed in violation thereof. The defense shall be raised by the party charged with civil conspiracy upon that party's first appearance by demurrer, motion to strike, or such other motion or application as may be appropriate. Failure to timely raise the defense shall constitute a waiver thereof.

(c) This section shall not apply to a cause of action against an attorney for a civil conspiracy with his or her client, where (1) the attorney has an independent legal duty to the plaintiff, or (2) the attorney's acts go beyond the performance of a professional duty to serve the client and involve a conspiracy to violate a legal duty in furtherance of the attorney's financial gain.

SEC. 13. 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 of merchandise, 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.
SEC. 14. 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) of 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. 15. Section 4801 of the Civil Code is amended to read:

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

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

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

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

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

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

The amendments made to this subdivision by Chapter 1086 of the
Statutes of 1987 apply in those proceedings pending on January 1,
1988, in which the court has not entered a permanent spousal support
order or in which the court order is subject to modification, and to
any case filed on or after January 1, 1988.

(e) In any proceeding under this section the court may order
either party to submit to an examination by a vocational training
counselor. The examination shall include an assessment of the party's
ability to obtain employment based upon the party's age, health,
education, marketable skills, employment history, and the current
availability of employment opportunities. The focus of the
examination shall be on an assessment of the party's ability to obtain
employment that would allow the party to maintain herself or
himself at the marital standard of living. The order may be made only
on motion, for good cause shown, and upon notice to the party to be
examined and to all parties, and shall specify the time, place, manner,
conditions, scope of the examination, and the person or persons by
whom it is to be made. The party refusing to comply with such an order shall be subject to the same consequences provided for failure to comply with an examination ordered pursuant to Section 2032 of the Code of Civil Procedure.

(f) For the purposes of this section, "vocational training counselor" means an individual with sufficient knowledge, skill, experience, training, or education in interviewing, administering and interpreting tests for analysis of marketable skills, formulating career goals, planning courses of training and study, and assessing the job market, to qualify as an expert in vocational training under Section 720 of the Evidence Code.

A vocational training counselor shall have at least the following qualifications:

(1) A master's degree in the behavioral sciences.
(2) Be qualified to administer and interpret inventories for assessing career potential.
(3) Demonstrated ability in interviewing clients and assessing marketable skills with understanding of age constraints, physical and mental health, previous education and experience, and time and geographic mobility constraints.
(4) Knowledge of current employment conditions, job market, and wages in the indicated geographic area.
(5) Knowledge of education and training programs in the area with costs and time plans for these programs.
(g) The court may order the supporting spouse to pay, in addition to spousal support, the necessary expenses and costs of the counseling, retraining, or education.

SEC. 16. Section 473 of the Code of Civil Procedure is amended to read:

473. The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this code.

When it appears to the satisfaction of the court that the amendment renders it necessary, the court may postpone the trial, and may, when the postponement will by the amendment be rendered necessary, require, as a condition to the amendment, the payment to the adverse party of such costs as may be just.

The court may, upon such terms as may be just, relieve a party or his or her legal representative from a judgment, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be
granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, order or proceeding was taken; provided, however, that, in the case of a judgment, order or other proceeding determining the ownership or right to possession of real or personal property, without extending the six-month period, when a notice in writing is personally served within the State of California both upon the party against whom the judgment, order or other proceeding has been taken, and upon his or her attorney of record, if any, notifying that party and his or her attorney of record, if any, that the order, judgment or other proceeding was taken against him or her and that any rights the party has to apply for relief under the provisions of Section 473 of the Code of Civil Procedure shall expire 90 days after service of the notice, then the application shall be made within 90 days after service of the notice upon the defaulting party or his or her attorney of record, if any, whichever service shall be later. No affidavit or declaration of merits shall be required of the moving party. Notwithstanding any other requirements of this section, the court shall, whenever an application for relief is made no more than six months after entry of judgment, is in proper form, and is accompanied by an attorney’s sworn affidavit attesting to his or her mistake, inadvertence, surprise, or neglect, vacate any (1) resulting default entered by the clerk against the attorney’s client, and which will result in entry of a default judgment, or (2) resulting default judgment entered against the attorney’s client, unless the court finds that the default was not in fact caused by the attorney’s mistake, inadvertence, surprise, or neglect. The court shall, whenever relief is granted based on an attorney’s affidavit of fault, direct the attorney to pay reasonable compensatory legal fees and costs to opposing counsel or parties.

Whenever the court grants relief from a default or default judgment based on any of the provisions of this section, the court may: (1) impose a penalty of no greater than one thousand dollars ($1,000) upon an offending attorney or defaulting party, (2) direct that an offending attorney pay an amount no greater than one thousand dollars ($1,000) to the State Bar Client Security Fund, or (3) grant such other relief as is appropriate.

However, where the court grants relief from a default or default judgment pursuant to this section based upon the affidavit of the defaulting party’s attorney attesting to the attorney’s mistake, inadvertence, surprise, or neglect, the relief shall not be made conditional upon the attorney’s payment of compensatory legal fees or costs or monetary penalties imposed by the court or upon compliance with other sanctions ordered by the court.

The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order.

SEC. 17. Section 1201 of the Commercial Code is amended to

57540
read:

1201. Subject to additional definitions contained in the subsequent divisions of this code which are applicable to specific divisions or chapters thereof, and unless the context otherwise requires, in this code:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this code (Sections 1205 and 2208). Whether an agreement has legal consequences is determined by the provisions of this code, if applicable; otherwise by the law of contracts (Section 1103). (Compare "contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and which, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "bill of lading" is conclusive evidence of such intention. "Bill of lading" includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or mineralhead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for, or in total or partial satisfaction of, a money debt.
(10) "Conspicuous." A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this code and any other applicable rules of law. (Compare "agreement").

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, compress receipt, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. To be a document of title, a document shall purport to be issued by a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this code to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or a certificated investment security drawn, issued or indorsed to him or her or to his or her order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or
rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his or her debts in the ordinary course of business or cannot pay his or her debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when any of the following occurs:

(a) He or she has actual knowledge of it.
(b) He or she has received a notice or notification of it.
(c) From all the facts and circumstances known to him or her at the time in question, he or she has reason to know that it exists. A person "knows" or has "knowledge" of a fact when he or she has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this code.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when any of the following occurs:

(a) It comes to his or her attention.
(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his or her attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of his or her regular duties or unless he or she has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this division.

(30) "Person" includes an individual or an organization. (See
Section 1102.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) (a) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to Division 9 (commencing with Section 9101). The special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with Division 9 (commencing with Section 9101). Unless a consignment is intended as security, reservation of title thereunder is not a "security interest," but a consignment in any event is subject to the provisions on consignment sales (Section 2326).

(b) Whether a transaction creates a lease or security interest is determined by the facts of each case. However, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and any of the following occurs:

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods.

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods.

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(c) A transaction does not create a security interest merely because it provides for any of the following:

(i) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into.

(ii) The lessee assumes risk of loss of the goods, or agrees to pay
taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods.

(iii) The lessee has an option to renew the lease or to become the owner of the goods.

(iv) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed.

(v) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(d) For purposes of this subdivision (37):

(i) Additional consideration is not nominal if (A) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (B) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee’s reasonably predictable cost of performing under the lease agreement if the option is not exercised.

(ii) “Reasonably predictable” and “remaining economic life of the goods” are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

(iii) “Present value” means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) “Send” in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending. When a writing or notice is required to be sent by registered or certified mail, proof of mailing is sufficient, and proof of receipt by the addressee is not required unless the words “with return receipt requested” are also used.

(39) “Signed” includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) “Surety” includes guarantor.
(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value." Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3303, 4208 and 4209), a person gives "value" for rights if he or she acquires them in any of the following ways:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection.

(b) As security for, or in total or partial satisfaction of, a preexisting claim.

(c) By accepting delivery pursuant to a preexisting contract for purchase.

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a document evidencing the receipt of goods for storage issued by a warehouseman (Section 7102), and which, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "warehouse receipt" is conclusive evidence of such intention.

(46) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

SEC. 18. Section 25604 of the Corporations Code is amended to read:

25604. The administration of the Department of Corporations shall be supported from the State Corporations Fund.

SEC. 19. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the State Corporations Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to paragraph (5) of subdivision (h) of Section 25102, the fee for filing a notice pursuant to paragraph (4) of subdivision (f) of Section 25102, and the fee for filing a notice pursuant to paragraph (6) of subdivision (h) of Section 25103, in addition to the fee prescribed in those paragraphs, if applicable, shall be determined based on the value of the securities proposed to be sold in the transaction for which the notice is filed and
in accordance with subdivision (g), and shall be as follows:

Value of Securities

<table>
<thead>
<tr>
<th>Proposed to be Sold</th>
<th>Filing Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$25,000 or less</td>
<td>$25</td>
</tr>
<tr>
<td>$25,001 to $100,000</td>
<td>$35</td>
</tr>
<tr>
<td>$100,001 to $500,000</td>
<td>$50</td>
</tr>
<tr>
<td>$500,001 to $1,000,000</td>
<td>$150</td>
</tr>
<tr>
<td>Over $1,000,000</td>
<td>$300</td>
</tr>
</tbody>
</table>

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (k)) is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

1. The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater.

2. Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

3. The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for that warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if the latter amount is not determinable at the time of qualification, that amount shall be the then value of the additional securities as determined by the commissioner.

4. In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash.
(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) Two hundred dollars ($200) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities.

(2) Two hundred dollars ($200) plus one-fifth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of two thousand five hundred dollars ($2,500), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be one hundred dollars ($100).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(l) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner’s consent to the transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing the securities pursuant to subdivision (h) of Section 25102, is twenty dollars ($20) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit actually incurred or anticipated in the administration of the program.
in the year in which the assessment is made. The pro rata share shall be the proportion which the broker-dealer and the number of its agents in this state bears to the aggregate number of broker-dealers and agents in this state as shown by records maintained by or on behalf of the commissioner. The pro rata share may include the costs of any examination, audit, or investigation provided for in subdivision (r).

(3) On or before the 30th day of May in each year, the commissioner shall notify each broker-dealer by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(4) In the levying and collection of the assessment, a broker-dealer shall not be assessed for, nor be permitted to pay, less than seventy-five dollars ($75) per year.

(5) In determining the amount assessed, the commissioner shall consider all appropriations from the State Corporations Fund for the support of the broker-dealer program under this division and all reimbursements applicable to the administration of the broker-dealer program under this division.

(6) If a broker-dealer fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may, by order, summarily suspend or revoke the certificate issued to the broker-dealer. If, after that order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a broker-dealer shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided under this division.

(p) The commissioner shall charge a fee of twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is one hundred twenty-five dollars ($125), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep the certificate in effect for an additional period, pay a renewal fee of one hundred twenty-five dollars ($125) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the
actual amount of expenses, including overhead, reasonably incurred in the performance of the work.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding the hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his or her authority. The charges shall not apply to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of the filing fee payable under subdivision (e), (f), (h), or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (l) of Section 25100 is two hundred fifty dollars ($250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by that rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

SEC. 20. Section 27006 of the Corporations Code is amended to read:

27006. The administration of this division shall be supported from the State Corporations Fund.

SEC. 21. Section 27103 of the Corporations Code is amended to read:

27103. For filing the application the applicant shall pay the commissioner a fee of twenty-five dollars ($25). All such fees charged and collected by the commissioner shall be paid into the State Treasury and credited to the State Corporations Fund.

SEC. 22. 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 State Corporations 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).

SEC. 23. Section 8803 of the Education Code is amended to read:
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 Grant 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 and 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, assisting the local educational agency or consortium in planning and implementing this program, including assisting with local advocacy and problem solving, and developing agency collaboration.

SEC. 24. Section 8804 of the Education Code is amended to read:
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 than 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 (commencing with Section 8806), 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 all of the following:

(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.

SEC. 25. 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 32290).

(b) An evaluation of the extent to which the statewide interagency school safety cadre has 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. 26. Section 41204 of the Education Code is amended to read:

41204. (a) It is the intent of the Legislature, pursuant to "The Classroom Instructional Improvement and Accountability Act," that school districts, as defined in Section 41302.5, and community college districts, as constituted during 1986–87 fiscal year, annually receive a basic minimum portion of the revenues that is equivalent to the percentage of revenues that were deposited to the General Fund in that year.

(b) In recognition of this intent, it is further the intent of the Legislature that both houses and the Governor be guided by the following:

(1) If the revenues of a tax that were deposited in the General Fund in the 1986–87 fiscal year are redirected to another fund, or level of government, then the percentages of General Fund revenues required to be applied by the state for the support of school districts, community college districts, and state agencies providing direct elementary and secondary level instructional services shall be recalculated as if those revenues were not deposited in the General Fund in the 1986–87 fiscal year.

(2) If the allocated local proceeds of taxes, as defined by
subdivisions (g) and (h) of Section 41202, received by a school district or community college district during the 1986–87 fiscal year are redirected to other entities or statutorily or constitutionally reduced or eliminated, the additional General Fund support provided to replace the allocated local proceeds of taxes may not be counted as General Fund revenues required to be applied for the support of school districts, community college districts, and state agencies providing direct elementary and secondary level instructional services pursuant to paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, unless the percentage of General Fund revenues appropriated to school districts, community college districts, and state agencies providing direct elementary and secondary level instructional services in the 1986–87 fiscal year is adjusted to reflect the amount of General Fund support that would have been provided in the 1986–87 fiscal year had the allocated local proceeds of taxes been correspondingly reduced.

(3) If a program of a school district, as defined in Section 41302.5, or of a community college district was supported by state funds from a source other than the General Fund during the 1986–87 fiscal year and General Fund moneys are subsequently provided in support of the program and in lieu of the other source of funds, the supplanting General Fund revenues shall not be counted as monies to be applied by the state for the support of school districts or community college districts pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution.

(c) Programs that existed in the 1986–87 fiscal year, and were not the functional responsibility of school districts or community college districts in that fiscal year, shall not be shifted to the responsibility or financial support of school districts or community college districts without appropriate corresponding adjustment to the calculations made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution. Nothing in this subdivision shall be construed to prevent the creation of a new educational program that is supported by a General Fund appropriation made in conformity with subdivision (b) of Section 8 of Article XVI of the California Constitution.

(d) Enrollment, average daily attendance, or average daily attendance equivalents used for the purpose of calculating "increases in enrollment" pursuant to paragraph (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution shall not be redefined, adjusted, or otherwise recalculated unless the appropriate action is taken to neutralize the effect of the change with respect to the adjustment required to be made for increases in enrollment.

SEC. 27. 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 paragraphs (1), (2), and (3) of subdivision (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. 28. Section 66015 of the Education Code is amended to read:

66015. It is the intent of the Governor and the Legislature, in cooperation with the Trustees of the California State University, to do both of the following:

(a) Place a major priority on resolving the serious problem of impacted and overcrowded classes, not only with respect to the California State University, but throughout public postsecondary education.

(b) Ensure that needy students receive financial aid sufficient to cover the cost of fee increases for the 1991–92 academic year. The Trustees of the California State University shall provide to the Legislature and the Governor, by January 1, 1992, documentation verifying the extent to which this provision has been satisfied.

SEC. 29. Section 3520 of the Elections Code is amended to read:

3520. (a) Each section of the petition shall be filed with the
elections official of the county or city and county in which it was
circulated, but all sections circulated in any county or city and county
shall be filed at the same time. Once filed, no petition section shall
be amended except by order of a court of competent jurisdiction.

(b) Within eight days, excluding Saturdays, Sundays, and holidays,
after the filing of the petition, the elections official shall determine
the total number of signatures affixed to the petition and shall
transmit this information to the Secretary of State. If the total
number of signatures filed with all elections officials is less than 100
percent of the number of qualified voters required to find the
petition sufficient, the Secretary of State shall so notify the
proponents and the elections officials and no further action shall be
taken in regard to the petition.

(c) If the number of signatures filed with all elections officials is
100 percent or more of the number of qualified voters needed to
declare the petition sufficient, the Secretary of State shall
immediately so notify the elections officials.

(d) Within 30 days after this notification, excluding Saturdays,
Sundays, and holidays, the elections official shall determine the
number of qualified voters who have signed the petition. If more
than 500 names have been signed on sections of the petition filed
with an elections official, the elections official shall use a random
sampling technique for verification of signatures, as determined by
the Secretary of State. The random sample of signatures to be
verified shall be drawn in such a manner that every signature filed
with the elections official shall be given an equal opportunity to be
included in the sample. The random sampling shall include an
examination of at least 500 or 3 percent of the signatures, whichever
is greater. In determining from the records of registration what
number of qualified voters have signed the petition, the elections
official may use the duplicate file of affidavits of registered voters or
the facsimiles of voters’ signatures, provided that the method of
preparing and displaying the facsimiles complies with law.

(e) The elections official, upon the completion of the
examination, shall immediately attach to the petition, except the
signatures thereto appended, a certificate properly dated, showing
the result of the examination and shall immediately transmit the
petition, together with the certificate, to the Secretary of State. A
copy of this certificate shall be filed in the elections official’s office.

(f) If the certificates received from all elections officials by the
Secretary of State establish that the number of valid signatures does
not equal 95 percent of the number of qualified voters needed to find
the petition sufficient, the petition shall be deemed to have failed to
qualify, and the Secretary of State shall immediately so notify the
proponents and the elections officials.

(g) If the certificates received from all elections officials by the
Secretary of State total more than 110 percent of the number of
qualified voters needed to find the petition sufficient, the petition
shall be deemed to qualify as of the date of receipt by the Secretary
of State of certificates showing the petition to have reached the 110
percent, and the Secretary of State shall immediately so notify the
proponents and the elections officials.

SEC. 30. Section 6555 of the Elections Code is amended to read:

6555. (a) Notwithstanding any other provision of this article, a
candidate may submit a petition containing signatures of registered
voters in lieu of a filing fee as follows:
(1) For the office of California State Assembly, 1,500 signatures.
(2) For the office of California State Senate and the United States
House of Representatives, 3,000 signatures.
(3) For candidates running for statewide office, 10,000 signatures.
(4) For all other offices for which a filing fee is required, if the
number of registered voters in the district in which he or she seeks
nomination is 2,000 or more, a candidate may submit a petition
containing four signatures of registered voters for each dollar of the
filing fee, or 10 percent of the total of registered voters in the district
in which he or she seeks nomination, whichever is less.
(5) For all other offices for which a filing fee is required, if the
number of registered voters in the district in which he or she seeks
nomination is less than 2,000, a candidate may submit a petition
containing four signatures of registered voters for each dollar of the
filing fee, or 20 percent of the total of registered voters in the district
in which he or she seeks nomination, whichever is less.
(6) Notwithstanding any other provision of this section, a
candidate seeking the nomination of a qualified party with whom he
or she is registered, the registered voters of which who were eligible
to vote at the last statewide election constituted less than 5 percent
of all registered voters eligible to vote at the last statewide election,
may submit a petition containing signatures of 10 percent of the
registered voters of that party in the district in which he or she seeks
nomination, or 150 signatures, whichever is less.
(7) A voter may sign both a candidate’s nomination papers and his
or her in-lieu-filing-fee petition. However, if signatures appearing on
the documents are counted towards both the nomination paper and
the in-lieu-filing-fee petition signature requirements, a person may
only sign one of the documents.

(b) The Secretary of State or an elections official shall furnish to
each candidate, upon request, and without charge therefor, forms for
securing signatures. The number of forms which the elections official
shall furnish a candidate shall be a quantity which provides the
candidates with spaces for signatures sufficient in number to equal
the number of signatures which the candidate is required to secure
pursuant to subdivision (a) if the candidate desires that number of
forms. However, the elections official may, rather than provide the
candidate with the number of forms set forth in the preceding
sentence, or, upon the request of a candidate, provide the candidate
with a master form, which may be duplicated by the candidate at the
candidate’s expense for the purpose of circulating additional
petitions. The Secretary of State shall provide the master form. The
elections official may provide candidates a form other than the master form provided by the Secretary of State. However, that form shall meet all statutory requirements, and the elections official shall also make available and accept the master form provided by the Secretary of State. All forms shall be made available commencing 45 days before the first day for circulating nomination papers. However, in cases of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than 45 days after the creation of the vacancy, the forms shall be made available within five working days after the creation of the vacancy. No other form except the form furnished by the Secretary of State or the elections official or forms duplicated from a master form shall be used to secure signatures. Each petition section shall bear an affidavit signed by the circulator, in substantially the same form as set forth in Section 6494. The substitution of signatures for fees shall be subject to the following provisions:

1. Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote.

2. If a voter signs more candidates' petitions than there are offices to be filled, the voter's signatures shall be valid only on those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

3. In-lieu-filing-fee petitions shall be filed at least 15 days prior to the close of the nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, or a sufficient combination of signatures and pro rata filing fee, the elections official shall issue nomination papers provisionally. Within 10 days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, either submit a supplemental petition, or pay a pro rata portion of the filing fee, to cover the deficiency.

4. If the petition is circulated for an office in more than one county, the candidate shall submit the signatures to the elections official in the county in which the petition was circulated. The elections official shall at least two days after verifying the signatures on the petition, notify the Secretary of State of the total number of valid signatures. If the number of signatures is insufficient, the Secretary of State shall notify the candidate and the elections officials of the fact. The candidate may submit the necessary number of valid signatures at any time prior to the close of the period for circulating nomination papers. Each circulator of an in-lieu-filing-fee petition shall be a registered voter of the district or political subdivision in which the candidate is to be voted on. The circulator shall serve within the county in which he or she resides.

5. Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.
(c) For the purposes of this section, the requisite number of signatures shall be computed from the latest registration figures forwarded to the Secretary of State pursuant to Section 607 prior to the first day on which petitions are available.

(d) All valid signatures obtained pursuant to this section shall be counted towards the number of voters required to sign a nomination paper in accordance with Section 6494.1 or 6834.1.

SEC. 31. The heading of Article 3 (commencing with Section 9210) of Chapter 3 of Part 3 of Division 7 of the Elections Code is repealed.

SEC. 32. Section 1876.1 of the Financial Code is amended to read:

1876.1. In this article:

(a) "Eligible security" means any United States currency eligible security or foreign currency eligible security.

(b) "Eligible securities rating service" means any securities rating service which the superintendent has by regulation or order declared to be an eligible securities rating service pursuant to Section 1876.5.

(c) "Eligible rating", when used with respect to any security or class of securities and any eligible securities rating service, means any rating assigned to the security, or class of securities, by the eligible securities rating service which the superintendent has by regulation or order declared to be an eligible rating pursuant to Section 1876.6.

(d) "Foreign currency eligible security" means any of the following which are, or are denominated in, a foreign currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 1876.3.

1. Any of the following which are of comparable quality to the United States currency eligible securities specified in paragraphs (1) to (7), inclusive, of subdivision (g):

(A) Cash.

(B) Any deposit in an office of a bank located in a foreign country.

(C) Any bond, note, or other obligation.

2. Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 1876.4.

(e) "Insured bank" means any bank the deposits of which are insured by the Federal Deposit Insurance Corporation. However, "insured bank" does not include any office of a foreign (other nation) bank, as defined in Section 1700, other than an office which is insured by the Federal Deposit Insurance Corporation.

(f) "Insured savings and loan association" means any savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

(g) "United States currency eligible security" means any of the following which are, or are denominated in, United States currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 1876.3.

1. Cash.
(2) Any deposit in an insured bank or an insured savings and loan association.

(3) Any bond, note, or other obligation which is issued or guaranteed by the United States or by any agency of the United States.

(4) Any bond, note, or other obligation which is issued or guaranteed by any state of the United States, or by any governmental agency of or within any state of the United States, and which is assigned an eligible rating by an eligible securities rating service.

(5) Any bankers acceptance which is eligible for discount by a federal reserve bank.

(6) Any commercial paper which is assigned an eligible rating by an eligible securities rating service.

(7) Any bond, note, or other obligation or preferred stock which is assigned an eligible rating by an eligible securities rating service.

(8) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 1876.4.

(9) Any account due to any licensee from any agent of the licensee on account of the sale by the agent of travelers checks issued by the licensee, which the superintendent has by order declared to be an eligible security for the licensee pursuant to Section 1876.7.

(h) "Value" means:

(1) When used with respect to an eligible security owned by a licensee which consists of an account due to the licensee from an agent of the licensee on account of the sale by the agent of travelers checks issued by the licensee which the superintendent has declared to be an eligible security for the licensee pursuant to Section 1876.7, net carrying value as determined in conformity with generally accepted accounting principles;

(2) When used with respect to any other eligible security owned by a licensee:

(A) In case the practice and policy of the licensee is to hold eligible securities to maturity, net carrying value as determined in conformity with generally accepted accounting principles;

(B) In any other case, market value.

SEC. 33. Section 14354 of the Financial Code is amended to read:

14354. All fees charged and collected under this division shall be paid at least once each week, accompanied by a detailed statement thereof, into the State Treasury to the credit of the State Corporations Fund.

SEC. 34. Section 17208 of the Financial Code is amended to read:

17208. All money received by the commissioner shall be paid by him or her into the State Treasury to the credit of the State Corporations Fund.

SEC. 35. Section 18104 of the Financial Code is amended to read:

18104. Except as otherwise authorized under existing law, no person, unless lawfully authorized to do business in this state under the provisions of this division and who is actually engaged in carrying
on an industrial loan business, shall:

(a) Do business under any name or title that contains the following terms:

1. "Industrial Loan Company."
2. "Investment and Loan Company."
3. "Thrift Company."
4. "Thrift and Loan Company."

(b) Use any name or sign, or circulate or use any letterhead, billhead, circular, or paper, whatever, or advertise or represent in any manner that indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an industrial loan business or is likely to lead any person to believe that the business is that of an industrial loan company.

SEC. 36. Section 18340 of the Financial Code is amended to read:

18340. All fees collected under this division shall be deposited in the State Treasury to the credit of the State Corporations Fund.

SEC. 37. Section 18341 of the Financial Code is amended to read:

18341. The administration of this division shall be supported out of the State Corporations Fund.

SEC. 38. Section 22212 of the Financial Code is amended to read:

22212. All money paid or collected under this division shall be deposited in the State Treasury to the credit of the State Corporations Fund. The administration of this division shall be supported out of the State Corporations Fund.

SEC. 39. Section 24212 of the Financial Code is amended to read:

24212. All money paid or collected under this division shall be deposited in the State Treasury to the credit of the State Corporations Fund. The administration of this division shall be supported out of the State Corporations Fund.

SEC. 40. Section 26212 of the Financial Code is amended to read:

26212. All money paid or collected under this division shall be deposited in the State Treasury to the credit of the State Corporations Fund. The administration of this division shall be supported out of the State Corporations Fund.

SEC. 41. Section 30203 of the Financial Code is amended to read:

30203. All money received by the commissioner shall be paid by him or her into the State Treasury to the credit of the State Corporations Fund.

SEC. 42. Section 10740 of the Fish and Game Code is amended to read:

10740. It is unlawful for any person other than a legally constituted peace officer or officer or employee of the Forest Service of the United States Department of Agriculture, the department, or of the Department of Forestry and Fire Protection, or county fish and game wardens or their duly authorized representatives, to travel by motor boat, automobile, motorcycle, or other type of motorized vehicle, or, except for emergencies and for rescue and aerial search for rescue purposes, to land an airplane, helicopter, or similar equipment, within the boundaries of a primitive, wilderness, or wild
area closed to the above modes of travel as established by a duly authorized officer of the Forest Service of the United States Department of Agriculture and recorded in the office of the Regional Headquarters of the Pacific-Southwest Region of the Forest Service of the United States Department of Agriculture and with the department.

SEC. 43. Section 13132 of the Food and Agricultural Code, as amended and renumbered by Chapter 1227 of the Statutes of 1991, is amended and renumbered to read:

13133. If any provision of this article or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

SEC. 44. Section 55613 of the Food and Agricultural Code is amended to read:

55613. (a) If the director determines by February 1 of any year, commencing in 1992, that an acreage survey of the grape crop is desired by the processors and producers of grapes for wine, and if the producers and processors of grapes for raisins and the producers and packers of grapes for fresh market use agree to pay their proportionate share of the cost of the survey, as determined by the director, the director shall conduct the survey. The director shall implement subdivision (f) of Section 55601.6 to fund the wine industry's proportionate costs of the survey. If an acreage survey is conducted, the results of the survey shall be printed and made available on or before May 30 of the year in which it is conducted.

(b) The department shall reimburse any processor or producer of grapes for wine to cover the costs incurred by any of those persons to fund the wine industry's proportionate share of an acreage survey in 1991, from funds collected pursuant to subdivision (f) of Section 55601.6.

(c) For purposes of this section, "acresage survey" means an accumulation of plant removals, new plantings, and graftings to provide reliable information on the changing character of the state's grape industry. This information shall be tabulated for each county and on a statewide basis and for each variety of grapes.

SEC. 45. Section 850.8 of the Government Code is amended to read:

850.8. Any member of an organized fire department, fire protection district, or other firefighting unit of either the state or any political subdivision, any employee of the Department of Forestry and Fire Protection, or any other public employee when acting in the scope of his or her employment, may transport or arrange for the transportation of any person injured by a fire, or by a fire protection operation, to a physician and surgeon or hospital if the injured person does not object to the transportation.

Neither a public entity nor a public employee is liable for any injury sustained by the injured person as a result of or in connection
with that transportation or for any medical, ambulance, or hospital
bills incurred by or in behalf of the injured person or for any other
damages, but a public employee is liable for injury proximately
caused by his or her willful misconduct in transporting the injured
person or arranging for the transportation.

SEC. 46. Section 926.17 of the Government Code is amended to
read:

926.17. (a) (1) A state agency which acquires property or
services pursuant to a contract, including any approved change
order, with a business shall pay for each complete delivered item of
property or service on the date required by contract between the
business and agency or be subject to an interest penalty fee. If no
date for payment is specified by contract, the state agency shall pay
the contractor directly, if authorized to do so, within 50 calendar
days after the postmark date of the invoice. If the state agency is not
authorized to pay the contractor directly, the state agency shall
forward the invoice for payment to the Controller within 35 calendar
days after the postmark date of the invoice. The Controller shall pay
the contractor within 15 calendar days of receipt of the invoice from
the state agency.

(2) If, due to insufficient funds, a state agency is unable to meet
the payment deadlines provided for in paragraph (1) under a
contract for goods or services needed due to a natural disaster,
including, but not limited to, fires, floods, or earthquakes, payment
under the contract shall not be due until 30 calendar days after the
agency has received sufficient funds to pay the contractor.

(3) If, by applying paragraphs (1) and (2), a payment under a
contract with the Department of Forestry and Fire Protection would
become due during the annually declared fire season, as declared by
the Director of Forestry and Fire Protection, the payment shall not
be due until 30 calendar days after the date upon which it would
otherwise have been due.

(4) The acquisition of property includes the rental of real or
personal property.

(b) (1) An interest penalty fee shall accrue and be charged on
payments overdue under subdivision (a) at a rate of 1 percent above
the rate accrued on June 30th of the prior year by the Pooled Money
Investment Account, but not to exceed 15 percent.

The interest penalty fee shall begin on the day after payment is
due if the payment due date is specified by contract. If no payment
date is specified by contract and the state agency is authorized to pay
the contractor directly, the interest penalty fee shall begin to accrue
on the 51st calendar day after the postmark date of the invoice and
shall be paid for out of the contracting state agency’s funds.

If no payment date is specified by contract and the state agency
is not authorized to pay the contractor directly and the state agency
has not forwarded the invoice to the Controller’s office for payment
by the 35th calendar day after the postmark date of the invoice, an
interest penalty fee shall begin to accrue on the 36th calendar day
after the postmark date of the invoice and shall be paid for out of the contracting state agency's funds. The state agency's liability ends on the date a properly submitted invoice is received by the Controller.

After the invoice is forwarded to the Controller's office from the contracting state agency, an interest penalty fee shall begin to accrue on the 16th calendar day after receipt of a properly submitted invoice by the Controller's office and shall be paid for out of the Controller's funds. The interest penalty fee ceases to accrue on the date full payment is made.

(2) A state agency shall not seek additional appropriations to pay interest which accrues as a result of an agency's failure to make payments as required by subdivision (a).

(3) When a state agency is required by this section to pay a penalty, it shall be presumed that the fault is that of the head of the state agency and, in such cases, the head of the state agency shall submit to the Legislature a written report on the actions taken to correct the problem.

(c) A court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section where it is found that the state agency has violated this section. The costs and fees shall be paid by the state agency at fault and shall not become a personal economic liability of any public officer or employee thereof.

(d) If the state agency's failure to make payment as required by subdivision (a) is the result of a dispute between the agency and the business over the amount due or over compliance with the contract, the 35 and 50 calendar days specified in subdivision (a) shall begin on the date the dispute is settled either by mutual agreement between the contracting parties or by receipt of a corrected invoice. A state agency may dispute an invoice if the state agency so notifies the contractor within 15 calendar days of receipt of the invoice.

(e) For the purposes of this section, "invoice" means a document seeking payment on a contract and which contains a detailed list of goods shipped or services rendered, with an accounting of all costs.

(f) This section shall not apply to claims for reimbursement for health care services provided under the Medi-Cal program, as established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(g) Section 926.10 shall not apply to any contract covered by this section.

(h) This section shall not apply to any contract covered by Section 926.15.

(i) A state agency shall not make interest penalty fee payments of less than five dollars ($5).

SEC. 47. Section 8597 of the Government Code is amended to read:

8597. Whenever a state of emergency is proclaimed to exist within any region or area, or whenever a state of war emergency exists, the following classes of state employees who are within the
region or area proclaimed or who may be assigned to duty therein shall be peace officers and shall have the full powers and duties of those officers for all purposes as provided by Section 830.1 of the Penal Code, and shall perform those duties and exercise any powers which are appropriate or which may be directed by their superior officers:

(a) All members of the California Highway Patrol.

(b) All deputies of the Department of Fish and Game who have been appointed to enforce the provisions of the Fish and Game Code pursuant to Section 851 of that code.

(c) The Director of Forestry and Fire Protection and the classes of the Department of Forestry and Fire Protection who are designated by the Director of Forestry and Fire Protection as having the powers of peace officers pursuant to Section 4156 of the Public Resources Code.

(d) All members of the California State Police Division.

(e) Peace officers who are state employees within the provisions of Section 830.5 of the Penal Code.

SEC. 48. 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 Transportation, 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.

SEC. 49. Section 12945.2 of the Government Code is amended 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) of paragraph (1), 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. 50. Section 14562.4 of the Government Code is amended to read:

14562.4. Any revenues contained in the State Highway Account in the State Transportation Fund during the period ending June 30, 2000, for which the notes are outstanding, are available for the payment of those notes and the interest on them until they are fully paid and discharged. There shall be created a first lien and security interest on revenues derived from the motor vehicle fuel license tax and the use fuel tax in the State Highway Account to secure all notes issued under this article. No notes issued pursuant to this article shall be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this article. Every note issued pursuant to this article shall contain a recital on its face stating that neither the payment of the principal nor any part of it, nor any interest on it, constitutes a debt, liability, or general obligation of the State of California other than as provided in this article. The commission may not pledge the credit or taxing power of the state.

SEC. 51. Section 15399.37 of the Government Code is amended to read:

15399.37. The council shall submit “Toward the 21st Century—A California Strategic Plan for Technology Development and Deployment” along with any comments regarding the plan to the Governor and the Legislature by December 31, 1992.

SEC. 52. Section 18004 of the Government Code is amended to read:

18004. (a) Any report, study, audit, evaluation, survey, or similar document prepared by any state officer or state agency, which discloses any change in the numbers of state employees or personnel years over any period of time, shall also segregate the numbers of counted state employees or personnel years which are attributable to positions which are fully reimbursed by a local government agency pursuant to a contract with the Department of Forestry and Fire Protection.

(b) Those positions attributed to local government contracts with the Department of Forestry and Fire Protection shall not be subject to state personnel ceilings and hiring freezes.

SEC. 53. Section 18930 of the Government Code is amended to read:

18930. Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors actually to perform the duties of the class of position for which they seek appointment.

Examinations for managerial positions, except for career executive assignments as defined in Section 18547, peace officers defined in subdivision (a) of Section 830.2 of the Penal Code, and managerial positions of the Department of Forestry and Fire Protection in the classes of State Forest Ranger IV and Assistant Deputy State Forester, shall be held on an open basis unless the appointing
authority determines otherwise. "Managerial position" means those positions having the duties which are defined under "managerial employees" in subdivision (e) of Section 3513. When an open examination is administered for a noncareer executive assignment managerial position, the names of the applicants who pass the examination with a passing score shall be placed on one list and ranked in the relative order of the examination score received.

Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skill, or any combination of these; and any investigation of character, personality, education, and experience and any tests of intelligence, capacity, technical knowledge, manual skill, or physical fitness which the board deems are appropriate, may be employed.

SEC. 54. Section 19846 of the Government Code is amended to read:

19846. (a) It is the policy of the state that the normal workweek of permanent employees in fire suppression classes of the Department of Forestry and Fire Protection shall not exceed 84 hours a week. Work in excess of the designated normal workweek may be compensated for in cash or compensating time off in accordance with the regulations of the department.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 55. Section 20017.6 of the Government Code is amended to read:

20017.6. "State safety member" also includes members employed in the Department of Forestry and Fire Protection, whose principal duties consist of active fire suppression or supervision, including, but not limited to, members employed to perform duties now performed under the following titles: State Forester; all classes of rangers; all classes of deputy state forester; all classes of fire prevention and law enforcement officers; all classes of foresters; fire captain; all classes of fire crew foreman; all classes of forestry trainees; all classes of forestry equipment and civil engineers; forestry superintendent, conservation camps; fire apparatus engineer; fireman, C.D.F.; firefighter (seasonal); equipment maintenance foreman; heavy fire equipment operator. However, forestry members shall not include members employed in classes other than those set forth in this section whose principal duties are clerical or such as otherwise clearly do not fall within the scope of active fire suppression.

SEC. 56. Section 20750.22 of the Government Code is repealed.

SEC. 57. Section 20755.2 of the Government Code is repealed.

SEC. 58. Section 20862.7 of the Government Code is amended to read:
20862.7. Notwithstanding any other provision of law, any employee who voluntarily resigns from state service during the period January 1, 1980, through June 30, 1980, shall be credited at retirement with additional service credit pursuant to Section 20862.5 for sick leave accumulated while employed by the state and assumed and maintained by the county pursuant to the agreement with the Department of Forestry and Fire Protection, and certified as unused to the board by the county. County employees having accumulated sick leave credits for both state and county service shall be deemed to draw from county earned sick leave balances existing at the time sick leave is taken prior to the drawing from state earned balances.

This section applies only to probationary and permanent employees of the Department of Forestry and Fire Protection assigned to the Orange Ranger Unit who, before the June 30, 1980, cancellation of the local government fire protection contract between the department and the County of Orange, voluntarily resign from state service and accept similar employment by Orange County in a fire protection organization.

SEC. 59. Section 21235.5 of the Government Code is amended to read:

21235.5. (a) On an annual basis, the board shall transfer the lesser of either of the following:

(1) The amount necessary to increase all monthly allowances paid by the system to 75 percent of the purchasing power of the initial monthly allowances.

(2) Up to 1.1 percent of the net earnings on member contributions, as determined by Section 20132.6, to a supplemental account.

(b) The funds so transferred to the supplemental account shall be utilized to increase all monthly allowances paid by the system up to a maximum of 75 percent of the purchasing power, as determined by the actuary, of the initial monthly allowances that were received by every retired person or survivor or beneficiary of a state, school or local member or retired person who was eligible to receive any allowance at the end of each fiscal year. Funds remaining in the account after the payment of benefits under this section shall be transferred to the employer accounts.

SEC. 60. Section 26205.1 of the Government Code is amended to read:

26205.1. (a) The county officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause to be destroyed any or all of the records, documents, instruments, books, and papers if all of the following conditions exist:

(1) The board of supervisors of the county has adopted a resolution authorizing the county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. The resolution may impose conditions, in addition to those specified in this subdivision, which the board of supervisors determines are appropriate.
(2) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted pursuant to paragraph (1) shall maintain for the use of the public a photographic or microphotographic film, electronic recorded video production, a record contained in the electronic data-processing system, a record recorded on optical disk, a record recorded by any other medium which does not permit additions, deletions, or changes to the original document, or other duplicate of the record, document, instrument, book, or paper destroyed.

(3) The record, paper or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data-processing system, recorded on optical disk or reproduced on film or any other medium which does not permit additions, deletions, or changes to the original document and is produced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(b) Paragraphs (2) and (3) of subdivision (a) do not apply to records prepared or received other than pursuant to a state statute or county charter, or records which are not expressly required by law to be filed and preserved.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

(c) The county clerk having custody of the original or a copy of the articles of any corporation may cause the destruction of any or all the documents. "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

(d) Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data-processing system, on optical disk, or on any other medium which does not permit additions, deletions, or changes to the original document shall also be separately maintained.

SEC. 61. Section 31460.1 of the Government Code is amended to read:

31460.1. "Compensation" shall not include employer payments, including cash payments, made to, or on behalf of, their employees who have elected to participate in a flexible benefits program, where
those payments reflect amounts that exceed their employees' salaries.

This section shall not be operative in any county until the time the board of supervisors, by resolution adopted by a majority vote, makes this section applicable in that county.

SEC. 62. Section 31680.6 of the Government Code is amended to read:

31680.6. Notwithstanding Section 31680.2, any county subject to Section 31680.2 may, upon adoption of a resolution by a majority vote by the board of supervisors, extend the period of time provided for in Section 31680.2 for which a person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, to not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

SEC. 63. Section 53114.1 of the Government Code is amended to read:

53114.1. To accomplish the responsibilities specified in this article, the Communications Division is directed to consult at regular intervals with the State Fire Marshal, the State Department of Health Services, the Governor's Office of Traffic Safety, the Office of Emergency Services, the California Council on Criminal Justice, the public utilities in this state providing telephone service, the Associated Public Safety Communications Officers, the Emergency Medical Services Authority, the California Highway Patrol, and the Department of Forestry and Fire Protection. These agencies shall provide all necessary assistance and consultation to the Communications Division to enable it to perform its duties specified in this article.

SEC. 64. Section 53313.8 of the Government Code, as added by Chapter 1451 of the Statutes of 1982, is amended and renumbered to read:

53313.1. To the extent that any capital facility is provided under this chapter, a duplicate levy, impact fee, or other exaction may not be required for the same purpose under Section 66477.

SEC. 65. Section 53313.8 of the Government Code, as added by Chapter 29 of the Statutes of 1991, is amended to read:

53313.8. Pursuant to Section 53313.5, a community facilities district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for the purposes described in subdivision (f) of Section 53313.

SEC. 66. Section 53314.6 of the Government Code is amended to read:
33314.6. (a) In connection with the financing of services and facilities pursuant to subdivision (f) of Section 33313 and Section 33313.8, the legislative body may establish a revolving fund to be kept in the treasury of the district. Except as provided in subdivision (b), moneys in the revolving fund shall be expended solely for the payment of costs with respect to those services and facilities. The revolving fund may be funded from time to time with moneys derived from any of the following:

(1) Proceeds of the sale of bonds issued pursuant to Article 5 (commencing with Section 33345), notwithstanding any limitation contained in Section 33345.3.

(2) Any taxes or charges authorized under this chapter.

(3) Any other lawful source.

(b) Subject to the provisions of any resolution, trust agreement or indenture providing for the issuance of district bonds for the purposes set forth in Section 33313.8, the legislative body may withdraw money from the revolving fund whenever and to the extent that it finds that the amount of money therein exceeds the amount necessary to accomplish the purposes for which the revolving fund was established. Any moneys withdrawn from the revolving fund shall be used to redeem bonds of the district issued for the purposes set forth in Section 33313.8 or shall be paid to taxpayers in the district in amounts which the legislative body determines.

SEC. 67. Section 54740.5 of the Government Code is amended to read:

54740.5. (a) The local agency may issue an administrative complaint to any person who violates any requirement adopted or ordered by a local agency pursuant to paragraph (1) or (2) of subdivision (a) of Section 54739. The administrative complaint shall allege the act or failure to act that constitutes the violation of the local agency’s requirements, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty.

(b) The administrative complaint shall be served by personal delivery or certified mail on the person subject to the local agency’s discharge requirements, and shall inform the person served that a hearing shall be conducted within 60 days after the person has been served. The hearing shall be before a hearing officer designated by the governing board of the local agency. The person who has been issued an administrative complaint may waive the right to a hearing, in which case the local agency shall not conduct a hearing. A person dissatisfied with the decision of the hearing officer may appeal to the governing board of the local agency within 30 days of notice of the hearing officer’s decision.

(c) If after the hearing, or appeal, if any, it is found that the person has violated reporting or discharge requirements, the hearing officer or board may assess a civil penalty against that person. In determining the amount of the civil penalty, the hearing officer or board may take into consideration all relevant circumstances,
including, but not limited to, the extent of harm caused by the
violation, the economic benefit derived through any noncompliance,
the nature and persistence of the violation, the length of time over
which the violation occurs and corrective action, if any, attempted
or taken by the discharger.

(d) Civil penalties may be imposed by the local agency as follows:

(1) In an amount which shall not exceed two thousand dollars
($2,000) for each day for failing or refusing to furnish technical or
monitoring reports.

(2) In an amount which shall not exceed three thousand dollars
($3,000) for each day for failing or refusing to timely comply with any
compliance schedule established by the local agency.

(3) In an amount which shall not exceed five thousand dollars
($5,000) per violation for each day for discharges in violation of any
waste discharge limitation, permit condition, or requirement issued,
reissued, or adopted by the local agency.

(4) In an amount which does not exceed ten dollars ($10) per
gallon for discharges in violation of any suspension, cease and desist
order or other orders, or prohibition issued, reissued, or adopted by
a local agency.

(5) The amount of any civil penalties imposed under this section
which have remained delinquent for a period of 60 days shall
constitute a lien against the real property of the discharger from
which the discharge originated resulting in the imposition of the civil
penalty. The lien provided herein shall have no force and effect until
recorded with the county recorder and when recorded shall have the
force and effect and priority of a judgment lien and continue for 10
years from the time of recording unless sooner released, and shall be
renewable in accordance with the provisions of Sections 683.110 to

(e) All moneys collected under this section shall be deposited in
a special account of the local agency and shall be made available for
the monitoring, treatment, and control of discharges into the local
agency’s sanitation or sewer system or for other mitigation measures.

(f) Unless appealed, orders setting administrative civil penalties
shall become effective and final upon issuance thereof, and payment
shall be made within 30 days. Copies of these orders shall be served
by personal service or by registered mail upon the party served with
the administrative complaint and upon other persons who appeared
at the hearing and requested a copy.

(g) The local agency may, at its option, elect to petition the
superior court to confirm any order establishing civil penalties and
enter judgment in conformity therewith in accordance with the
provisions of Sections 1285 to 1287.6, inclusive, of the Code of Civil
Procedure.

(h) No penalties shall be recoverable under this section for any
violation for which civil liability is recovered under Section 54740.

SEC. 68. Section 55606 of the Government Code is amended to read:
55606. The board of supervisors may contract with the state, through the Department of Forestry and Fire Protection, for the performance by the Director of Forestry and Fire Protection, his or her deputies, and assistants of functions for the prevention or suppression of fires within the county.

SEC. 69. Section 55607 of the Government Code is amended to read:

55607. The Department of Forestry and Fire Protection may contract with the county for the performance by the county fire warden, his or her deputies, and assistants of functions for the prevention or suppression of fires within the county.

SEC. 70. Section 55608 of the Government Code is amended to read:

55608. When a contract has been made, the Director of Forestry and Fire Protection or the county fire warden may exercise the same powers and duties within the county for the prevention and suppression of fires which by state or local law is conferred upon those officers.

SEC. 71. Section 55640 of the Government Code is amended to read:

55640. The board of supervisors of a county may provide rescue and resuscitator services throughout the county, and to this end the board may contract with the state, through the Department of Forestry and Fire Protection, for the providing of those rescue and resuscitator services within the county by the Director of Forestry and Fire Protection, his or her deputies, and assistants, including volunteer firefighters.

SEC. 72. Section 55641 of the Government Code is amended to read:

55641. When a contract has been made, the Director of Forestry and Fire Protection may exercise the same powers and duties within the county for the provision of rescue and resuscitator services which by state or local law are conferred upon officers of the county.

SEC. 73. Section 68097.2 of the Government Code is amended to read:

68097.2. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, any fireman, any employee of the Department of Forestry and Fire Protection who is a forester or fire control member, or any employee of the Department of Justice who is an analyst in a technical field, who is obliged by a subpoena issued pursuant to Section 68097.1 to attend as a witness, shall receive the salary or other compensation to which he or she is normally entitled from the public entity by which he or she is employed during the time that he or she travels to and from the place where the court or other tribunal is located and while he or she is required to remain at that place pursuant to the subpoena. He or she shall also receive from the public entity by which he or she is employed the actual necessary and reasonable traveling expenses incurred by him or her in complying.
with the subpoena.

(b) The party at whose request the subpoena is issued shall reimburse the public entity for the full cost to the public entity incurred in paying the officer's or her salary or other compensation and traveling expenses as provided for in this section, for each day that the officer is required to remain in attendance pursuant to the subpoena. The amount of one hundred fifty dollars ($150), together with the subpoena, shall be tendered to the public entity for each day that the officer is required to remain in attendance pursuant to the subpoena.

(c) If the actual expenses should later prove to be less than the amount tendered, the excess of the amount tendered shall be refunded.

(d) If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid to the public entity by the party at whose request the subpoena is issued.

(e) If a court continues a proceeding on its own motion, no additional witness fee shall be required prior to the issuance of a subpoena or the making of an order directing the officer to appear on the date to which the proceeding is continued.

SEC. 74. 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 assistants, 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. 75. 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 clerks 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 a 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. 76. Section 76104 of the Government Code is amended to
read:

76104. For purposes of supporting emergency medical services
pursuant to Chapter 2.5 (commencing with Section 1798.98a) of
Division 2.5 of the Health and Safety Code, the board of supervisors
of any county which established in the county treasury an
Emergency Medical Services Fund prior to June 1, 1991, shall
continue that fund using penalty revenues pursuant to Section 76000
as specified in the resolution or resolutions adopted by the board of
supervisors prior to June 1, 1991, to create that fund. The amount
deposited in that fund shall be at and shall not exceed the
responding amount for the 1990–91 fiscal year, plus a percentage
representing the growth, if any, in the fines and forfeitures collected
in comparison with the 1990–91 fiscal year, not to exceed 10 percent
per fiscal year.

For any county which established an Emergency Medical Services
Fund prior to June 1, 1991, and for which that fund has not received
deposits for 12 full months of collections of the penalty, the 1990–91
fiscal year shall be computed by projecting actual collection
experience to produce an estimated annual amount.

The board of supervisors of a county that has not established an
Emergency Medical Services Fund prior to July 1, 1991, may set aside up to 28 percent of the total revenue from the penalty established pursuant to Section 76000 in the county treasury for purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

The fund moneys 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 of the Emergency Medical Services Fund shall be payable only for the purposes specified in Chapter 2.5 (commencing with Section 1798.98a) of Division 2.5 of the Health and Safety Code.

SEC. 77. Section 76238 of the Government Code is amended to read:

76238. (a) Notwithstanding any other law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco may require the amounts collected pursuant to subdivision (d) to be deposited in the Courthouse Construction Fund established pursuant to Section 76100. In the City and County of San Francisco, the moneys of the Courthouse Construction Fund together with any interest earned thereon shall be payable only for the foregoing purposes and at the time necessary therefor, and for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the Courthouse Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings if that excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as the excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) In the City and County of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to any filing fee in any civil action in either the municipal court or in any civil or probate action in the superior court. The surcharge shall
be in an amount, not to exceed fifty dollars ($50), and shall be
collected in a manner as set forth in a resolution adopted by the
Board of Supervisors of the City and County of San Francisco.

SEC. 78. Section 1201.6 of the Harbors and Navigation Code, as
added by Chapter 1422 of the Statutes of 1990, is repealed.

SEC. 79. Section 436.70 of the Health and Safety Code is amended
and renumbered to read:

436.495. This article shall be known and may be cited as the
Community Health Center Facilities Loan Insurance Law.

SEC. 80. Section 436.75 of the Health and Safety Code is amended
and renumbered to read:

436.496. (a) "Community health center facilities," as used in this
article, means those licensed, nonprofit primary care clinics as
defined in paragraph (1) of subdivision (a) of Section 1204.

(b) Notwithstanding subdivision (i) of Section 436.8, any loan in
the amount of five million dollars ($5,000,000) or less for a
community health center facility pursuant to this chapter may be
insured up to 95 percent of the total construction cost.

(c) Community health center facilities applying for any loan
insurance pursuant to this chapter, may use existing equity in
buildings, equipment, and donated assets, including, but not limited
to, land and receipts from expenses related to the capital outlay for
the project, notwithstanding the date of occurrence to meet the
equity requirements of this chapter. In determining the value of the
equity in any donated property, the office may use the original
purchase price or the current appraised value.

(d) Any state plan referred to in Section 436.4 developed by the
office shall include a chapter identifying any impediments that
preclude small facilities from utilizing the California Health Facility
Construction Loan Insurance Program. The state plan shall also
include specific programmatic remedies to enable small projects to
utilize the program if impediments are found.

SEC. 81. Section 436.815 of the Health and Safety Code is
amended to read:

436.815. Subdivisions (b) and (c) of Section 436.496 shall apply to
any residential or nonresidential alcoholism or drug abuse recovery
or treatment program or facility, as certified under Section 11831.5,
or licensed under Section 11834.19; and any facility that provides an
organized program of therapeutic, social, and health activities and
services to persons with functional impairments, as licensed under
Section 1576.

SEC. 82. Section 1356 of the Health and Safety Code, as amended
by Section 2.5 of Chapter 722 of the Statutes of 1991, 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 State Corporations 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:

<table>
<thead>
<tr>
<th>Plan Enrollment</th>
<th>Amount of Assessment</th>
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<tbody>
<tr>
<td>0 to 25,000</td>
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<tr>
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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:

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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 State Corporations 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 Chapter 722 of the Statutes of 1991.

(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. 83. Section 1356 of the Health and Safety Code, as amended by Section 3 of Chapter 722 of the Statutes of 1991, 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 State Corporations 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:

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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 State Corporations 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. 84. Section 1356.1 of the Health and Safety Code is amended to read:

1356.1. Notwithstanding subdivision (f) of Section 1356, as amended by Section 2.5 of Chapter 722 of the Statutes of 1991, and subdivision (d) of Section 1356, as amended by Section 3 of Chapter 722 of the Statutes of 1991, 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. 85. Section 1797.109 of the Health and Safety Code is amended to read:

1797.109. (a) The director may develop, or prescribe standards for and approve, an emergency medical technician training and testing program for the Department of the California Highway Patrol, Department of Forestry and Fire Protection, and other public safety agency personnel, upon the request of, and as deemed appropriate by, the director for the particular agency.

(b) The director may, with the concurrence of the Department of the California Highway Patrol, designate the California Highway Patrol Academy as a site where the training and testing may be offered.

(c) The director may prescribe that each person, upon successful completion of the training course and upon passing a written and a practical examination, be certified as an emergency medical technician of an appropriate classification. A suitable identification card may be issued to each certified person to designate that person's emergency medical skill level.

(d) The director may prescribe standards for refresher training to be given to persons trained and certified under this section.

(e) The Department of the California Highway Patrol shall, subject to the availability of federal funds, provide for the initial training of its uniformed personnel in the rendering of emergency medical technician services to the public in specified areas of the state as designated by the Commissioner of the California Highway Patrol.

SEC. 86. Section 1797.132 of the Health and Safety Code is amended to read:

1797.132. An Interdepartmental Committee on Emergency Medical Services is hereby established. This committee shall advise the authority on the coordination and integration of all state activities concerning emergency medical services. The committee shall include a representative from each of the following state agencies and departments: the Office of Emergency Services, the Department of the California Highway Patrol, the Department of Motor Vehicles, a representative of the administrator of the California Traffic Safety Program as provided by Chapter 5 (commencing with Section 2900) of Division 2 of the Vehicle Code, the Medical Board of California, the State Department of Health Services, the Board of Registered Nursing, the State Department of Education, the National Guard, the Office of Statewide Health Planning and Development, the State Fire Marshal, the California Conference of Local Health Officers, the Department of Forestry and Fire Protection, the Chancellor's Office of the California Community Colleges, and the Department of General Services.
SEC. 87. Section 4027.6 of the Health and Safety Code is amended to read:

4027.6. (a) The department may grant a variance or variances from primary drinking water standards to a public water system. Any variance granted pursuant to this subdivision shall conform to the requirements established under the federal Safe Drinking Water Act, as amended (42 U.S.C. Sec. 300g-4).

(b) (1) In addition to the authority provided in subdivision (a), at the request of the Board of Directors of the Big Bear City Community Services District, or the Twenty-nine Palms Water District, or the Kinneola Irrigation District, or the Riverdale Public Utility District, the department shall grant a variance from the primary drinking water standard adopted by the department for fluoride. A variance granted by the department pursuant to this subdivision shall prohibit fluoride levels in excess of 75 percent of the maximum contaminant level established in the national primary drinking water regulation adopted by the United States Environmental Protection Agency for fluoride, or three milligrams per liter, whichever is higher, and shall be valid for a period of up to 30 years. The department shall review each variance granted pursuant to this section at least every five years. The variance may be withdrawn upon reasonable notice by the department if the department determines that the community served by the district no longer accepts the fluoride level authorized in the variance or the level of fluoride authorized by the variance poses an unreasonable risk to health. In no case may a variance be granted in excess of the United States Environmental Protection Agency maximum contaminant level.

(2) The department shall grant a variance pursuant to paragraph (1) only if it determines, after conducting a public hearing in the community served by the district, that there is no substantial community opposition to the variance and the variance does not pose an unreasonable risk to health. The district shall provide written notification, approved by the department, to all customers which shall contain at least the following information:

(A) The fact that a variance has been requested.

(B) The date, time and location of the public hearing that will be conducted by the department.

(C) The level of fluoride that will be allowed by the requested variance and how this level compares to the maximum contaminant levels prescribed by the state primary drinking water standard, the federal national primary drinking water regulation, and the federal national secondary drinking water regulation.

(D) A discussion of the types of health and dental problems that may occur when the fluoride concentration exceeds the maximum contaminant levels prescribed by the state standard and the federal regulations.

(3) If, at any time after a variance has been granted pursuant to paragraph (1), substantial community concerns arise concerning the
level of fluoride present in the water supplied by the district, the
district shall notify the department, conduct a public hearing on the
concerns expressed by the community, determine the fluoride level
that is acceptable to the community, and apply to the department for
an amendment to the variance which reflects that determination.

SEC. 88. Section 11380.1 of the Health and Safety Code, as added
by Chapter 1663 of the Statutes of 1990, is repealed.

SEC. 89. Section 11380.1 of the Health and Safety Code, as added
by Chapter 1664 of the Statutes of 1990, is repealed.

SEC. 90. Section 12003 of the Health and Safety Code is amended
to read:

12003. “Chief” means the Director of Forestry and Fire
Protection and his or her authorized representatives, the chief of a
fire department or fire protection agency maintained by a city,
county, or city and county, or fire protection district and his or her
authorized representatives, or the authorized representative of the
United States Forest Service. In any area of the state in which there
exists no organized fire protection agency responsible for the
protection of the area, “chief,” for the purpose of this part only,
means the county sheriff and his or her authorized representatives.

On any property that is owned by the state, the “chief,” for the
purpose of this part, shall be the official of the fire protection agency
responsible for the suppression of fires in the area. On any state
property where there is no fire protection agency responsible for the
suppression of fires, the “chief,” for the purpose of this part, shall be
the State Fire Marshal.

Upon request of the Director of Forestry and Fire Protection, the
chief of a fire department or fire protection agency, or upon request
of the county sheriff, the governing body of the area under the
jurisdiction of the requesting chief or sheriff may designate any
person as “chief” for the purposes of this part.

SEC. 91. Section 13009 of the Health and Safety Code is amended
to read:

13009. (a) Any person (1) who negligently, or in violation of the
law, sets a fire, allows a fire to be set, or allows a fire kindled or
attended by him or her to escape onto any public or private property,
(2) other than a mortgagee, who, being in actual possession of a
structure, fails or refuses to correct, within the time allotted for
correction, despite having the right to do so, a fire hazard prohibited
by law, for which a public agency properly has issued a notice of
violation respecting the hazard, or (3) including a mortgagee, who,
having an obligation under other provisions of law to correct a fire
hazard prohibited by law, for which a public agency has properly
issued a notice of violation respecting the hazard, fails or refuses to
correct the hazard within the time allotted for correction, despite
having the right to do so, is liable for the fire suppression costs
incurred in fighting the fire and for the cost of providing rescue or
emergency medical services, and those costs shall be a charge against
that person. The charge shall constitute a debt of that person, and is
collectible by the person, or by the federal, state, county, public, or
private agency, incurring those costs in the same manner as in the
case of an obligation under a contract, expressed or implied.

(b) Any costs incurred by the Department of Forestry and Fire
Protection in suppressing any wildland fire originating or spreading
from a prescribed burning operation conducted by the department
pursuant to a contract entered into pursuant to Article 2
(commencing with Section 4475) of Chapter 7 of Part 2 of Division
4 of the Public Resources Code shall not be collectible from any party
to the contract, including any private consultant or contractor who
entered into an agreement with that party pursuant to subdivision
(d) of Section 4475.5 of the Public Resources Code, as provided in
subdivision (a), to the extent that those costs were not incurred as
a result of a violation of any provision of the contract.

(c) This section applies in all areas of the state, regardless of
whether primarily wildlands, sparsely developed, or urban.

SEC. 92. Section 13009.5 of the Health and Safety Code is
amended to read:

13009.5. Where the Department of Forestry and Fire Protection
utilizes inmate labor for fighting fires, the charge for their use, for
the purpose of Section 13009, shall be set by the Director of Forestry
and Fire Protection. In determining the charges, he or she may
consider, in addition to costs incurred by the department, the per
capita cost to the state of maintaining the inmates.

SEC. 93. Section 13053 of the Health and Safety Code is amended
to read:

13053. Whenever a fire occurs in any county or within the
boundaries of any national forest which is of such proportions that it
cannot be adequately handled by the forestry department or fire
warden of the county or the facilities of the Department of Forestry
and Fire Protection or of the United States Forest Service, the
personnel, equipment, and firefighting facilities of any county may
be authorized by the state forest ranger within the county or the
county forester or fire warden of the county to assist in its
extinguishment and control.

SEC. 94. Section 13054 of the Health and Safety Code is amended
to read:

13054. Where the personnel, equipment, and facilities of any
county are utilized in the extinguishment or control of any fire
outside its boundaries, the county furnishing its personnel,
equipment, and facilities shall be reimbursed by the county in which
the fire occurs in an amount in accordance with a predetermined
schedule of repayments agreed upon by the boards of supervisors of
the counties, or between the board of supervisors of the county and
the Department of Forestry and Fire Protection or the United States
Forest Service, as the case may be.

SEC. 95. Section 13104.5 of the Health and Safety Code is
amended to read:

13104.5. Except on property which has been deeded to the State
for taxes, the State Fire Marshal may abate fire hazards existing on property owned, controlled, or held in trust by the State, in areas not under the jurisdiction of the Director of Forestry and Fire Protection, upon the request of the legislative body of the city, county, or city and county within which the property is situated. The cost of the abatement shall be paid out of any money in the State Treasury appropriated for that purpose.

SEC. 96. Section 13108.5 of the Health and Safety Code is amended to read:

13108.5. (a) The State Fire Marshal shall adopt, amend, and repeal regulations for roof coverings and openings into the attic areas of buildings in those fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

The regulations shall be consistent with the rules and regulations adopted by the Commission of Housing and Community Development pursuant to Section 17922 and shall apply to buildings subject to this part located in fire hazard severity zones within state responsibility areas. The regulations shall be enforced by the agency responsible for enforcement of this part within each zone.

The State Fire Marshal shall take into account the rating, reflecting the degree of severity of fire hazard assigned pursuant to Section 4203 of the Public Resources Code for each of the fire hazard severity zones.

The regulations adopted pursuant to this section are applicable to new buildings constructed and to existing buildings when 50 percent or more of the roof area is reroofed pursuant to a building permit when the application for the permit is filed after the effective date of the regulations. When there is no building permit, the regulations are applicable to buildings constructed and to buildings where 50 percent or more of the roof area is reroofed after the effective date of the regulations.

(b) The State Fire Marshal shall report to the Legislature by February 1, 1988, describing the regulations adopted pursuant to subdivision (a) for roof coverings and openings that are applicable to each of the fire hazard severity zones designated by the Director of Forestry and Fire Protection. The report shall also generally identify the fire hazard severity zones and the agency responsible for enforcement of the regulations within each zone.

SEC. 97. Section 13140.5 of the Health and Safety Code is amended to read:

13140.5. The board shall be composed of the following voting members: the State Fire Marshal, the Chief of Fire Protection of the Department of Forestry and Fire Protection, the Chief of the Fire and Rescue Division, Office of Emergency Services, one representative of the insurance industry, one volunteer firefighter, four fire chiefs, six fire service labor representatives, one representative from city government, one representative from a fire
district, and one representative from county government.

The following members shall be appointed by the Governor: one representative of the insurance industry, one volunteer firefighter, four fire chiefs, six fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government. Each member appointed shall be a resident of this state. The volunteer firefighter shall be selected from a list of names recommended by statewide organizations representing volunteer firefighters with organization memberships exceeding 2,000 persons. Three of the fire chiefs appointed to the board shall be selected from a list of names recommended by the Board of Directors of the California Fire Chiefs’ Association, Inc. and one fire chief shall be selected from a list of names submitted by the California Metropolitan Fire Chiefs. The six fire service labor representatives shall be selected from a list of names recommended by statewide employee organizations representing rank and file firefighters with organization memberships exceeding 2,000 firefighters, but not more than one fire service labor representative shall be selected from among persons recommended by any one of the employee organizations, unless each organization is represented on the membership of the board. The city government representative shall be selected from elected or appointed city chief administrative officers. The fire district representative shall be selected from elected or appointed directors of fire districts. The county government representative shall be selected from elected or appointed county chief administrative officers. The appointed members shall be appointed for a term of four years. Any member chosen by the Governor to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he or she is to succeed.

SEC. 98. Section 13159.4 of the Health and Safety Code is amended to read:

13159.4. The State Fire Marshal shall annually review, revise as necessary, and administer the California Fire Service Training program, shall establish priorities for the use of state and federal fire service training and education funds applicable to statewide programs, other than those funds administered by the Department of Forestry and Fire Protection, and shall approve the expenditure of these funds in accordance with the established priorities. This section shall not restrict local entities from independently seeking and utilizing state and federal funds for local fire training and education needs.

SEC. 99. Section 18114.1 of the Health and Safety Code, as added by Chapter 555 of the Statutes of 1985 and further amended by Chapter 1023 of the Statutes of 1986, is repealed.

SEC. 100. Section 25180.1 of the Health and Safety Code is amended to read:

25180.1. For purposes of this chapter, “permit” includes matters deemed to be permits pursuant to subdivision (c) of Section 25198.6.
SEC. 101. Section 25198.3 of the Health and Safety Code is amended to read:

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 a cooperative 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 a cooperative 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.

(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, 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 January 1, 1992, 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 are 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 are provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

SEC. 102. Section 25198.5 of the Health and Safety Code is amended to read:

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 (e) 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, "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 a party to a cooperative agreement to meet the requirements of this section shall be determined to be an actionable breach of the cooperative agreement.

(d) The election by a party to a cooperative agreement to pursue a contractual remedy shall not limit the ability of a party to assert its respective claims of jurisdiction or sovereign immunity.

(e) Entering into a 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.

SEC. 103. Section 25355.7 of the Health and Safety Code is amended to read:

25355.7. On or before July 1, 1992, the department shall establish policies and procedures consistent with this chapter that its representatives shall follow in overseeing and supervising the activities of responsible parties who are carrying out the investigation of, and taking removal or remedial actions at, hazardous substance release sites. The policies and procedures shall include, but are not limited to, all of the following:

(a) The procedures the department will follow in making decisions as to when a potentially responsible party may be required to undertake an investigation to determine if a hazardous substance release has occurred.

(b) Policies for carrying out a phased, step-by-step investigation to determine the nature and extent of possible soil and groundwater contamination at a site.

(c) Procedures for identifying and utilizing the most cost-effective methods for detecting contamination and carrying out removal or remedial actions.

(d) Policies for determining reasonable schedules for
investigation and removal or remedial action at a site. The policies shall recognize the dangers to public health and the environment posed by a release and the need to mitigate those dangers while at the same time taking into account, to the extent possible, the resources, both financial and technical, available to a responsible party.

SEC. 104. 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. 105. Section 40501.2 of the Health and Safety Code is repealed.

SEC. 106. Section 41809 of the Health and Safety Code is amended to read:

41809. Notwithstanding Sections 41508 and 41800, open outdoor fires may be used to dispose of Russian thistle (Salsola kali) when authorized by a chief of a fire department or fire protection agency of a city, county, or fire protection district, the Director of Forestry and Fire Protection or his or her duly authorized representative, a county agricultural commissioner, or an air pollution control officer.

SEC. 107. 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 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 district board 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 (Chapter 1568 of the Statutes of 1988).

(b) In districts with nonelected officials on their boards, a resolution adopted pursuant to subdivision (a) shall be approved by both a majority of the 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. 108. 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 (Chapter 1568 of the Statutes 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 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 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.

SEC. 109. Section 50590 of the Health and Safety Code is amended to read:

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 was issued.

SEC. 110. Section 50668.5 of the Health and Safety Code is
amended to read:

50668.5. For the purpose of providing financial assistance
pursuant to this chapter utilizing bond proceeds transferred to the
Housing Rehabilitation Loan Fund pursuant to paragraph (2) of
subdivision (a) of Section 53130, paragraph (2) of subdivision (b) of
Section 53130, and Sections 8878.20 and 8878.21 of the Government
Code, deferred payment loans made with these funds shall be subject
to all of the following special provisions, which shall prevail over
conflicting provisions of this chapter:

(a) (1) Applications for fund commitments shall be accepted by
the department at any time. Fund commitments shall be based on
a ranking of applications, which shall occur at least once every three
months until there are insufficient funds available to commit
according to this ranking. In making this ranking for rental housing
developments, priority shall be given to those projects which (A)
serve the greater number of eligible households as defined in Section
50105 with the lowest incomes, (B) provide the greater number of
units with three or more bedrooms, (C) are located in areas where
the housing need is great as determined by the department, taking
into consideration, among other factors, low vacancy rates, high
market rents, long waiting lists for subsidized housing, the stock of
substandard housing, and the potential loss of subsidized rental
housing to market-rate housing through demolition, foreclosure, or
subsidy termination, (D) complement the implementation of an
existing housing program, (E) maximize private local and other
funding sources, and (F) maximize long-term benefits for eligible
households, as defined in Sections 50079.5 and 50105. Subparagraph
(B) above shall not apply to applications for fund commitments
submitted pursuant to Section 50670 or to any application for
residential hotels and motels. In making this ranking for
owner-occupied housing, priority shall be given to those applications
which (A) serve the greater number of eligible households, as
defined in Section 50105, with the lowest income, (B) provide the
greater number of units with three or more bedrooms, (C) are
located in areas where the need for rehabilitation is great as
determined by the department, taking into consideration, among
other factors, the amount of substandard owner-occupied housing,
low vacancy rates, and limited availability of affordable housing, (D)
complement the implementation of an existing housing program, and (E) maximize available and appropriate private, local, and other funding sources. The department shall also evaluate the capability of the sponsor to rehabilitate, own, and manage the rental housing development or the capability of the applicant for funding for owner-occupied housing to implement the proposed program.

(2) Loans for rental housing developments may be reviewed, approved, and funded by the department directly to the sponsor. In these cases, the department shall ensure that the sponsor notifies the local legislative body of the sponsor’s loan application prior to a funding award. Loans to owner-occupants may be made by local public entities or nonprofit corporations which have received fund commitments from the department. The department shall ensure that the local public entity or nonprofit corporation applying for fund commitments for loans to owner-occupants notifies the local legislative body of the application prior to a funding award. When the department certifies a local public entity or nonprofit corporation as being capable of making these loans, the department shall delegate responsibility for reviewing and approving these loans to the local public entity or nonprofit corporation. If it is determined by the department that the local public entity or nonprofit corporation is no longer capable of making or managing these loans, the department may, at its sole discretion, revoke that delegation of responsibility or cancel the funding commitment to the local public entity or nonprofit corporation, or both. The department’s regulations shall include procedures and standards for certification and decertification.

(3) A sponsor may apply for loans for one or more rental housing developments.

(b) (1) A housing development may utilize any combination of federal, state, local, and private financial resources necessary to make the development affordable, for the term of the state’s regulatory agreement, to the eligible households. Notwithstanding the requirements of Section 50663, rental housing developments and owner-occupied units assisted by the program may be located anywhere in the state.

(2) In the case of loans for rental housing developments awarded to nonprofit sponsors, the total secured debt in a superior position to the department’s loan, plus the department’s loan, shall not exceed 100 percent of the after rehabilitation value of the property, as determined by an appraisal of the property conducted pursuant to guidelines established in regulations of the department.

(3) The maximum loan amounts per unit established in regulations pursuant to Section 50670 shall also apply to rental housing developments rehabilitated or acquired and rehabilitated pursuant to paragraph (1) of subdivision (a) of Section 50661, except that there shall not be a maximum loan amount established per project. These dollar limitations may be increased by the department, as necessary, in high-cost areas of the state or where the
correction of severe health and safety defects or the provisions of handicapped accessibility standards necessitate greater assistance. The department, by regulation, may specify unit loan limits for loans made for owner-occupied housing and the circumstances under which it may grant exceptions to, or variances from, these limits.

(4) (A) Loans made to sponsors of rental housing developments for acquisition and rehabilitation shall be for terms of not less than 30 years. Loans made to sponsors of rental housing developments for rehabilitation only shall be for terms of not less than 20 years. However, the term shall not exceed the useful life of the rental housing development for which the loan is made. The sponsor may elect to begin to repay the loan at any time in accordance with the prepayment plan established in accordance with paragraph (6), if it is determined by the department, that the sponsors can continue to maintain the rents at levels affordable to eligible households.

(B) The term of the loan and the time for repayment may be extended by the department for additional 10-year terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter.

(5) (A) In the case of loans made for rental housing developments, eligible costs shall include those costs relating to (i) real property acquisition, including refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the project; (ii) rehabilitation or reconstruction, including the conversion of nonresidential structures to residential use; (iii) general property improvements which are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air conditioning; (iv) necessary and related onsite improvements; (v) reasonable administrative expenses in connection with the planning and execution of the project, as determined by the department; (vi) reasonable consulting costs; (vii) rent-up costs; (viii) seismic rehabilitation improvements; and (ix) any other costs of rehabilitation authorized by the department. "Rent-up costs," as used in this section, means costs incurred while a unit is on the housing market but not rented to its first tenant. "Seismic rehabilitation improvements," as used in this section, means improvements which are designed to increase seismic structural safety in accordance with a plan developed by a civil engineer, a structural engineer, or an architect for a particular building that has been identified as hazardous by the city or county in which the building is located in accordance with the criteria established by the Seismic Safety Commission pursuant to Section 8875.1 of the Government Code or in accordance with a previously adopted city
or county seismic safety ordinance adopted pursuant to Section 19163.

(B) In the case of loans made for owner-occupied housing, eligible costs shall include those costs relating to (i) rehabilitation work expenses; (ii) cost of room additions necessary to alleviate overcrowding; (iii) costs of general property improvements including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping and purchase or installation of central air conditioning, to the extent that they are necessary to correct unsafe, unhealthy, or unsanitary conditions; (iv) costs related to necessary architectural, engineering, and other technical consultants; (v) costs of preliminary reports, title policies, credit reports, appraisal reports, and fees for recording documents related to the department’s loans; (vi) costs of building permits and other governmental fees; and (vii) if in conjunction with other rehabilitation work, costs for improvements related to making the housing accessible to the handicapped.

(C) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, and Sections 53131 and 53133, the department may set aside or use any amounts available in the fund to establish a rental housing development default reserve for the purpose of curing or avoiding a sponsor’s defaults on the terms of any loan or other obligation which jeopardizes the financial integrity of a rental housing development or the department’s security in the rental housing development. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department and no sponsor shall be entitled to or have any right to payment of these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(D) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating cost, or Sections 53131 and 53133, the department may set aside or use proceeds in the fund in an amount not to exceed 3 percent of the amount of encumbrances for loans for owner-occupied housing to establish an owner-occupied housing default reserve for the purpose of curing or avoiding an owner’s default on the terms of any loan or other obligation which jeopardizes the department’s security in the owner-occupied housing. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department, and no homeowner shall be entitled to, or have any right to payment of, these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand. Interest payments from loans for owner-occupied housing shall be allocated by the department into this reserve to replace the allocated proceeds until the percent established by the
department is achieved solely with interest payments.

(6) Upon request of the sponsor, the department may permit repayment of a sponsor’s loan on the basis of net cash-flow. The department shall develop a prepayment plan in conjunction with the sponsor which will ensure the maintenance of affordable rents and the fiscal integrity of the rental housing development. As an incentive to encourage the prepayment of loans, the department may permit the sponsor to retain one-half of the net cash-flow. The department shall determine the method for calculating net cash-flow, which may include a factor for excess debt service coverage or a return on cash investment to the sponsor.

(7) If a loan is made pursuant to this chapter for both seismic rehabilitation improvements and other eligible rehabilitation costs, only those costs related to the seismic rehabilitation improvements shall be counted and included for purposes of the fund reservation made by Section 8878.20 of the Government Code.

(c) Principal and accumulated interest is due and payable upon completion of the term of the loan. The loan shall bear interest at the rate of 3 percent per annum on the unpaid principal balance. However, the department shall reduce or eliminate interest payments on a loan for any year or, alternatively, defer interest until the deferred payment loan is repaid, if necessary to provide affordable rents to households of very low and low income. The ability to pay all or part of the 3 percent simple annual interest shall not be considered in determining the fiscal integrity of the rental housing development at the time of the rating and ranking of an application.

(1) “Maintain affordable rent levels,” as used in this section, means rents may be automatically increased by the sponsor on an annual basis pursuant to an inflation index to be determined by the department. The inflation index shall reflect anticipated annual changes in rental housing development operating costs from a base year when the rents are initially established. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the rental housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(2) (A) Upon prior written approval by the department, a sponsor may set income limits for incoming tenants at a level below the limit specified in Section 50079.5. If a tenant’s income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant’s eviction, nor be a violation of the sponsor’s loan agreement. If a tenant’s income exceeds the income limit for a household specified in Section 50079.5, the tenant shall be required to vacate the assisted unit within six months from the date of income recertification or notice to the sponsor of an increase in income over the permissible income level. That period may be
extended by the sponsor for an additional six-month period in high
cost rental areas with low vacancy rates, as determined by the
department. Any vacant units shall be rented to eligible households
until the required residency by eligible households is attained.

(B) In the case of limited equity housing cooperatives, the
provisions of this paragraph shall apply, except that tenants whose
incomes, upon recertification, exceed the limit specified in Section
50079.5 shall not be required to vacate their units. Instead, and upon
six months' notice, these tenants shall be required to pay rent in an
amount equal to the market rate rent for comparable units, as
determined by the department. When a tenant's income exceeds the
limit specified in Section 50079.5, the next available membership
share for occupancy in a comparable unit shall be sold to a household
with an income at or below this limit.

(3) When operating income as defined by the department is
greater than operating expenses, debt service, deposits required for
reserve accounts, payments pursuant to paragraph (6) of subdivision
(b) if elected by the sponsor, approved annual distributions, and any
other disbursements approved by the department, these excess
funds shall be paid into an account established in the fund. Funds in
this account shall be appropriated to the department for use to assist
rental housing developments funded pursuant to this section with
proceeds of bonds issued pursuant to Chapter 27 of the Statutes of
1988, Chapter 30 of the Statutes of 1988, or Chapter 48 of the Statutes
of 1988, subject to the following requirements:

(A) Excess funds in the account shall be allocated first into the
rental housing development default reserve established pursuant to
subparagraph (C) of paragraph (5) of subdivision (b). The balance
of this default reserve shall not exceed the maximum level of funding
established by regulations adopted by the department.

(B) After the rental housing development default reserve is fully
funded with these excess funds, the department shall use all
additional excess funds in the account for payment of either
unforeseen capital improvements, the cost of which would
jeopardize the fiscal integrity and affordability of a rental housing
development, or to further reduce rents in a rental housing
development. The department may adopt regulations which specify
the procedures and standards for application for, and use of, these
funds. Those payments used for capital improvements shall be added
to the loan amount secured by the deed of trust and shall be payable
to the department upon demand.

(d) Prior to disbursement of any funds for loans to rental housing
developments made pursuant to this section, the department shall
enter into a regulatory agreement with the sponsor in accordance
with subdivision (d) of Section 50670, except that (1) the term of the
regulatory agreement shall be for the original term of the loan and
the agreement shall be binding upon the sponsor and successors in
interest upon sale or transfer of the rental housing development or
prepayment of the loan and (2) a nonprofit sponsor, other than a
governmental agency, may maintain a debt service coverage ratio of 115 percent and distribute earnings in an amount no greater than 8 percent of the nonprofit sponsor’s actual investment. The regulatory agreement also shall contain provisions requiring annual inspections and review of year-end fiscal audits and related reports by the department and provisions to maintain affordable rent levels to serve eligible households.

(e) Where loans will be used in conjunction with federal or other housing assistance or tax credits and a conflict exists between the other state or federal program requirements and those of this chapter with respect to the calculation of rents, the requirements of the Deferred Payment Rehabilitation Loan Program and the Special User Housing Rehabilitation Program may be waived only to the extent necessary to permit federal or other state financial participation or eligibility for tax credits.

(f) “Sponsor,” for purposes of this section, has the same meaning as defined in subdivision (c) of Section 50669.

(g) (1) The department shall adopt emergency regulations to implement this chapter and to amend the maximum loan amounts per unit established in regulations adopted pursuant to Section 50670, with respect to loans made with funding subject to this section. The regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

(2) Notwithstanding conflicting provisions of this chapter, the department may elect to make the regulations referred to in paragraph (1) additionally applicable until December 31, 1992, to all other deferred payment loan programs authorized by this chapter, except the programs specified in Sections 50662.5 and 50671, if the department determines that the uniformity achieved thereby will avoid significant additional administrative costs.

(h) For purposes of this section, “rental housing development” means a single family house or a multifamily structure or structures containing two or more dwelling units, including efficiency units. One or more of the dwelling units in a rental housing development shall be rented or leased or otherwise occupied as a primary residence by a person or household who is not the owner of the structure or structures. For the purposes of this section, motels operated pursuant to subdivision (b) of Section 50669, residential hotels, group or congregate homes, and limited equity housing cooperatives are rental housing developments. Except for motels, the limitations concerning types of residents and minimum number of units set forth in subdivision (b) of Section 50689 shall not apply.

(i) “Affordable rent” for the purposes of this section shall be established by the department in the regulations authorized by subdivision (g). However, the initial rents shall be established by the department based on a designated family size for each unit size, and those initial rents shall not exceed 30 percent of 50 percent of the
area median income adjusted by that designated family size for units restricted to occupancy by very low income households; or 30 percent of 60 percent of area median income adjusted by that designated family size for units restricted to occupancy by low-income households. In establishing affordable rent levels, the department shall make provision in its regulations for projects serving the physically and mentally handicapped persons.

SEC. 111. Section 789.6 of the Insurance Code is amended to read:

789.6. (a) Insurance policies or certificates of disability insurance sold to persons age 65 or older shall return to policyholders or certificate holders benefits that have a minimum loss ratio of 60 percent for individual policies and 75 percent for group policies. The loss ratio shall be on the basis of incurred claims experience and earned premiums.

(b) The commissioner shall require every entity providing insurance policies or certificates of disability insurance sold to persons age 65 or older in this state to maintain detailed experience data for policies and certificates subject to this section and require them to make an annual filing with the commissioner disclosing the loss ratio for each policy form or certificate subject to this section. The annual filing shall, at a minimum, include rates, rating schedules, and supporting documentation including ratios of incurred losses to earned premiums by number of years of policy duration. That information shall demonstrate that each policy form or certificate is in compliance with the applicable loss ratio standards.

(c) The commissioner shall assure that reserves are reasonable and based on sound actuarial principles with respect to the aggregate dollar amount of reserves for claims that are incurred but not yet paid, and for claims that are incurred but not yet reported.

(d) Policy forms or certificates shall be deemed to comply with the purposes of this section if the expected losses in relation to premiums over the entire period for which the policy form or certificate is rated comply with the requirements of this section and either of the following applies:

1. For policies or certificates that have been in force for three years or more, for the most recent year the ratio of incurred losses to earned premiums is greater than or equal to the minimum loss ratios established by this section.

2. For policies or certificates that have been in force for three years or less, the expected third year loss ratio can be demonstrated to be greater than or equal to the minimum loss ratio.

(e) If the annual filing or other information received by the commissioner indicates that the actual loss ratio for a policy or certificate is less than the minimum loss ratio established by this section, the commissioner shall require that the insurer or entity providing the insurance file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods so
that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

(f) If, in the opinion of the commissioner, a policy's or certificate's failure to meet the minimum loss ratio requirements is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy or certificate from the need for a corrective plan for that year. Any exemption shall be in writing and shall specify the reasons for the granting of the exemption.

(g) If the insurer or other entity providing disability insurance to persons 65 years of age or older in this state fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy or certificate according to the procedures set forth in Section 10293. This remedy is in addition to any remedy available in that section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this section shall be accessible to the public as a public record.

(h) The commissioner may adopt regulations to implement or administer this article.

SEC. 112. Section 1033 of the Insurance Code is amended to read: 1033. (a) Claims allowed in a proceeding under this article shall be given preference in the following order:

(1) Expenses of administration.
(2) Unpaid charges due under Section 736.
(3) Taxes due to the State of California.
(4) Claims having preference by the laws of the United States and by laws of this state.

(5) All claims of the California Insurance Guarantee Association, or the Robbins-Seastrand Health Insurance Guaranty Association, and associations or entities performing a similar function in other states, together with claims for refund of unearned premiums and all claims of policyholders of an insolvent insurer that are not covered claims.

Claims excluded by paragraphs (3) (except claims for refund of unearned premiums), (4), (5), (7), and (8) of subdivision (c) of Section 1063.1, subdivisions (h) and (i) of Section 1063.2, and paragraph (2) of subdivision (b) of Section 1066.2 shall be excluded from this priority.

(6) All other claims.

(b) Upon the issuance of an order appointing a conservator or liquidator for any person, under either Section 1011 or 1016, or both of those sections, the lien of taxes due to the State of California imposed by Article 4 (commencing with Section 12491) of Chapter 4 of Part 7 of Division 2 of the Revenue and Taxation Code shall become subordinate to the reasonable administrative expenses of the proceeding under the order.

SEC. 113. 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 motorist 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 the member 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 the member 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 the 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
direct to sue or continue a suit against the insured of the insolvent
insurance company for the 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 the
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.

SEC. 114. Section 1066.8 of the Insurance Code is amended to
read:

1066.8. (a) For the purpose of providing the funds necessary to
carry out the powers and duties of the association, the board of
directors shall assess the member insurers at the time and for the
amounts that the board finds necessary. Assessments shall be due not
more than 30 days after prior written notice to the member insurers
and shall accrue interest at the rate set forth in 28 U.S.C. Sec. 1961
on and after the due date.

(b) There shall be two assessments, as follows:
(1) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses and examinations conducted under the authority of subdivision (e) of Section 1066.11. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under Section 1066.7 with regard to an impaired or an insolvent insurer.

(c) (1) The amount of any Class A assessment shall be determined by the board and may be made on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future Class B assessments. A nonpro rata assessment shall not exceed one hundred fifty dollars ($150) per member insurer in any one calendar year. The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board, in its sole discretion, as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers shall be in the proportion that the premiums received on business in this state by each assessed member insurer on the policies or contracts covered by each account for the three most recent calendar years, for which information is available, preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to the premiums received on business in this state for those calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this article. Classification of assessments under subdivision (b) and computation of assessments under this paragraph shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred, in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e) (1) The total of all Class B assessments upon a member insurer shall not, in any one calendar year, exceed 1 percent of the insurer’s average premiums received in this state on the policies and contracts covered by the account during the three calendar years preceding the year in which an insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide, in any
one year in the account, an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this article.

(2) The board may provide in the plan of operation, a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(f) The board may, by any equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to the account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year, the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains and income from investments. A reasonable amount may be retained in the account to provide funds for the continuing expenses of the association and for future losses.

(g) The association shall issue to each insurer paying an assessment under this article, other than a Class A assessment, a certification of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the amount, if any, and period of time that the commissioner may approve.

(h) (1) The plan of operation adopted pursuant to Section 1066.9 shall contain provisions whereby each member insurer is required to recoup, over a reasonable length of time, a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agent's commission.

(2) Member insurers who collect surcharges in excess of premiums paid pursuant to this section for an insolvent insurer shall remit the excess to the association as an additional premium within 120 days after the end of the collection period as determined by the association. The excess shall be applied to reduce future premium charges for that insurer in the appropriate category.

(3) The plan of operation may permit a member insurer to omit the collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this paragraph shall relieve the member insurer of its obligation to recoup the amount of the surcharge otherwise collectible.

(i) Any statement of the amount of surcharge required to be provided by the association shall include a description of, and purpose for, the Robbins-Seastrand California Health Insurance
Guaranty Association, as follows:

"Companies writing health insurance business in California are required to participate in the Robbins-Seastrand California Insurance Health Guaranty Association. If a company becomes insolvent, the Robbins-Seastrand California Health Insurance Guaranty Association settles unpaid claims and assesses each insurance company for its fair share."

"California law requires all companies to surcharge policies to recover these assessments. If your policy is surcharged, "CA Surcharge" with an amount will be displayed on your premium notice."

SEC. 115. Section 1194.87 of the Insurance Code is amended 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 the case of real estate, not of a character described in subdivision (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 whether to issue 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 this section.

SEC. 116. Section 1872.95 of the Insurance Code, as added by Chapter 1008 of the Statutes of 1991, is amended and renumbered to read:

1872.96. The commissioner shall prepare an annual report, which shall be a public record, with respect to the receipts, expenditures, and activities of the Bureau of Fraudulent Claims for the year just ended. The report shall be submitted to the Governor and to the Legislature, no later than January 31 of the following year. This report shall not contain any individually identifiable information.

SEC. 117. Section 1875.10 of the Insurance Code is amended to read:
1875.10. The Legislature finds and declares as follows:
   (a) That the business of insurance involves many transactions which have potential for abuse and illegal activities.
   (b) That insurers and their policyholders ultimately pay the cost of fraudulent insurance claims.
   (c) That the operation of insurance claims analysis bureaus would be to the benefit of the public, regulators, law enforcement, prosecutors, and insurers in suppressing and preventing insurance claims fraud.
   (d) That the purpose of insurance claims analysis bureaus is to provide a data service to encourage the identification of utilization patterns by individuals or businesses who provide services in support of insurance claims, and by individual claimants themselves, in order to facilitate the identification and prevention of fraudulent activities.

SEC. 118. Section 11624.09 of the Insurance Code is amended 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 10 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. 119. 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 Chapter 825 of the Statutes of 1991 shall apply only to civil actions commenced on or after January 1, 1992.

SEC. 120. 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 Chapter 825 of the Statutes of 1991 shall apply only to civil actions commenced on or after January 1, 1992.

SEC. 121. Section 3212 of the Labor Code is amended to read:

3212. In the case of members of a sheriff’s office, district attorney’s staff of inspectors and investigators or of police or fire departments of cities, counties, cities and counties, districts or other public or municipal corporations or political subdivisions, whether such members are volunteer, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry and Fire Protection whose duties require firefighting or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid, and in the case of members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, excepting those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service such as stenographer, telephone operators, and other officeworkers, the term “injury” as used in this act includes hernia when any part of the hernia develops or manifests itself during a period while such member is in the service in such office, staff, division, department or unit, and in the case of members of such fire departments, except those whose principal duties are clerical, such as stenographers, telephone operators and other officeworkers, and in the case of county forestry or firefighting departments, except those whose principal duties are clerical, such as stenographers, telephone operators and other officeworkers, and in the case of active firefighting members of the Department of Forestry and Fire Protection whose duties require firefighting, and in the case of members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, excepting those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service such as
stenographer, telephone operators, and other officeworkers, the
term "injury" includes pneumonia and heart trouble which develops
or manifests itself during a period while such member is in the
service of such office, staff, department or unit. In the case of regular
salaried county or city and county peace officers, the term "injury"
also includes any hernia which manifests itself or develops during a
period while the officer is in the service. The compensation which
is awarded for such hernia, heart trouble or pneumonia shall include
full hospital, surgical, medical treatment, disability indemnity, and
death benefits, as provided by the workers' compensation laws of this
state.

Such hernia, heart trouble or pneumonia so developing or
manifesting itself in such cases shall be presumed to arise out of and
in the course of the employment. This presumption is disputable and
may be controverted by other evidence, but unless so controverted,
the appeals board is bound to find in accordance with it. Such
presumption shall be extended to a member following termination
of service for a period of three calendar months for each full year of
the requisite service, but not to exceed 60 months in any
circumstance, commencing with the last date actually worked in the
specified capacity.

Such hernia, heart trouble or pneumonia so developing or
manifesting itself in such cases shall in no case be attributed to any
disease existing prior to such development or manifestation.

SEC. 122. Section 3600.3 of the Labor Code is amended to read:
3600.3. (a) For the purposes of Section 3600, an off-duty peace
officer, as defined in subdivision (b), who is performing, within the
jurisdiction of his or her employing agency, a service he or she would,
in the course of his or her employment, have been required to
perform if he or she were on duty, is performing a service growing
out of and incidental to his or her employment and is acting within
the course of his or her employment if, as a condition of his or her
employment, he or she is required to be on call within the
jurisdiction during off-duty hours.

(b) As used in subdivision (a), "peace officer" means those
employees of the Department of Forestry and Fire Protection
named as peace officers for purposes of subdivision (b) of Section
830.37 of the Penal Code.

(c) This section does not apply to any off-duty peace officer while
he or she is engaged, either as an employee or as an independent
contractor, in any capacity other than as a peace officer.

SEC. 123. Section 6393 of the Labor Code is amended to read:
6393. The manufacturer shall be relieved of the obligation to
provide a specific purchaser of a hazardous substance with an MSDS
pursuant to Section 6390 if the manufacturer has a record of having
provided the specific purchaser with the most current version of the
MSDS, or if the product is one sold at retail and is incidentally sold
to an employer or the employer's employees, in the same form,
approximate amount, concentration, and manner as it is sold to
consumers, and, to the seller's knowledge, employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product. Except for products so labeled, this section does not relieve the manufacturer of the requirement to provide direct purchasers with new, revised, or later information or an MSDS pursuant to Section 6390.

SEC. 124. Section 118.1 of the Penal Code is amended to read:

118.1. Every peace officer who files any report with the agency which employs him or her regarding the commission of any crime or any investigation of any crime, if he or she knowingly and intentionally makes any statement regarding any material matter in the report which the officer knows to be false, whether or not the statement is certified or otherwise expressly reported as true, is guilty of filing a false report punishable by imprisonment in the county jail for up to one year, or in the state prison for one, two, or three years. This section shall not apply to the contents of any statement which the peace officer attributes in the report to any other person.

SEC. 125. Section 384a of the Penal Code is amended to read:

384a. Every person who within the State of California willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon state or county highway rights-of-way, or who removes leaf mold thereon, except that the provisions of this section shall not be construed to apply to any employee of the state or of any political subdivision thereof engaged in work upon any state, county, or public road or highway while performing work under the supervision of the state or of any political subdivision thereof, and every person who willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portions of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon public land or upon land not his or her own, or leaf mold on the surface of public land, or upon land not his or her own, without a written permit from the owner of the land signed by the owner or the owner's authorized agent, and every person who knowingly sells, offers, or exposes for sale, or transports for sale, any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or leaf mold, so cut or removed from state or county highway rights-of-way, or removed from public land or from land not owned by the person who cut or removed the same without the written permit from the owner of the land, signed by the owner or the owner's authorized agent, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one
thousand dollars ($1,000), by imprisonment in a county jail for not more than six months, or by both fine and imprisonment.

The written permit required under this section shall be signed by the landowner, or the landowner's authorized agent, and acknowledged before a notary public, or other person authorized by law to take acknowledgments. The permit shall contain the number and species of trees and amount of shrubs or ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens, or portions of any tree or shrub, and shall contain the legal description of the real property as usually found in deeds and conveyances of the land on which cutting or removal, or both, shall take place. One copy of the permit shall be filed in the office of the sheriff of the county in which the land described in the permit is located. The permit shall be filed prior to commencement of cutting of the trees or shrub or fern or herb or bulb or cactus or flower or huckleberry or redwood green or portions of any tree or shrub authorized by the permit. The permit required by this section need not be notarized or filed with the office of the sheriff of the county where trees are to be removed when five or less trees or five or less pounds of shrubs or boughs are to be cut or removed.

Any county or state fire warden, or personnel of the Department of Forestry and Fire Protection as designated by the Director of Forestry and Fire Protection, and personnel of the United States Forest Service as designated by the Regional Forester, Region 5, of the United States Forest Service, or any peace officer of the State of California, may enforce the provisions of this section and may confiscate any and all such shrubs, trees, ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens or leaf mold, or parts thereof unlawfully cut or removed or knowingly sold, offered, or exposed or transported for sale as provided in this section.

This section does not apply to any tree or shrub, or fern or herb or bulb or cactus or flower, or greens declared by law to be a public nuisance.

This section does not apply to the necessary cutting or trimming of any trees, shrubs, or ferns or herbs or bulbs or cacti or flowers, or greens if done for the purpose of protecting or maintaining an electric powerline, telephone line, or other property of a public utility.

This section does not apply to persons engaged in logging operations, or in suppressing fires.

SEC. 126. Section 384b of the Penal Code is amended to read: 384b. For the purposes of Sections 384c through 384f, inclusive, unless the context otherwise requires, the definitions contained in this section govern the construction of those sections.

(a) "Person" includes an employee with wages as his or her sole compensation.

(b) "Permit" means a permit as required by Section 384a.

(c) "Tree" means any evergreen tree or top thereof which is harvested without having the limbs and foliage removed.
(d) "Shrub" means any toyon or Christmas red-berry shrub or any of the following native desert plants: all species of the family Cactaceae (cactus family); and Agave deserti (desert agave), Agave utahensis (Utah agave), Nolina bigelovii, Nolina parryi (Parry nolina), Nolina wolffii, Yucca baccata, Yucca brevifolia (Joshua tree), Yucca schidigera (Mohave yucca), Yucca whipplei (Whipple yucca), Cercidium floridum (blue palo verde), Cercidium microphyllum (little leaf palo verde), Dalea spinosa (smoke tree), Olneya tesota (ironwood tree), and Fouquieria splendens (ocotillo), or any part thereof, except the fruit thereof, which is harvested without having the limbs and foliage removed.

(e) "Bough" means any limb or foliage removed from an evergreen tree.

(f) "Peace officer" means any county or state fire warden, personnel of the Department of Forestry and Fire Protection as designated by the Director of Forestry and Fire Protection, personnel of the United States Forest Service as designated by the Regional Forester, Region 5 of the United States Forest Service, personnel of the United States Department of the Interior as designated by them, or any peace officer of the State of California.

(g) "Harvest" means to remove or cut and remove from the place where grown.

(h) "Harvester" means a person who harvests a tree, shrub, or bough.

SEC. 127. Section 409.6 of the Penal Code is amended to read:

409.6. (a) Whenever a menace to the public health or safety is created by an avalanche, officers of the California Highway Patrol, the California State Police Division, police departments, or sheriff's offices, any officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (h) of Section 830.2, and any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (g) of Section 830.2, may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by that officer to enter or remain within the closed area. If an avalanche creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions which are set forth above in this section.

(b) Officers of the California Highway Patrol, California State Police, police departments, or sheriff's offices, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (h) of Section 830.2, may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating hazardous conditions created by an avalanche to any and all unauthorized persons pursuant to the conditions which are set forth in this section whether or not that field command post or other command post is located near the avalanche.
(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within that area, or any unauthorized person who willfully remains within an area closed pursuant to subdivision (a) or (b), after receiving notice to evacuate or leave from a peace officer named in subdivision (a) or (b), shall be guilty of a misdemeanor. If necessary, a peace officer named in subdivision (a) or (b) may use reasonable force to remove from the closed area any unauthorized person who willfully remains within that area after receiving notice to evacuate or leave.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.

SEC. 128. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the California Highway Patrol, provided that the primary duty of the peace officer shall be the enforcement of the provisions of the Vehicle Code or of any other law relating to the use or operation of vehicles upon the highways, as that duty is set forth in the Vehicle Code.

(b) Any member of the California State Police Division, provided that the primary duty of the peace officer shall be to provide police services for the protection of state officers, and the protection of state properties and occupants thereof, as set forth in the Government Code.

(c) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(d) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(e) Any member of the Law Enforcement Liaison Unit of the Department of Corrections, provided that the primary duty of the peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the transportation of those persons, and the coordination of those activities with other criminal justice agencies.

(f) Members of the Wildlife Protection Branch of the Department of Fish and Game, provided that the primary duty of those deputies shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(g) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public
Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(h) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(i) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(j) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

SEC. 129. Section 830.37 of the Penal Code is amended to read:

830.37. 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 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 terms and conditions specified by their employing agency:

(a) Members of an arson-investigating unit, regularly paid and employed in that capacity, of a fire department or fire protection agency of a county, city, city and county, district, or the state, if the primary duty of these peace officers is the detection and apprehension of persons who have violated any fire law or committed insurance fraud.

(b) Members other than members of an arson-investigating unit, regularly paid and employed in that capacity, of a fire department or fire protection agency of a county, city, city and county, district, or the state, if the primary duty of these peace officers, when acting in that capacity, is the enforcement of laws relating to fire prevention or fire suppression.

(c) Voluntary fire wardens as are 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 the Public Resources Code.

(d) Firefighter/security guards by the Military Department, if the primary duty of the peace officer is the enforcement of the law in
or about properties owned, operated, or administered by the employing agency or when performing necessary duties with respect to patrons, employees, and properties of the employing agency.

SEC. 130. 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 Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection 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. 131. Section 1208.2 of the Penal Code is amended 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 1203.016, 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. 132. 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 1203.016, 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. 133. 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 Committee on Prison Construction and Operations 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. 134. Section 12276 of the Penal Code is amended to read:

12276. As used in this chapter, "assault weapon" shall mean the following designated semiautomatic firearms:

(a) All of the following specified rifles:

(1) All AK series including, but not limited to, the models identified as follows:

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(A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.
(B) Norinco 56, 56S, 84S, and 86S.
(C) Poly Technologies AKS and AK47.
(D) MAADI AK47 and ARM.
(2) UZI and Galil.
(3) Baretta AR-70.
(4) CETME Sporter.
(6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.
(7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.
(8) MAS 223.
(9) HK-91, HK-93, HK-94, and HK-PSG-1.
(10) The following MAC types:
(A) RPB Industries Inc. sM10 and sM11.
(B) SWD Incorporated M11.
(11) SKS with detachable magazine.
(12) SIG AMT, PE-57, SG 550, and SG 551.
(14) Sterling MK-6.
(15) Steyer AUG.
(16) Valmet M62S, M71S, and M78S.
(17) Armalite AR-180.
(18) Bushmaster Assault Rifle.
(19) Calico M-900.
(20) J&R ENG M-68.
(21) Weaver Arms Nighthawk.
(b) All of the following specified pistols:
(1) UZI.
(2) Encom MP-9 and MP-45.
(3) The following MAC types:
(A) RPB Industries Inc. sM10 and sM11.
(B) SWD Incorporated M-11.
(C) Advance Armament Inc. M-11.
(D) Military Armament Corp. Ingram M-11.
(4) Intratec TEC-9.
(5) Sites Spectre.
(6) Sterling MK-7.
(7) Calico M-950.
(8) Bushmaster Pistol.
(c) All of the following specified shotguns:
(1) Franchi SPAS 12 and LAW 12.
(2) Striker 12.
(3) The Streetsweeper type S/S Inc. SS/12.
(d) Any firearm declared by the court pursuant to Section 12276.5 to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to Section 12276.5.
(e) The term "series" includes all other models that are only variations, with minor differences, of those models listed in
subdivision (a), regardless of the manufacturer.

(f) This section is declaratory of existing law, as amended, and a clarification of the law and the Legislature’s intent which bans the weapons enumerated in this section, the weapons included in the list promulgated by the Attorney General pursuant to Section 12276.5, and any other models which are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this section because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.

SEC. 135. Section 13510.5 of the Penal Code is amended to read:

13510.5. For the purpose of maintaining the level of competence of state law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards for training of peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who are employed by any railroad company, the California State Police Division, the University of California Police Department, a California State University police department, the Department of Alcoholic Beverage Control, the Division of Investigation of the Department of Consumer Affairs, the Wildlife Protection Branch of the Department of Fish and Game, the Department of Forestry and Fire Protection, the Department of Motor Vehicles, the California Horse Racing Board, the State Fire Marshal, the Bureau of Food and Drug, the Division of Labor Law Enforcement, the Director of Parks and Recreation, the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Office of Statewide Health Planning and Development, and the Department of Justice. All 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.

SEC. 136. Section 4129 of the Public Resources Code is amended to read:

4129. The board of supervisors of any county may provide by ordinance that the county elects to assume responsibility for the prevention and suppression of all fires on all land in the county, including lands within state responsibility areas when the Director of Forestry and Fire Protection concurs in accordance with criteria promulgated by the State Board of Forestry, but not including lands owned or controlled by the federal government or any agency of the federal government or lands within the exterior boundaries of any city. After the effective date of the contract referred to in Section 4133, the county shall have and exercise for the duration of the contract all the duty, power, authority, and responsibility for the prevention and suppression of all fires on all land in the county for which the county is authorized by this section to elect to assume responsibility.
SEC. 137. Section 4371 of the Public Resources Code is amended to read:

4371. The definitions in this section govern the construction of this chapter.

(a) "Fire protection agency" means the Department of Forestry and Fire Protection on all lands designated as state responsibility areas pursuant to Section 4125, and it means the applicable fire protection district, service district, county fire department, or federal agency on all other lands.

(b) "Solid waste" means solid waste as defined in Section 40191.

(c) "Solid waste facility" means a solid waste facility as defined in Section 40194.

(d) "Flammable material" does not include any structure or building maintained as an integral part of any solid waste facility.

SEC. 138. Section 4431 of the Public Resources Code is amended to read:

4431. During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate or cause to be operated in the area any portable saw, auger, drill, tamper, or other portable tool powered by a gasoline-fueled internal combustion engine on or near any forest-covered land, brush-covered land, or grass-covered land, within 25 feet of any flammable material, without providing and maintaining at the immediate locations of use or operation of the saw or tool, for firefighting purposes one serviceable round point shovel, with an overall length of not less than 46 inches, or one serviceable fire extinguisher. The Director of Forestry and Fire Protection shall by administrative regulation specify the type and size of fire extinguisher necessary to provide at least minimum assurance of controlling fire caused by use of portable power tools under various climatic and fuel conditions.

The required fire tools shall at no time be farther from the point of operation of the power saw or tool than 25 feet with unrestricted access for the operator from the point of operation.

SEC. 139. Section 5003.6 of the Public Resources Code is amended to read:

5003.6. The planning, design, and construction of a boating facility within the state park system shall be the responsibility of the Department of Boating and Waterways pursuant to subdivision (c) of Section 50 of the Harbors and Navigation Code.

SEC. 140. Section 5093.68 of the Public Resources Code is amended to read:

5093.68. (a) Within the boundaries of special treatment areas, all of the following provisions shall apply, in addition to any other provisions whether by statute or regulation:

(1) A timber operator, whether licensed or not, is responsible for the actions of his or her employees. The registered professional forester who prepares and signs a timber harvesting plan, a timber management plan, or a notice of timber operations is responsible for
its contents, but is not be responsible for implementation or execution of the plan or notice unless employed for that purpose.

(2) Any registered professional forester preparing a timber harvesting plan shall certify that he or she or a qualified representative has personally inspected the plan area on the ground.

(3) Any person operating within the special treatment area who willfully violates any provision of Chapter 8 (commencing with Section 4511) of Part 2 of Division 4, or any rule or regulation of the State Board of Forestry adopted pursuant thereto, that results in significant environmental damage shall be guilty of a misdemeanor punishable by a fine of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000), or imprisonment for not more than one year in the county jail, or both. The person shall also be subject to civil damages to the state not to exceed ten thousand dollars ($10,000) for each misdemeanor violation.

(4) The Director of Forestry and Fire Protection may require a bond or other evidence of financial responsibility from any timber operator whose ability to pay the civil damages provided for in this section is reasonably deemed to be uncertain.

(b) In order to temporarily suspend timber operations which are being conducted within special treatment areas adjacent to wild and scenic rivers designated pursuant to Section 5093.54, while judicial remedies are pursued pursuant to this section, an inspecting forest officer of the Department of Forestry and Fire Protection may issue a written timber operations stop order if, upon reasonable cause, the officer determines that a timber operation is being conducted or is about to be conducted in violation of Chapter 8 (commencing with Section 4511) of Part 2 of Division 4, or of rules and regulations adopted pursuant thereto, and that the violation or threatened violation would result in imminent and substantial damage to soil, water, or timber resources or to fish and wildlife habitat. A stop order shall apply only to those acts or omissions that are the proximate cause of the violation or that are reasonably foreseen would be the proximate cause of a violation. The stop order shall be effective immediately and throughout the next day.

(c) A supervising forest officer may, after an onsite investigation, extend a stop order issued pursuant to subdivision (b) for up to five days, excluding Saturday and Sunday, provided that he or she finds that the original stop order was issued upon reasonable cause. A stop order shall not be issued or extended for the same act or omission more than one time.

(d) Each stop order shall identify the specific act or omission that constitutes a violation or that if foreseen would constitute a violation, the specific timber operation that is to be stopped, and any corrective or mitigative actions that may be required.

(e) The Department of Forestry and Fire Protection may terminate the stop order if the timber operator enters into a written agreement with the department assuring that he or she will resume operations in compliance with the provisions of Chapter 8
(commencing with Section 4511) of Part 2 of Division 4, and with the rules and regulations adopted pursuant thereto, and will correct any violation. The department may require a reasonable cash deposit or bond payable to the department as a condition of compliance with the agreement.

(f) Notice of the issuance of a stop order or an extension of a stop order shall be deemed to have been made to all persons working on the timber operation when a copy of the written order is delivered to the person in charge of operations at the time the order is issued or, if no persons are present at that time, by posting a copy of the order conspicuously on the yarder or log loading equipment at a currently active landing on the timber operations site. If no person is present at the site when the order is issued, the issuing officer shall deliver a copy of the order to the timber operator either in person or to the operator’s address of record prior to the commencement of the next working day.

(g) As used in this section, “forest officer” means a registered professional forester employed by the Department of Forestry and Fire Protection in a civil service classification of forester II or higher grade.

(h) (1) Failure of the timber operator or an employee of the timber operator, after receiving notice pursuant to this section, to comply with a validly issued stop order is a violation of this section and is punishable as provided in paragraph (3) of subdivision (a). However, in all cases, the timber operator, and not an employee of the operator or any other person, shall be charged with that violation.

Each day or portion thereof that the violation continues shall constitute a new and separate offense.

(2) In determining the penalty for any timber operator guilty of violating a validly issued stop order, the court shall take into consideration all relevant circumstances, including, but not limited to, the following:

(A) The extent of harm to soil, water, or timber resources or to fish and wildlife habitat.

(B) Corrective action, if any, taken by the defendant.

(i) Nothing in this section shall prevent a timber operator from seeking an alternative writ as prescribed in Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure, or as provided by any other provision of law.

(j) (1) If a timber operator believes that a forest officer lacked reasonable cause to issue or extend a stop order pursuant to this section, the timber operator may present a claim to the State Board of Control pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code for compensation and damages resulting from the stopping of timber operations.

(2) If the State Board of Control finds that the forest officer lacked reasonable cause to issue or extend the stop order, the board shall award a sum of not less than one hundred dollars ($100), nor more than one thousand dollars ($1,000), per day for each day the order
was in effect.

SEC. 141. Section 5096.124 of the Public Resources Code is amended to read:

5096.124. Except as otherwise provided in this section or elsewhere in this chapter, all money deposited in the State, Urban, and Coastal Park Fund shall be available for appropriation as set forth in Section 5096.119 for the purposes set forth below in amounts not to exceed the following:

(a) For grants to counties, cities, and districts for the acquisition, development, or restoration of real property for park, beach, recreational, and historical resources preservation purposes, including state administrative costs ......................................... $85,000,000

(b) For acquisition, development, or restoration of real property for the state park system in accordance with the following schedule ........................................ $34,000,000
Schedule:
(1) Thirteen million dollars ($13,000,000) for acquisition and costs for planning and interpretation.
(2) Twenty-one million dollars ($21,000,000) for development of real property, historical resources, and costs for planning and interpretation.

(c) For acquisition of coastal recreational resources, consisting of real property for the state park system and costs of planning and interpretation ...... $110,000,000

(d) For the acquisition or development of real property for wildlife management in accordance with the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300), Division 2, Fish and Game Code), including costs for planning and interpretation in accordance with the following schedule ...................................................... $15,000,000
Schedule:
(1) Ten million dollars ($10,000,000) for coastal projects.
(2) Five million dollars ($5,000,000) for all projects, including coastal projects.

(e) For recreational facilities of the State Water Facilities, as defined in paragraphs (1) to (4), inclusive, of subdivision (b) of Section 12934 of the Water Code, for allocation in accordance with the following schedule ........................................ $26,000,000
Schedule:
(1) Fifteen million dollars ($15,000,000) for...
000,000) to the Department of Parks and Recreation, of which up to six million dollars ($6,000,000) may be used for recreational facilities at Lake Elsinore, whether or not such facilities are a part of the State Water Facilities.

(2) Five million dollars ($5,000,000) to the Department of Water Resources.

(3) Six million dollars ($6,000,000) to the Department of Boating and Waterways.

It is the intent of the Legislature that funds expended pursuant to subdivisions (a) and (b) of this section may be used for the acquisition of parks, beaches, open-space lands, and historical resources, and for development rights and scenic easements in connection with such lands and resources, and, in the case of grants to counties, cities, and districts, also for the development or restoration of such lands or resources and that funds expended pursuant to subdivision (c) of this section be in accordance with the following criteria and priorities:

(1) The first priority for the acquisition of coastal recreational resources is as follows:

(i) Land and water areas best suited to serve the recreational needs of urban populations.

(ii) Land and water areas of significant environmental importance, such as habitat protection.

(iii) Land and water areas in either of the above categories shall be given the highest priority when incompatible uses threaten to destroy or substantially diminish the resource value of such area.

(2) The second priority for the acquisition of coastal recreational resources is as follows:

(i) Land for physical and visual access to the coastline where public access opportunities are inadequate or could be impeded by incompatible uses.

(ii) Remaining areas of high recreational value.

(iii) Areas proposed as a coastal reserve or preserve, including areas that are or include restricted natural communities, such as ecological areas that are scarce, involving only a limited area; rare and endangered wildlife species habitats; rare and endangered plant species ranges; specialized wildlife habitats; outstanding representative natural communities; sites with outstanding educational value; fragile or environmentally sensitive resources; and wilderness or primitive areas. Areas meeting more than one of these criteria may be considered as being especially important.

(iv) Highly scenic areas that are or include landscape preservation projects designated by the Department of Parks and
Recreation; open areas identified as being of particular value in providing visual contrast to urbanization, in preserving natural landforms and significant vegetation, in providing attractive transitions between natural and urbanized areas, or as scenic open space; and scenic areas and historical districts designated by cities and counties. All real property acquired pursuant to this chapter shall be acquired in compliance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, and procedures sufficient to ensure compliance shall be prescribed by the Department of Parks and Recreation.

It is the further intent of the Legislature that funds granted pursuant to subdivision (a) of this section may be used by counties, cities, and districts for the acquisition, development, and restoration of public indoor recreational facilities, including enclosed swimming pools, gymnasiums, recreation centers, historical buildings, and museums. For development, the land must be owned by, or subject to a long-term lease to, the applicant county, city, or district. The lease shall be for a period of not less than 25 years from the date an application for a grant is made and shall provide that it may not be revoked at will during that period.

SEC. 142. Section 6311 of the Public Resources Code is amended to read:

6311. It is hereby declared to be the policy of this state that any grant of tidelands or submerged lands made after January 1, 1971, within an area which has been designated by the Department of Boating and Waterways as the location of a small craft harbor of refuge, shall contain a reservation and condition requiring the grantee to submit a plan to the Department of Boating and Waterways, within a reasonable period of time after the effective date of the grant, for the construction of facilities necessary or convenient for the use of the granted lands as a small craft harbor of refuge, and requiring the construction of facilities to be completed within a specified period of time after approval of the plan by the Department of Boating and Waterways.

SEC. 143. Section 14501 of the Public Resources Code is amended to read:

14501. The Legislature finds and declares as follows:

(a) Experience in this state and others demonstrates that financial incentives and convenient return systems ensure the efficient and large-scale recycling of beverage containers. Accordingly, it is the intent of the Legislature to encourage increased, and more convenient, beverage container redemption opportunities for all consumers. These redemption opportunities shall consist of dealer and other shopping center locations, independent and industry operated recycling centers, curbside programs, nonprofit dropoff programs, and other recycling systems that assure all consumers, in every region of the state, the opportunity to return beverage containers conveniently, efficiently, and economically.

(b) California grocery, beer, soft drink, container manufacturing,
labor, agricultural, consumer, environmental, government, citizen, recreational, taxpayer, and recycling groups have joined together in calling for an innovative program to generate large-scale redemption and recycling of beverage containers.

(c) This division establishes a beverage container recycling goal of 80 percent, and when the redemption rate for any one type of beverage container falls below 65 percent, this division provides for an increased refund value.

(d) It is the intent of the Legislature to ensure that every container type proves its own recyclability.

(e) It is the intent of the Legislature to make redemption and recycling convenient to consumers, and the Legislature hereby urges cities and counties, when exercising their zoning authority, to act favorably on the siting of multimaterial recycling centers, reverse vending machines, mobile recycling units, or other types of recycling opportunities, as necessary for consumer convenience, and the overall success of litter abatement and beverage container recycling in the state.

(f) The purpose of this division is to create and maintain a marketplace where it is profitable to establish sufficient recycling centers and locations to provide consumers with convenient recycling opportunities through the establishment of minimum refund values and processing fees and, through the proper application of these elements, to enhance the profitability of recycling centers, recycling locations, and other beverage container recycling programs.

(g) The responsibility to provide convenient, efficient, and economical redemption opportunities rests jointly with manufacturers, distributors, dealers, recyclers, processors, and the Department of Conservation.

(h) It is the intent of the Legislature, in enacting this division, that all empty beverage containers redeemed shall be recycled, and that the responsibilities and regulations of the department shall be determined and implemented in a manner which favors the recycling of redeemed containers, as opposed to their disposal.

(i) Nothing in this division shall be interpreted as affecting the current business practices of scrap dealers or recycling centers, except that, to the extent they function as a recycling center or processor, they shall do so in accordance with this division.

(j) The program established by this division will contribute significantly to the reduction of the beverage container component of litter in this state.

SEC. 144. Section 14549.5 of the Public Resources Code is amended to read:

14549.5. On or before November 1, 1991, the department shall recalculate the commingled rate for refund values for 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
ensure 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. 145. Section 25633 of the Public Resources Code is amended to read:

25633. The commission, as the lead agency, in consultation with the Department of Forestry and Fire Protection, the California Integrated Waste Management Board, the Department of Food and Agriculture, the State Air Resources Board, the State Water Resources Control Board, and the Department of Finance, shall do all of the following:

(a) Implement a program to demonstrate residue conversion technologies at appropriate locations throughout the state.

(b) Establish criteria for the selection of projects consistent with subdivision (a). The criteria shall assess each project considering the feasibility of the particular process, the availability of markets, project economics, local employment, environmental quality, and conformance with applicable local land use plans. The criteria shall recognize the intent of the Legislature that the commission select and provide substantial support for projects such as, but not limited to, combustion, anaerobic digestion, and gasification. The criteria for selection of projects shall include, but not be limited to, those projects which do all of the following:

(1) Reduce the consumption of petroleum fuels.

(2) Utilize residues with the greatest energy potential.

(3) Utilize a technology with the potential for widespread adoption throughout California.

(4) Promote the use of cogeneration or other methods of increasing end use efficiency.

(5) Reduce the environmental impacts of current methods of residue disposal.

(6) Emphasize near-term economic and technical feasibility.

(c) Select 20 or more projects and sites, consistent with the established criteria, for the establishment of facilities for the conversion of residue into energy or synthetic fuels.

SEC. 146. Section 25634 of the Public Resources Code is amended to read:

25634. (a) Funds appropriated to the commission for the purpose of funding projects selected pursuant to subdivision (c) of Section 25633 shall be disbursed, in a manner determined by the commission, for the purchase or construction of all or part of the equipment necessary for operation of a project. Title to specific equipment acquired by the state for the project shall remain with the state until purchased by a project proponent pursuant to paragraph
(2) of subdivision (c).

(b) The project proponents shall submit detailed work programs, schedules, estimates, and such other information as may be required by the commission.

(c) The commission shall require the project proponent, as a condition of eligibility, to do both of the following:

(1) Fund the entire cost of a project except for equipment funded pursuant to subdivision (a).

(2) Enter into an agreement for the purchase of equipment funded pursuant to subdivision (a) if the equipment has been determined to be successful. Successful performance of the equipment shall be determined by engineering performance specifications agreed to by the project proponent and the commission. The time for determination of successful performance shall be agreed upon by the project proponent and the commission. The amount of the purchase of the equipment shall be equal to the amount disbursed by the commission for the equipment pursuant to subdivision (a). If the purchased equipment meets specifications, but the project proves not economical or technologically feasible for other reasons, the state shall secure the equipment for resale. If the purchased equipment does not meet specifications, the state shall assist the industry in enforcing the contract with the equipment supplier or negotiating a reduced cost to the state if the overall project is satisfactory to both industry and the state in proportion to the degree to which the equipment meets specifications.

(d) The commission shall establish selection criteria for projects based on the recommendations of the Department of Forestry and Fire Protection and the Department of Food and Agriculture, which shall submit their recommendations to the commission not later than February 1, 1980.

SEC. 147. Section 25634.1 of the Public Resources Code is amended to read:

25634.1. The Department of Forestry and Fire Protection and the Department of Food and Agriculture shall, not later than July 1, 1980, and each January 1 thereafter, provide the commission with a list of potential projects which, in the judgment of those agencies, will satisfy the criteria established by the commission.

SEC. 148. Section 30404 of the Public Resources Code is amended to read:

30404. The commission shall periodically, in the case of the State Energy Resources Conservation and Development Commission, the State Board of Forestry, the State Water Resources Control Board and the California regional water quality control boards, the State Air Resources Board and air pollution control districts, the Department of Fish and Game, the Department of Parks and Recreation, the Department of Boating and Waterways, the Division of Mines and Geology, the Division of Oil and Gas, and the State Lands Commission, and may, with respect to any other state agency, submit recommendations designed to encourage it to carry out its functions
in a manner consistent with this division. The recommendations may include proposed changes in administrative regulations, rules, and statutes.

Each of these state agencies shall review and consider the recommendations and shall, within six months after receipt and, in the event the recommendations are not implemented, report to the Governor and the Legislature its action and reasons therefor. This report shall also include the agency's comments on any legislation that may have been proposed by the commission.

SEC. 149. Section 30620 of the Public Resources Code is amended to read:

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These 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 ensure that a preliminary review of that action for conformity with 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. However, 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 shall transmit a copy of those 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.

SEC. 150. Section 44201 of the Public Resources Code is amended to read:

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 solid waste facility.

SEC. 151. Section 44203 of the Public Resources Code is amended to read:

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 a cooperative 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 a cooperative 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 44205, 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 January 1, 1992, 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 are 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 are provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

SEC. 152. Section 44205 of the Public Resources Code is amended to read:

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 (e) 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 a party to a cooperative agreement to meet the requirements of this section shall be determined to be an actionable breach of the cooperative agreement.

(d) The election by a party to a cooperative agreement to pursue a contractual remedy shall not limit the ability of a party to assert its respective claims of jurisdiction or sovereign immunity.

(e) Entering into a 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.

SEC. 153. Section 140005 of the Public Utilities Code is repealed.
SEC. 154. Section 142009 of the Public Utilities Code is repealed.
SEC. 155. 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 any of the following:
(A) A possessory interest secured only by a lien on that taxed possessory interest.
(B) Goods in transit, not secured by any lien on real property.
(C) Improvements that have been assessed pursuant to Section 2188.2.

(D) 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 Section 4837.5.
(E) Unsecured property not secured by a lien on any real property, and where the tax has become delinquent.
(F) 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 compliance 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. 156. 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 the 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. 157. Section 6359.5 of the Revenue and Taxation Code is
amended to read:

6359.5. There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state of candy, confectionery, and snack foods (as defined in paragraph (2) of subdivision (c) of Section 6359) sold on an irregular or intermittent basis by any nonprofit youth organization listed or described in paragraph (3) of subdivision (b) of Section 6361 if the organization’s profits from those sales are used exclusively in furtherance of the purposes of the organization.

SEC. 158. Section 6480.16 of the Revenue and Taxation Code is amended to read:

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 or importer 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 were 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.

SEC. 159. A heading is added to Article 3 (commencing with
Section 8721) of Chapter 3 of Part 3 of Division 2 of the Revenue and
Taxation Code, immediately preceding Section 8721, to read:

Article 3. Wholesaler Use Fuel Tax Permit

SEC. 160. Section 10753.1 of the Revenue and Taxation Code is
amended to read:

10753.1. (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 zero 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 the vehicle was sold to the current registered owner as a used vehicle, 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; and 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 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. 161. Section 18682 of the Revenue and Taxation Code is amended to read:

18682. (a) An amount shall be added to the tax imposed under Section 17041 or 17048 for any underpayment of estimated tax. The amount shall be determined in accordance with Section 6654 of the Internal Revenue Code, except as otherwise provided in this section.

(b) The applicable annual rate specified in Section 6654(a)(1) of the Internal Revenue Code shall be the rate determined under Section 19269.

(c) The annualized income installment, determined under Section 6654(d)(2) of the Internal Revenue Code, shall not include "alternative minimum taxable income" or "adjusted self-employment income."

(d) Section 6654(e) of the Internal Revenue Code is modified as follows:

(1) Paragraph (1) shall not be applicable.

(2) No addition to the tax shall be imposed under this section if any of the following apply:

(A) The tax imposed under Section 17041 or 17048 for the preceding taxable year, minus the sum of any credits against the tax provided by this part, or computed under Section 17041 or 17048

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upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by this part, is less than one hundred dollars ($100), except in the case of a separate return filed by a married person the amount shall be less than fifty dollars ($50).

(B) Eighty percent or more of the tax imposed under Section 17041 or 17048 for the preceding taxable year, less any credits against the tax other than the credit allowed under Section 18551.1 for tax withheld on wages pursuant to Section 13020 of the Unemployment Insurance Code, was paid by withholding of tax on wages, as provided by Section 13020 of the Unemployment Insurance Code.

(C) Eighty percent or more of the estimated tax for the taxable year will be paid by withholding of tax on wages pursuant to Section 13020 of the Unemployment Insurance Code.

(D) Eighty percent or more of the adjusted gross income for the taxable year consists of wages subject to withholding pursuant to Section 13020 of the Unemployment Insurance Code.

(3) Paragraph (2) shall not apply if the employee files a false or fraudulent withholding exemption certificate for the taxable year.

(e) Section 6654(f) of the Internal Revenue Code shall not apply and for purposes of this section the term "tax" means the tax imposed under Section 17041 or 17048, less any credits against the tax provided by this part, other than the credit provided by Section 18551.1 (relating to tax withheld on wages).

(f) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under Section 18551.1.

(g) This section shall apply to a nonresident individual.

(h) (1) For purposes of Section 6654(d) of the Internal Revenue Code, the term "required annual payment" means the lesser of either of the following:

(A) Eighty percent of the tax shown on the return for the taxable year (or, if no return is filed, 80 percent of the tax for that year).

(B) One hundred percent of the tax shown on the return of the individual for the preceding taxable year.

(2) In the case of any required installment, the applicable percentage is as follows:

In the case of the following required installments: The applicable percentage is:
1st ........................................................................ 20
2nd ........................................................................ 40
3rd ........................................................................ 60
4th ........................................................................ 80

SEC. 162. Section 42300 of the Revenue and Taxation Code is repealed.

SEC. 163. Section 384.1 is added to the Streets and Highways Code, to read:

384.1. The inclusion of Route 84 from Route 238 to Route 680 near
Sunol in the state scenic highway system pursuant to Section 263.5 does not prohibit the use of railroad rights-of-way located in that scenic corridor for transportation purposes.

SEC. 164. 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 nonserved police dispatcher, or the spouse or children of a peace officer or a nonserved police dispatcher, whether living with them or not, or any employee of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Sections 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. 165. Section 1817 of the Vehicle Code is amended to read:

1817. Written allegations received by the department from members of the public identifying motor vehicles or other vehicles by license number from which any flaming or glowing substance has been thrown, or discharged, shall be forwarded to the Department of Forestry and Fire Protection together with any information as to the identity of the registered owner of the vehicle as shown by the records of the department.

SEC. 166. Section 9911 of the Vehicle Code is amended to read:

9911. Whenever the owner of an undocumented vessel numbered under this code sells or transfers his or her title or interest in, or any part thereof, and delivers the possession of, the vessel to another, the owner shall, within five calendar days, notify the department of the sale or transfer by giving the date thereof, the name and address of the owner and of the transferee and a description of the vessel as may be required in the appropriate form.
provided for the purpose by the department.

SEC. 167. Section 24007.5 of the Vehicle Code is amended to read:

24007.5. (a) (1) No auctioneer or public agency shall sell, at public auction, any vehicle specified in subdivision (a) of Section 24007, which is not in compliance with this code.

(2) Paragraph (1) does not apply to a vehicle that is sold under the conditions specified in subdivision (c), (d), (e), or (g) or is sold to a dealer or for the purpose of being wrecked or dismantled or is sold exclusively for off-highway use.

(b) Except with respect to the sale of a vehicle specified in paragraph (2) of subdivision (a), the consignor of any vehicle, specified in subdivision (b) of Section 24007, sold at public auction, shall provide the purchaser a valid certificate of compliance or certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(c) Notwithstanding any other provision of this code, if, in the opinion of a public utility or public agency, the cost of repairs to a vehicle exceeds the value of the vehicle to the public utility or public agency, the public utility or public agency shall, as transferee or owner, surrender the certificates of registration, documents satisfactory to the Department of Motor Vehicles showing proof of ownership, and the license plates issued for the vehicle to the Department of Motor Vehicles. As used in this section, "public utility" means a public utility as described in Sections 218, 222, and 234 of the Public Utilities Code.

(d) The public utility or public agency having complied with subdivision (c) shall, upon sale of the vehicle, give to the purchaser a bill of sale which includes, in addition to any other required information, the last issued license plate number.

(e) (1) Subdivisions (a) and (b) do not apply to any judicial sale, including, but not limited to, a bankruptcy sale, conducted pursuant to a writ of execution or order of court.

(2) Subdivision (b) does not apply to any lien sale if the lienholder does both of the following:

(A) Gives the notice required by subdivisions (a) and (b) of Section 5900.

(B) Notifies the buyer that California law requires that the buyer obtain a certificate of compliance or noncompliance and register the vehicle with the department, and that failure to comply will result in a lien against any vehicle owned by the buyer pursuant to Section 10876 of the Revenue and Taxation Code, enforceable pursuant to Section 10877 of the Revenue and Taxation Code and Article 6 (commencing with Section 9800) of Chapter 6 of Division 3. Receipt of the notice required by this subparagraph shall be evidenced by the signature of the buyer.

(f) The exceptions in this section do not apply to any requirements for registration of a vehicle pursuant to Section 4000.1, 4000.2, or 4000.3.

(g) Except as otherwise provided in subdivision (e), any public
agency or auctioneer which sells, at public auction, any vehicle specified in subdivision (b) of Section 24007, which is registered to a public agency or a public utility, shall provide each bidder with a notice in writing that a certificate of compliance is required to be obtained, certifying that the vehicle complies with Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, before the vehicle may be registered in this state, unless the vehicle is sold to a dealer or for the purpose of being wrecked or dismantled or is sold exclusively for off-highway use. Prior to the sale of the vehicle, a public agency or public utility shall remove the license plates from the vehicle and surrender them to the department. The purchaser of the vehicle shall be given a bill of sale which includes, in addition to any other required information, the vehicle’s last issued license plate number.

SEC. 168. Section 40611 of the Vehicle Code is amended to read:

40611. Upon proof of correction of an alleged violation of Section 12500 or 12951, or any violation cited pursuant to Section 40610, 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. 169. Section 1058.5 of the Water Code is amended to read:

1058.5. (a) This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:

(1) The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote wastewater reclamation, or to promote water conservation.

(2) The emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by two or more consecutive dry or critically dry years.

(b) Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation to which this section applies, are not subject to review by the Office of Administrative Law.

(c) Any emergency regulation adopted by the board to which this section applies may remain in effect for up to 270 days, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary
for the regulation to remain in effect.

SEC. 170. Section 11761 of the Water Code is amended to read:
11761. The proceeds shall be paid out, disbursed, or applied solely for one or more of the following:
(a) The construction, reconstruction, and repair of the project.
(b) Surveys and the preparation of plans and specifications.
(c) Payment of all other costs and expenses prior to and during construction.
(d) The acquisition of the necessary water, water rights, rights-of-way, easements, lands, electric power, power resources and facilities, other property of every kind and description, and any appurtenances to that property necessary therefor, including facilities planned and designed in cooperation with, and among, water agencies, water districts, and irrigation districts.
(e) The payment of interest becoming due and payable on bonds prior to and during the period of actual construction and for the period of one year after the completion of construction.
(f) All costs and expenses during a period of one year after completion of construction only as the need therefor shall arise.
(g) The establishment of a debt service reserve fund.

SEC. 171. Section 11910 of the Water Code is amended to read:
11910. There shall be incorporated in the planning and construction of each project those features (including, but not limited to, additional storage capacity) that the department, after giving full consideration to any recommendations which may be made by the Department of Fish and Game, the Department of Parks and Recreation, the Department of Boating and Waterways, any federal agency, and any local governmental agency with jurisdiction over the area involved, determines necessary or desirable for the preservation of fish and wildlife, and necessary or desirable to permit, on a year-round basis, full utilization of the project for the enhancement of fish and wildlife and for recreational purposes to the extent that those features are consistent with other uses of the project, if any. It is the intent of the Legislature that there shall be full and close coordination of all planning for the preservation and enhancement of fish and wildlife and for recreation in connection with state water projects by and between the Department of Water Resources, the Department of Parks and Recreation, the Department of Boating and Waterways, the Department of Fish and Game, and all appropriate federal and local agencies.

SEC. 172. Section 11910.1 of the Water Code is amended to read:
11910.1. In furtherance of the policies specified in Section 11910, the Department of Fish and Game, the Department of Parks and Recreation, the Department of Boating and Waterways, and other governmental agencies shall submit their recommendations or comments on reconnaissance studies or feasibility reports of the Department of Water Resources relating to any project or feature of a project within 60 days following receipt of a formal request for
review from the Department of Water Resources.

SEC. 173. Section 11912 of the Water Code is amended to read:
11912. The department, in fixing and establishing prices, rates, and charges for water and power, shall include as a reimbursable cost of any state water project an amount sufficient to repay all costs incurred by the department, directly or by contract with other agencies, for the preservation of fish and wildlife and determined to be allocable to the costs of the project works constructed for the development of such water and power, or either. Costs incurred for the enhancement of fish and wildlife or for the development of public recreation shall not be included in the prices, rates, and charges for water and power, and shall be nonreimbursable costs.

It shall be the duty of the department to report annually to the Legislature the costs, if any, which the department has allocated to recreation and fish and wildlife enhancement for each facility of any state water project. The department shall also report to the Legislature any revisions which the department makes in such allocations.

The department shall submit each such cost allocation to the Department of Boating and Waterways, the Department of Parks and Recreation, and the Department of Fish and Game. The Department of Boating and Waterways, the Department of Parks and Recreation, and the Department of Fish and Game shall file with the Department of Water Resources their written comments with respect to each such cost allocation, which written comments shall be included in the report required by this section.

The allocations or revised allocations reported to the Legislature shall become effective for the purposes of Section 11915 upon approval by the Legislature.

It shall also be the duty of the department to report to the Legislature on any expenditure of funds for acquiring rights-of-way, easements, and property pursuant to Section 346 for recreation development associated with such facilities. For the purposes of Section 11915, such expenditures shall become approved in the same manner as provided above with respect to cost allocations.

SEC. 174. Section 13263.5 of the Water Code is amended to read:
13263.5. (a) When the regional board issues waste discharge requirements pursuant to Section 13263, or revises waste discharge requirements pursuant to subdivision (g) of Section 25159.17 of the Health and Safety Code, for any injection well into which hazardous waste is discharged, the waste discharge requirements shall be based upon the information contained in the hydrogeological assessment report prepared pursuant to Section 25159.18 of the Health and Safety Code and shall include conditions in the waste discharge requirements to ensure that the waters of the state are not polluted or threatened with pollution.

(b) If the state board applies to the federal Environmental Protection Agency to administer the Underground Injection Control Program pursuant to Part 145 (commencing with Section 145.1) of
Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations, that application shall not include a request to administer the Underground Injection Control Program for any oil, gas, or geothermal injection wells supervised or regulated by the Division of Oil and Gas pursuant to Section 3106 or 3714 of the Public Resources Code.

SEC. 175. Section 601.3 of the Welfare and Institutions Code is amended to read:

601.3. (a) If the district attorney or the probation officer receives notice from the school district pursuant to subdivision (b) of Section 48260.6 of the Education Code that a minor continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5 of the Education Code, or if the district attorney or the probation officer receives notice from the school attendance review board pursuant to subdivision (a) of Section 48263.5 of the Education Code that a minor continues to be classified as a truant after review and counseling by the school attendance review board, the district attorney or the probation officer may request the parents or guardians and the child to attend a meeting in the district attorney’s office or at the probation department to discuss the possible legal consequences of the minor’s truancy.

(b) Notice of a meeting to be held pursuant to this section shall contain all of the following:

(1) The name and address of the person to whom the notice is directed.
(2) The date, time, and place of the meeting.
(3) The name of the minor classified as a truant.
(4) The section pursuant to which the meeting is requested.
(5) Notice that the district attorney may file a criminal complaint against the parents or guardians pursuant to Section 48293 of the Education Code for failure to compel the attendance of the minor at school.

(c) Notice of a meeting to be held pursuant to this section shall be served at least five days prior to the meeting on each person required to attend the meeting. Service shall be made personally or by certified mail with request for return receipt.

(d) At the commencement of the meeting authorized by this section, the district attorney or the probation officer shall advise the parents or guardians and the child that any statements they make could be used against them in subsequent court proceedings.

(e) Upon completion of the meeting authorized by this section, the probation officer or the district attorney, after consultation with the probation officer, may file a petition pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the probation officer, or
the district attorney.

(f) The truancy mediation program authorized by this section may be established by the district attorney or by the probation officer. The district attorney and the probation officer shall coordinate their efforts and shall cooperate in determining which office is best able to operate a truancy mediation program in their county pursuant to this section.

SEC. 176. Section 653 of the Welfare and Institutions Code is amended to read:

653. Whenever any person applies to the probation officer or the district attorney in accordance with subdivision (e) of Section 601.3, to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 and setting forth facts in support thereof. The probation officer or the district attorney, in consultation with the probation officer, shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.

SEC. 177. Section 740 of the Welfare and Institutions Code is amended to read:

740. (a) Any minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 and who is placed in a community care facility shall be placed in such a facility within his or her county of residence, unless he or she has identifiable needs requiring specialized care which cannot be provided in a local facility, or unless his or her needs dictate physical separation from his or her family.

(b) Within 30 days after the placement of a minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 in any community care facility outside the ward's county of residence, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send written notice of the placement, including the name of the ward, the juvenile record of the ward (including any known prior offenses), and the ward's county of residence, to the probation officer of the county in which the community care facility is located. With regard to this requirement, it is the intent of the Legislature that the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall make his or her best efforts to send, or to hand deliver, the notice at the same time the placement is made. When such a placement is terminated, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send notice thereof to any person or agency receiving notification of the placement.

(c) A minor, the parent or guardian of any minor, and counsel representing a minor or the parent or guardian of a minor may
petition the juvenile court for the review of any placement decision concerning the minor made by the probation officer pursuant to subdivision (a). The petition shall state the petitioner's relationship to the minor and shall set forth in concise language the grounds on which the review is sought. The court shall order that a hearing shall be held on the petition and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Section 776, and, in instances in which the means of giving notice is not prescribed by that section, then by such means as the court prescribes.

(d) If a minor is placed in a community care facility out of his or her county of residence and is then arrested and placed in juvenile hall pending a jurisdictional hearing, the county of residence shall pay to the probation department of the county of placement all reasonable costs resulting directly from the minor's stay in the juvenile hall, provided that these costs exceed one hundred dollars ($100).

(e) If, as a result of the hearing in subdivision (c), the minor is remanded back to his or her county of residence, the county of residence shall pay to the probation department of the county of placement, in addition to any payment made pursuant to subdivision (d), all reasonable costs resulting directly from transporting the minor to the county of residency, provided that these costs exceed one hundred dollars ($100).

(f) Claims made by the probation department in the county of placement, to the county of residence, pursuant to subdivisions (d) and (e), shall be paid within 30 days of the submission of these claims and the probation department in the county of placement shall bear the remaining expense.

(g) As used in this section, "community care facility" shall be defined as provided in Section 1502 of the Health and Safety Code.

SEC. 178. Section 1760.5 of the Welfare and Institutions Code is amended to read:

1760.5. The director may require persons committed to the authority to perform work necessary and proper to be done by the Department of Forestry and Fire Protection, the Department of Water Resources, the Department of Parks and Recreation, and the Department of Fish and Game, by the Division of State Lands, by the United States Department of Agriculture, and by the federal officials and departments in charge of national forests and parks within this state. For the purposes of this section, the director, with the approval of the Department of General Services, may enter into contracts with federal and state officials and departments. All moneys received by the director pursuant to any of those contracts shall be paid into the State Treasury to the credit and in augmentation of the current appropriation for the support of the authority. The director may provide, from those moneys, for the payment of wages to the wards for work they do pursuant to any of those contracts, the wages to be paid into the Indemnity Fund created pursuant to Section 13967 of
the Government Code, or to the parents or dependents of the ward, or to the ward in the manner and in those proportions as the Department of the Youth Authority directs.

SEC. 179. Section 14132.44 of the Welfare and Institutions Code is amended to read:

14132.44. (a) Targeted case management, pursuant to Section 1915(g) of the Social Security Act as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), is covered as a benefit, subject to utilization controls for the following populations:

1. Persons served by regional centers administered by the State Department of Developmental Services.
2. Persons in other programs administered by the State Department of Developmental Services.
3. Persons receiving services pursuant to Section 14021.3.
4. Persons in programs determined appropriate by the State Director of Health Services.

(b) A county may elect to provide targeted case management services to one or all of the following groups of Medi-Cal beneficiaries:

2. Pregnant, postpartum, and parenting women.
3. Persons with human immunodeficiency virus infection.
5. Persons abusing alcohol or drugs, or both.
6. Persons known to use multiple service providers.
7. Persons with catastrophic or chronic illnesses.
8. Elderly persons at risk of institutionalization.
9. Adults at risk of abuse or neglect.

(c) A county that elects to make case management services available to the groups specified in subdivision (b) shall, for the purpose of obtaining federal medicaid matching funds, certify to the department the amount of funds expended on allowable targeted case management services.

(d) Upon federal approval for federal financial assistance, the department, in consultation with counties, and consistent with federal regulations including the State Medicaid Manual of the Department of Health and Human Services, Health Care Financing Administration, shall define case management services, shall establish the standards under which case management services qualify as a Medi-Cal reimbursable service, shall develop an appropriate rate of reimbursement, and shall develop a claiming system to certify local matching expenditures.

(e) The State Director of Health Services may require that the local government certify, in each fiscal year, that its expenditures represent costs that are eligible for federal financial participation for that fiscal year. Where this certification by the local government is required, the director shall determine whether that certification is adequately supported for purposes of federal financial participation.

(f) The state shall be held harmless from any federal disallowance
resulting from payments made under this section. Any county that has received payments under this section shall be liable for any federal disallowance only with respect to the payments made to that county. The department shall recoup from a county the amount of any federal disallowance in the manner authorized by applicable laws and regulations.

(g) The use of local matching funds allowed by this section shall not create, lead to, or expand the health care funding obligations or service obligations for current or future years for any county, except as required by this section or as may be required by federal law.

(h) Case management services are services which assist clients to gain access to needed medical, social, educational, and other services. Activities conducted by case managers may include, but are not limited to, all of the following:

1. Assessment of client needs and personal support systems.
2. Development of comprehensive individualized service plans.
3. Coordination of services required to implement the individualized service plan.
4. Health information, education, and referral services.
5. Client monitoring to assess the efficacy of the plan.
6. Advocacy for clients with service providers.
7. Reevaluation and adaptation of the individualized service plan as necessary.

SEC. 180. Section 2 of Chapter 837 of the Statutes of 1989 is repealed.

SEC. 181. Section 36 of Chapter 19 of the Statutes of 1990 is amended to read:

Sec. 36. The sum of forty-one million five hundred thousand dollars ($41,500,000) is hereby appropriated from the Special Fund for Economic Uncertainties for allocation in accordance with the following schedule:

1. The sum of thirty-two million dollars ($32,000,000) to the California Disaster Housing Rehabilitation Fund for housing rehabilitation loans pursuant to Section 50662.7 of the Health and Safety Code.

2. The sum of nine million five hundred thousand dollars ($9,500,000) to the Natural Disaster Community Assistance Account, for allocation as follows:

   A. The sum of five million dollars ($5,000,000) to the Emergency Housing and Assistance Fund established pursuant to Section 50800.5 of the Health and Safety Code, to be expended for the purposes authorized by Chapter 2 (commencing with Section 34070) of Part 1.6 of Division 24 of the Health and Safety Code and for related administrative expenses of the Department of Housing and Community Development.

   B. The sum of one million dollars ($1,000,000) to the Rural Predevelopment Loan Fund established pursuant to Section 50516 of the Health and Safety Code, to be expended for the purposes of Section 34052 of the Health and Safety Code.
(C) The sum of one million dollars ($1,000,000) to the Urban Predevelopment Loan Fund established pursuant to Section 50531 of the Health and Safety Code, to be expended for the purposes of Section 34052 of the Health and Safety Code.

(D) The sum of one million dollars ($1,000,000) to the Department of Housing and Community Development for the purposes specified in Section 34053 of the Health and Safety Code, to be used to continue the operation of migrant centers as needed to respond to the October 17, 1989, earthquake and aftershocks that occurred in northern California.

(E) The sum of one million dollars ($1,000,000) to the Department of Commerce for the operation of the Rural Emergency Assistance Housing Infrastructure Program (Article 6 (commencing with Section 15373.96) of Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of the Government Code).

(F) The sum of five hundred thousand dollars ($500,000) to the Emergency Housing and Assistance Fund established pursuant to Section 50800.5 of the Health and Safety Code, to be allocated by the Department of Housing and Community Development for the purposes of the residential rental security guarantees and grants authorized under Section 34078 of the Health and Safety Code.

SEC. 182. Section 16 of Chapter 1190 of the Statutes of 1991 is amended to read:

Sec. 16. Notwithstanding Provision 5 of Item 5180-151-001 of, and Provision 7 of Item 6110-196-001 of, Section 2 of the Budget Act of 1991, or any other provision of law, the State Department of Education, upon execution of the interagency agreement pursuant to Section 8350 of the Education Code, in conjunction with the administration of the program, shall not restrict Greater Avenues for Independence (GAIN) participants in the program from being placed in child care spaces that are subsidized by the State Department of Education.

SEC. 183. Any section of any act enacted by the Legislature during the 1992 calendar year, which takes effect on or before January 1, 1993, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.
CHAPTER 428

An act to add Section 48645.7 to the Education Code, relating to certificated employees.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 48645.7 is added to the Education Code, to read:

48645.7. Upon approval of the county board of education, juvenile court schools may be authorized two in-service days during any calendar year emphasizing teacher safety training. The juvenile court school may claim the average daily attendance calculated for that school for the day preceding the day on which the in-service training is held provided, however, that the total apportionment for that school shall not be increased.

Nothing in this section shall be construed to authorize full average daily attendance reimbursement for more than a total of eight in-service days per school year.

CHAPTER 429

An act to amend Sections 207.1, 209, 731.8, 731.9, and 903.45 of, and to add Sections 207.2 and 903.25 to, the Welfare and Institutions Code, relating to corrections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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 Department of 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, upon the conclusion of the fitness hearing, shall 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 the 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.

"Law enforcement facility," as used in this subdivision, 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 make available
and, upon request, shall 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 any form 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 December 1, 1992, 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 also shall 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 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 be granted only 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 extend only 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 also shall 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 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 also may 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, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The Department of the Youth Authority shall prescribe minimum standards for any such facility.

(i) (1) "Jail," as used in this chapter, means any building that 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) "Lockup," as used in this chapter, 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) "Offshore law enforcement facility," as used in this section, 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 delayed unnecessarily 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 in excess of two hours.

SEC. 2. Section 207.2 is added to the Welfare and Institutions Code, to read:
207.2. (a) A minor who is held in temporary custody in a law enforcement facility that contains a lockup for adults pursuant to subdivision (d) of Section 207.1 may be released to a parent, guardian, or responsible relative by the law enforcement agency operating the facility, or may at the discretion of the law enforcement agency be released into his or her own custody, provided that a minor released into his or her own custody is furnished, upon request, with transportation to his or her home or to the place where the minor was taken into custody.

(b) In addition to the liability established by any other provision of law, a parent or guardian of a minor who has been held in temporary custody in a law enforcement facility pursuant to subdivision (d) of Section 207.1 shall be liable for the reasonable costs of transporting the minor to a juvenile facility and for the costs of the minor’s food, shelter, and care at the juvenile facility when all of the following circumstances are applicable:

(1) The parent or guardian has received actual notice by telephone or by written communication from the law enforcement agency that the minor is scheduled for release and that the parent is requested to take delivery of the minor at the law enforcement facility, in person or through a responsible relative, by a time certain which shall be no later than six hours from the time the minor was placed in temporary custody at the law enforcement facility. The notice shall inform the parent or guardian of the financial liability created by this section.

(2) It is reasonably possible for the parent or guardian to take delivery, in person or through a responsible relative, of the minor at the law enforcement facility within the custody time limit identified by the law enforcement agency in the request to take delivery of the minor.

(3) The parent or guardian states a refusal to accept release of the minor or fails to make a reasonable effort to take timely delivery of the minor, in person or through a responsible relative, in accordance with the request of the law enforcement agency.

(c) The liability established by this section, when combined with any other liability arising under Section 903, shall not exceed one hundred dollars ($100) for each 24-hour period, beginning when notice of release was actually received, in which a notified parent or guardian has failed to make a reasonable effort to take custody of the minor, in person or through a responsible relative, at the law enforcement facility or at a juvenile facility to which the minor is subsequently transferred.

(d) The liability established by this section shall be limited by the financial ability of the parents, guardians, or other persons to pay. Any parent, guardian, or other person who is assessed under this section shall, upon request, be entitled to an evaluation and determination of ability to pay under Section 903.45. Any parent, guardian, or other person who is assessed under this section shall also be entitled, upon petition, to a hearing in the juvenile court on the
issues of liability and ability to pay.

SEC. 3. Section 209 of the Welfare and Institutions Code is amended to read:

209. (a) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall which, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

The judge shall note in the minutes of the court whether the facility is a suitable place for confinement of minors.

The Department of the Youth Authority shall likewise conduct an annual inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state which, during the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

If either a judge of the juvenile court or the department, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the department shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the judge or department, as the case may be, finds, after reinspection of the facility that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup shall make any reports as may be required by the department or the juvenile court to effectuate the purposes of this section.

(b) The Department of the Youth Authority may inspect any law enforcement facility which contains a lockup for adults and which it has reason to believe may not be in compliance with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility which contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

If either the judge or the department finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the department shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the time the judge or
the department, as the case may be, finds, after reinspection, that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

The custodian of each law enforcement facility which contains a lockup for adults shall make any report as may be required by the department or by the juvenile court to effectuate the purposes of this subdivision.

(c) The department shall collect annual data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (i) of Section 207.1, and shall annually publish this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

SEC. 4. Section 731.8 of the Welfare and Institutions Code, as added by Chapter 10 of the Statutes of 1992, is amended to read:

731.8. (a) The Department of the Youth Authority shall adopt a written policy setting forth the rules and requirements for wards in the institutional and parole components of the LEAD program and shall make this written policy available to program participants. It shall be the policy of the department to encourage a ward's continued participation and successful completion of the LEAD program by all appropriate means. A ward may be dismissed from the LEAD program only upon a material violation of rules and requirements made known to the ward upon enrollment in the program. Violations shall be documented by the department. The department shall use its existing disciplinary decisionmaking system whereby the ward has the opportunity to contest any allegation of misconduct which is the basis for the proposed dismissal of the ward from the program.

(b) A ward who resigns or is dismissed from the LEAD program shall be given credit by the Youthful Offender Parole Board for institutional time served while in the program and shall not have time added to his or her parole consideration date by the Youthful Offender Parole Board solely on the basis that the ward started and failed to complete the LEAD program.

(c) This section shall be repealed on June 30, 1997, unless that date is extended or deleted by a later enacted statute.

SEC. 5. Section 731.9 of the Welfare and Institutions Code, as added by Chapter 10 of the Statutes of 1992, is amended to read:

731.9. The Department of the Youth Authority shall provide for the evaluation of the LEAD program in order to document the implementation and operations of the program and to measure the program's impact on subsequent behavior and recidivism of wards and on the institutional and parole populations of the department.

(a) There shall be an implementation and process evaluation which shall describe the program qualitatively and shall fully document the startup, operations, size, volume, location, program description, staffing cost, and other relevant characteristics of the
pilot programs in both the northern and southern California phases. Additionally, the implementation and process evaluation shall monitor and report on the selection of wards for the program, including judicial recommendations for admission, profiles and characteristics of wards eligible for the program and of wards selected for inclusion in the program by the department, recommendations made to the Youthful Offender Parole Board, acceptances and rejections by the board, and reasons for rejection by the board. Additionally, this evaluation shall include information on wards who resign or are dismissed from the program in all phases, including their total length of institutional stay, their reasons for dismissal and the steps taken, if any, to replace wards who leave the program before completion. An implementation and process study shall be conducted over the first 12 months of program operation at each facility site where the program is established and shall be completed and presented to the Legislature by the end of 16 months from the date the program begins at each site.

(b) There shall be an impact evaluation to determine the effect of the program on the subsequent behavior of wards including measures of recidivism. The impact evaluation shall apply strict experimental and control study protocols to compare the followup behavior and recidivism of wards completing the program to the behavior and recidivism of eligible wards who are not in the program. Measures of recidivism shall include revocations and removals from parole as well as new law violations by frequency and severity. Particular attention in the evaluation shall be given to determining the recidivism characteristics at 12-, 18-, and 24-month followup periods after successful completion of the LEAD program, with comparison to the performance of a pool of wards who are eligible for the program but were not assigned to it. The impact evaluation shall report specially on the effect which the program may have on the size of present and future Department of the Youth Authority populations, including measures of length of stay for program participants, dropouts, and nonparticipants; bed savings or increases attributable to the operation of the program; and the cost-effectiveness of the program or lack thereof. Interim impact evaluation reports shall be completed and submitted to the Legislature on or before December 31, 1994, and December 31, 1995, with a final impact evaluation report due on or before December 31, 1996.

(c) This section shall be repealed on June 30, 1997, unless that date is extended or deleted by a later enacted statute.

SEC. 6. Section 903.25 is added to the Welfare and Institutions Code, to read:

903.25. (a) In addition to the liability established by any other provision of law, a parent or guardian of a minor who has been delivered to the custody of the probation department, or who has been securely detained in a juvenile facility operated by a probation department, shall be liable for the reasonable costs of food, shelter,
and care of the minor while in the custody of the probation department when all of the following circumstances are applicable:

(1) The parent or guardian receives actual notice by telephone or by written communication from the probation officer that the minor is scheduled for release from custody and that the parent or guardian, in person or through a responsible relative, is requested to take delivery of the minor. The notice shall inform the parent or guardian of the financial liability created by this section.

(2) It is reasonably possible for the parent or guardian to take delivery of the minor, in person or through a responsible relative, at the place designated by the probation officer within 12 hours from the time notice of release was received.

(3) The parent states a refusal to take delivery of the minor or fails to make a reasonable effort to take delivery of the minor, in person or through a responsible relative, within 12 hours from the time of actual receipt of the notice.

(b) The liability established by this section, when combined with any liability arising under Section 903, shall not exceed one hundred dollars ($100) for each 24-hour period, beginning when notice of release was actually received, in which a notified parent or guardian has failed to make a reasonable effort to take delivery of the minor, in person or through a responsible relative, in accordance with the request and instructions of the probation officer.

(c) The liability established by this section shall be limited by the financial ability of the parents, guardians, or other persons to pay. Any parent, guardian, or other person who is assessed under this section shall, upon request, be entitled to an evaluation and determination of ability to pay under the provisions of Section 903.45. Any parent, guardian, or other person who is assessed under this section shall also be entitled, upon petition, to a hearing and determination by the juvenile court on the issues of liability and ability to pay.

SEC. 7. Section 903.45 of the Welfare and Institutions Code is amended to read:

903.45. (a) The board of supervisors may designate a county financial evaluation officer pursuant to Section 27750 of the Government Code to make financial evaluations of parental liability for reimbursement pursuant to Sections 207.2, 903, 903.1, 903.2, 903.25, and 903.3, and other reimbursable costs allowed by law, as set forth in this section.

(b) In any county where a board of supervisors has designated a county financial evaluation officer, the juvenile court shall, at the close of the disposition hearing, order any person liable for the cost of support, pursuant to Section 903, the cost of legal services as provided for in Section 903.1 or probation costs as provided for in Section 903.2, or any other reimbursable costs allowed under this code, to appear before the financial evaluation officer for a financial evaluation of his or her ability to pay those costs; and if the responsible person is not present at the disposition hearing, the court
shall cite him or her to appear for such a financial evaluation. In the case of a parent, guardian, or other person assessed for the costs of transport, food, shelter, or care of a minor under Section 207.2 or 903.25, the juvenile court shall, upon request of the county probation department, order the appearance of the parent, guardian, or other person before the financial evaluation officer for a financial evaluation of his or her ability to pay the costs assessed.

If the county financial evaluation officer determines that a person so responsible has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an order requiring the person to pay that sum to the county. In evaluating a person's ability to pay under this section, the county financial evaluation officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. Any person appearing for a financial evaluation shall have the right to dispute the county financial evaluation officer's determination, in which case he or she shall be entitled to a hearing before the juvenile court. The county financial evaluation officer at the time of the financial evaluation shall advise such a person of his or her right to a hearing and of his or her rights pursuant to subdivision (c).

At the hearing, any person so responsible for costs shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person shall have the right to be represented by counsel, and, when the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or part of the costs, including the costs of any counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county in a manner in which the court believes reasonable and compatible with the person's financial ability.

If the person or persons, after having been ordered to appear before the county financial evaluation officer, have been given proper notice and fail to appear as ordered, the county financial evaluation officer shall recommend to the court that he, she, or they be ordered to pay the full amount of the costs. Proper notice to him, her, or them shall contain all of the following:

1. That he, she, or they have a right to a statement of the costs as soon as it is available.
2. His, her, or their procedural rights under Section 27755 of the Government Code.
3. The time limit within which his, her, or their appearance is required.
4. A warning that if he, she, or they fail to appear before the county financial evaluation officer, the officer will recommend that the court order him, her, or them to pay the costs in full.
If the county financial evaluation officer determines that the person or persons have the ability to pay all or a portion of these costs, with or without terms, and he, she, or they concur in this determination and agree to the terms of payments, the county financial evaluation officer, upon his or her written evaluation and the person's or persons' written agreement, shall petition the court for an order requiring him, her, or them to pay that sum to the county in a manner which is reasonable and compatible with his, her, or their financial ability. This order may be granted without further notice to the person or persons, provided a copy of the order is served on him, her, or them by mail.

However, if the county financial evaluation officer cannot reach an agreement with the person or persons with respect to either the liability for the costs, the amount of the costs, his, her, or their ability to pay the same, or the terms of payment, the matter shall be deemed in dispute and referred by the county financial evaluation officer back to the court for a hearing.

(c) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the basis of a change in circumstances relating to his or her ability to pay the judgment.

(d) Execution may be issued on the order in the same manner as on a judgment in a civil action, including any balance remaining unpaid at the termination of the court's jurisdiction over the minor.

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.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act clarifies numerous provisions of existing law with regard to minors in order to ensure that the law is properly carried out. In order to provide this necessary clarification at the earliest possible time, it is necessary that this act take effect immediately.
An act to amend Sections 12246, 17200, 17203, 17206, and 17536 of the Business and Professions Code, relating to unfair competition.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992]

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

SECTION 1. Section 12246 of the Business and Professions Code is amended to read:

12246. This article 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.

SEC. 2. Section 17200 of the Business and Professions Code is amended to read:

17200. As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

SEC. 3. Section 17203 of the Business and Professions Code is amended to read:

17203. Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

SEC. 4. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this
chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), if 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.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

(e) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered, or upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises which were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

SEC. 5. Section 17536 of the Business and Professions Code is amended to read:

17536. (a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five
hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality which funds the local agency.

(e) As applied to the penalties for acts in violation of Section 17530, the remedies provided by this section and Section 17534 are mutually exclusive.

SEC. 6. In enacting the amendments contained in this act, it is the intent of the Legislature not to change the decisional law of this state regarding the methods of determining the number of violations on which an award of civil penalties is based.
An act to amend Section 4800.8 of the Civil Code, relating to community property.

[Approved by Governor August 1, 1992. Filed with Secretary of State August 3, 1992.]

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

SECTION 1. Section 4800.8 of the Civil Code is amended to read:
4800.8. (a) Except as provided in subdivision (b), the court shall make whatever orders are necessary or appropriate to assure that each party receives his or her full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, any of the following:

(1) Order the division of any retirement benefits payable upon or after the death of either party in a manner consistent with Section 4800.

(2) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, in any case in which a retirement plan provides for such an election, provided that no court shall order a retirement plan to provide increased benefits determined on the basis of actuarial value.

(3) Order the division of accumulated community property contributions and service credit as provided in Article 1.2 (commencing with Section 21215) of Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code.

(4) Order the division of community property rights in accounts with the State Teachers’ Retirement System pursuant to Chapter 7.5 (commencing with Section 22650) of Part 13 of the Education Code.

(5) Order a retirement plan to make payments directly to a nonmember party of his or her community property interest in retirement benefits.

(b) A court shall not make any order that requires a retirement plan to do either of the following:

(1) Make payments in any manner that will result in an increase in the amount of benefits provided by the plan.

(2) Make the payment of benefits to any party at any time before the member retires, except as provided in paragraphs (3) and (4) of subdivision (a), unless the plan so provides.

(c) This section shall not be applied retroactively to payments made by a retirement plan to any person who retired or died prior to January 1, 1987, or to payments made to any person who retired or died prior to June 1, 1988, for plans subject to paragraphs (3) and (4) of subdivision (a).
CHAPTER 432

An act to add Section 25666.5 to the Business and Professions Code, to add Section 647.2 to the Penal Code, and to amend Section 23145.5 of the Vehicle Code, relating to crimes.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. Section 25666.5 is added to the Business and Professions Code, to read:

25666.5. If a person is convicted of a violation of subdivision (b) of Section 25658, or Section 25658.5, 25661, or 25662 and is granted probation, the court may order, with the consent of the defendant, as a term and condition of probation, in addition to any other term and condition required or authorized by law, that the defendant participate in the program prescribed in Article 1.7 (commencing with Section 23145) of Chapter 12 of Division 11 of the Vehicle Code.

SEC. 2. Section 647.2 is added to the Penal Code, to read:

647.2. If a person is convicted of a violation of subdivision (f) of Section 647 and is granted probation, the court may order, with the consent of the defendant, as a term and condition of probation, in addition to any other term and condition required or authorized by law, that the defendant participate in the program prescribed in Article 1.7 (commencing with Section 23145) of Chapter 12 of Division 11 of the Vehicle Code.

SEC. 3. Section 23145.5 of the Vehicle Code is amended to read:

23145.5. (a) If a person is convicted of a violation of Section 21200.5, 23140, or 23152 punishable under Section 23160, or Section 23220, 23221, or 23222, subdivision (a) or (b) of Section 23224, or Section 23225 or 23226, and is granted probation, the court may order, with the consent of the defendant, as a term and condition of probation in addition to any other term and condition required or authorized by law, that the defendant participate in the program.

(b) The court shall give preference for participation in the program to defendants who were less than 21 years of age at the time of the offense if the facilities of the program in the jurisdiction are limited to fewer than the number of defendants eligible and consenting to participate.

(c) The court shall require that the defendant not drink any alcoholic beverage at all before reaching the age of 21 years.

SEC. 3.5. Section 23145.5 of the Vehicle Code is amended to read:

23145.5. (a) If a person is found to be in violation of Section 23140, is convicted of, or is adjudged a ward of the juvenile court for, a violation of Section 21200.5, 23140, or 23152 punishable under Section 23160, or Section 23220, 23221, or 23222, subdivision (a) or (b) of Section 23224, or Section 23225 or 23226, and is granted probation,
the court may order, with the consent of the defendant or ward, as a term and condition of probation in addition to any other term and condition required or authorized by law, that the defendant or ward participate in the program.

(b) The court shall give preference for participation in the program to defendants or wards who were less than 21 years of age at the time of the offense if the facilities of the program in the jurisdiction are limited to fewer than the number of defendants or wards eligible and consenting to participate.

(c) The court shall require that the defendant or ward not drink any alcoholic beverage at all before reaching the age of 21 years and not use illegal drugs.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 23145.5 of the Vehicle Code proposed by both this bill and AB 1041. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1993, (2) each bill amends Section 23145.5 of the Vehicle Code, and (3) this bill is enacted after AB 1041, in which case Section 3 of this bill shall not become operative.

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 433

An act to amend Sections 317 and 903.1 of the Welfare and Institutions Code, relating to criminal procedure.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. Section 317 of the Welfare and Institutions Code is amended to read:

317. (a) When it appears to the court that a parent or guardian of the minor desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.
(b) When it appears to the court that a parent or guardian of the minor is presently financially unable to afford and cannot for that reason employ counsel, and the minor has been placed in out-of-home care, or the petitioning agency is recommending that the minor be placed in out-of-home care, the court shall appoint counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

(c) In any case in which it appears to the court that the minor would benefit from the appointment of counsel the court shall appoint counsel for the minor as provided in this section. Counsel for the minor may be a county counsel, district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the minor's. The fact that the district attorney represents the minor in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court shall determine if representation of both the petitioning agency and the minor constitutes a conflict of interest. If the court finds there is a conflict of interest, separate counsel shall be appointed for the minor. The court may fix the compensation to be paid by the county for the services of appointed counsel, if counsel is not a county counsel, district attorney, public defender or other public attorney.

(d) The counsel appointed by the court shall represent the parent, guardian, or minor at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent or minor unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent or the minor in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship.

(e) The counsel for the minor shall be charged in general with the representation of the minor's interests. To that end, the counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. He or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the minor's welfare, and participate further in the proceedings to the degree necessary to adequately represent the minor. In any case in which the minor is four years of age or older, counsel shall interview the minor to determine the minor's wishes and to assess the minor's well-being. In addition, counsel shall investigate the interests of the minor beyond the scope of the juvenile proceeding and report to the court other interests of the
minor that may need to be protected by the institution of other administrative or judicial proceedings. The court shall take whatever appropriate action is necessary to fully protect the interests of the minor.

(f) Notwithstanding any other law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

(g) In a county of the third class, if counsel is to be provided to a minor at county expense other than by counsel for the agency, the court shall first utilize the services of the public defender prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

(h) In a county of the third class, if counsel is to be appointed for a parent or guardian at county expense, the court shall first utilize the services of the alternate public defender, prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the alternate public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.

SEC. 2. Section 903.1 of the Welfare and Institutions Code is amended to read:

903.1. The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the cost to the county of legal services rendered to the minor by the public defender or other public attorney pursuant to an order of the juvenile court, or for the cost to the county for the legal services rendered to the minor by an attorney in private practice appointed pursuant to an order of the juvenile court. The father, mother, spouse, or other person liable for the support of a minor and the estate of that person shall also be liable for any cost to the county of legal services rendered directly to the father, mother, or spouse, of the minor or any other person liable for the support of the minor, in a dependency proceeding by the public defender or other public attorney appointed pursuant to an order of the juvenile court, or by an attorney in private practice appointed pursuant to order of the juvenile court. The liability of those persons (in this article called relatives) and estates shall be a joint and several liability.
An act to add Section 5673 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. Section 5673 is added to the Welfare and Institutions Code, to read:

5673. (a) A three-year pilot program is hereby authorized in Napa County and Riverside County to establish a 10-bed locked facility in each county, for the provision of community care and treatment for mentally disordered persons who are placed in a state hospital or another health facility because no community placements are available to meet the needs of these patients. It is the intent of the Legislature to carefully evaluate this specific approach to determine its potential for replication in other limited jurisdictions. Participation in this pilot program by the two counties shall be on a voluntary basis. The pilot program shall be implemented notwithstanding the following licensure requirements enforced by the State Department of Social Services:

(1) Subdivision (a) of Section 1502 of the Health and Safety Code, which defines a community care facility as providing nonmedical care.

(2) Subdivision (a) of Section 1505 of the Health and Safety Code, which exempts any health facility, as defined by Section 1250 of the Health and Safety Code, from licensure under the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code).

(3) Section 1507 of the Health and Safety Code, which limits the provision of medical services in community care facilities to incidental medical services.

(4) Paragraph (5) of subdivision (a) of Section 80001 of Title 22 of the California Code of Regulations, which states that an adult residential facility provides nonmedical care.

(5) Paragraph (7) of subdivision (a) of Section 80072 of Title 22 of the California Code of Regulations, which relates to a client’s right not to be locked in any room, building, or facility premises. However, for purposes of this section, a client shall not be locked in any room.

(b) Clients provided care within these pilot facilities shall be conservatees as defined by Section 5350 who, prior to the establishment of this program, either received care at a state hospital or were placed in facilities for the mentally disordered.

(c) Standards for services provided shall be developed by each county mental health director, in consultation with, and approved by, the State Department of Mental Health and monitored regularly.
by the department for compliance with these standards. These services shall be on a 24-hour basis in a therapeutic homelike environment. The services shall cover the full range of the social rehabilitation model concept, including, but not limited to:

1. Counseling.
3. Crisis intervention.
4. Vocational training.
5. Medication evaluation and management by a licensed physician and other licensed professional and paraprofessional staff who possess a valid license or certificate to perform this function.

(d) Administration of medication and monitoring of medication shall occur notwithstanding statutory and regulatory licensure requirements for community care facilities to the contrary. Standards for use of medications shall be developed and monitored by the State Department of Mental Health.

(e) The facilities shall be licensed and monitored by the State Department of Social Services and shall comply with all licensing requirements except those specifically exempted by this section. In addition, no less than 75 square feet of outdoor space per client shall be made available for client use. The State Department of Social Services shall conduct inspections of the facilities pursuant to Section 1533 of the Health and Safety Code and shall be given immediate access to the facilities.

(f) In staffing the pilot program, each county board of supervisors shall give full consideration to each potential means of implementation, including, but not limited to, the clinical, programmatic, and economic benefits and advantages of each alternative. The pilot program shall meet all of the staffing criteria of subdivision (b) of Section 5670.5. The staffing ratio shall be on a one-to-one basis. The staff shall use and document the actions of a multidisciplinary professional consultation staff to meet the specific diagnostic and treatment needs of clients. The staff shall include, but need not be limited to, a licensed psychiatrist, a psychologist, a social worker, and a psychiatric technician. One or more of the following licensed professionals shall be present at the facility at all times:

1. A psychiatrist.
2. A registered psychiatric nurse.
3. A psychiatric technician.

(g) The State Department of Mental Health shall certify the program content in each county and monitor the program's functions on a regular basis and the State Department of Social Services shall regularly evaluate the facilities in accord with its statutory and regulatory licensure functions, pursuant to subdivisions (d) and (e).

(h) (1) The county mental health directors, the State Department of Mental Health, and the State Department of Social Services shall jointly report to the Legislature within three years of the commencement of operation of the facilities authorized pursuant
to this section regarding the progress and cost-effectiveness demonstrated by the pilot program. The reports shall evaluate whether the pilot program is effective based on clinical indicators, and is successful in preventing future placement of its clients in state hospitals or other long-term health facilities, and shall report whether the cost of care in the pilot facilities is less than the cost of care in state hospitals or in other long-term health facility options. The evaluation reports shall include, but not be limited to, an evaluation of the selected method of project staffing, and an analysis of the effectiveness of the pilot program at meeting all of the following objectives:

(A) That the clients placed in the facilities show improved global assessment scores, as measured by preadmission and postadmission tests.

(B) That the clients placed in the facilities demonstrate improved functional behavior as measured by preadmission and postadmission tests.

(C) That the clients placed in the facilities have reduced medication levels as measured by preadmission and postadmission tests.

(2) The reports shall also include information on community reaction concerning locating this type of facility in the general community, any major problems created by the concept of this type of facility, the appropriate type of client to be placed in this type of facility, and the appropriate licensing agency and category of licensure for facilities of this nature.

(i) The pilot program shall be deemed successful if it demonstrates both of the following:

(1) That costs of the program are no greater than public expenditures for providing alternative services to the clients served by the program.

(2) That the benefit to the clients, as described in subdivision (h), is improved by the program.

(j) Commencement of the pilot program in each county pursuant to this section shall be contingent upon the county and the department identifying funds for this purpose described in a financial plan that is approved in advance by the Department of Finance.
CHAPTER 435

An act to amend Section 226.23 of, and to add Section 226.69 to, the Civil Code, relating to adoptions.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. Section 226.23 of the Civil Code is amended to read:
226.23. For those adoptions that will be finalized in a foreign country, the licensed adoption agency shall provide all of the following services:
(a) Assessment of the suitability of the applicant’s home.
(b) Certification to the Immigration and Naturalization Service that California’s adoptive requirements have been met.
(c) Readoption services as required by the Immigration and Naturalization Service.

SEC. 2. Section 226.69 is added to the Civil Code, to read:
226.69. (a) Each state resident who adopts a child through an intercountry adoption which is finalized in a foreign country shall readopt the child in this state if it is required by the Immigration and Naturalization Service. The readoption shall include, but not be limited to, at least one postplacement in-home visit, the filing of the adoption petition pursuant to Section 226.52, the intercountry adoption court report, accounting reports, and the final adoption decree. No readoption decree shall be granted unless the court receives a report from an adoption agency authorized to provide intercountry adoption services pursuant to Section 226.10.

(b) Each state resident who adopts a child through an intercountry adoption which is finalized in a foreign country may readopt the child in this state. The readoption shall meet the standards described in subdivision (a).

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 436

An act to add Section 43035 to the Public Resources Code, relating to disaster planning.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. Section 43035 is added to the Public Resources Code, to read:

43035. (a) The board, in cooperation with the Office of Emergency Services, shall develop an integrated waste management disaster plan to provide for the handling, storage, processing, transportation, and diversion from disposal sites, or provide for disposal at a disposal site where absolutely necessary, of solid waste, resulting from a state of emergency or a local emergency, as defined, respectively, in subdivisions (b) and (c) of Section 8558 of the Government Code.

(b) The board may adopt regulations, including emergency regulations, necessary to carry out the integrated waste management disaster plan.

CHAPTER 437

An act to add Section 7011.8 to the Business and Professions Code, relating to licensees.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. Section 7011.8 is added to the Business and Professions Code, to read:

7011.8. (a) Any person who reports to, or causes a complaint to be filed with, the Contractors’ State License Board that a person licensed by that entity has engaged in professional misconduct, knowing the report or complaint to be false, is guilty of an infraction punishable by a fine not to exceed one thousand dollars ($1,000).

(b) The board may notify the appropriate district attorney or city attorney that a person has made or filed what the entity believes to be a false report or complaint against a licensee.

(c) The board shall report to the appropriate policy committees of each house of the Legislature the number of false complaints the board has received against licensed contractors for the last three fiscal years and the number of false complaints the board has
referred to the appropriate district attorney or city attorney pursuant to subdivision (b). The report shall be completed and forwarded to the Legislature no later than July 1 of each 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 438

An act to add an article heading immediately preceding Section 8251 of, and to add Article 2 (commencing with Section 8260) to, Chapter 8 of Part 2 of, to add an article heading immediately preceding Section 9251 of, and to add Article 2 (commencing with Section 9260) to, Chapter 7 of Part 3 of, to add an article heading immediately preceding Section 30451 of, and to add Article 2 (commencing with Section 30458) to, Chapter 8 of Part 13 of, to add an article heading immediately preceding Section 32451 of, and to add Article 2 (commencing with Section 32460) to, Chapter 9 of Part 14 of, to add Article 5 (commencing with Section 40200) to Chapter 7 of Part 19 of, to add Article 5 (commencing with Section 41160) to Chapter 7 of Part 20 of, to add an article heading immediately preceding Section 43501 of, and to add Article 2 (commencing with Section 43511) to, Chapter 6 of Part 22 of, to add an article heading immediately preceding Section 45851 of, and to add Article 2 (commencing with Section 45856) to, Chapter 6 of Part 23 of, to add an article heading immediately preceding Section 50152 of, and to add Article 2 (commencing with Section 50156) to, Chapter 6 of Part 26 of, Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. An article heading is added to Chapter 8 of Part 2 of Division 2 of the Revenue and Taxation Code immediately preceding Section 8251, to read:
Article 1. Administration

SEC. 2. Article 2 (commencing with Section 8260) is added to Chapter 8 of Part 2 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. The California Taxpayers' Bill of Rights

8260. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

8261. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

8262. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the board.
(2) Board audit and compliance staff.

(b) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
(2) Participation in seminars and similar programs organized by federal, state, and local agencies.
(3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.
(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

8263. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Motor Vehicle License Tax Law which may further improve voluntary compliance
and the relationship between taxpayers and government.

8264. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

8265. (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 production 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.

8266. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

8267. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.

8268. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

8269. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the State Board of Control.
(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

8270. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include motor vehicle fuel license tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

8272. (a) The Controller shall release any levy or notice to withhold issued pursuant to this part on any property in the event the expense of the sale process exceeds the liability for which the levy is made.

(b) The Controller shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as
a result of a jeopardy assessment.

8273. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

8276. For the purposes of this part only, the board shall not revoke or suspend a person's license pursuant to Section 7507 or 7508 unless the board has mailed a notice preliminary to revocation or suspension that indicates that the taxpayer will be suspended by a date certain pursuant to that section. The notice preliminary to suspension shall be mailed to the taxpayer at least 60 days before the date certain.

8277. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.
SEC. 3. An article heading is added to Chapter 7 of Part 3 of Division 2 of the Revenue and Taxation Code immediately preceding Section 9251, to read:

Article 1. Administration

SEC. 4. Article 2 (commencing with Section 9260) is added to Chapter 7 of Part 3 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. The California Taxpayers’ Bill of Rights

9260. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

9261. (a) The board shall establish the position of the Taxpayers’ Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

9262. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the board.
(2) Board audit and compliance staff.
(3) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
(2) Participation in seminars and similar programs organized by federal, state, and local agencies.
(3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.
(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.
9263. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Use Fuel Tax Law which may further improve voluntary compliance and the relationship between taxpayers and government.

9264. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

9265. (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 production 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.

9266. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

9267. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases which take more time than the appropriate standard timeframe.

9268. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

9269. (a) Every taxpayer is entitled to be reimbursed for any
reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the State Board of Control.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

9270. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, and person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include use fuel tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

9271. The board's executive officer or his or her designee may settle any tax matter disputes involving a disputed tax liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic
basis, monitor agreements made pursuant to this section and report
his or her findings to the Legislature.

9272. (a) The board shall release any levy or notice to withhold
issued pursuant to this part on any property in the event of any of
the following:

(1) The expense of the sale process exceeds the liability for which
the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy
or notice to withhold upon his or her finding that the levy or notice
to withhold threatens the health or welfare of the taxpayer of his or
her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first
notified the taxpayer in writing of the exemptions from levy under
Chapter 4 (commencing with Section 703.010) of Title 9 of the Code
of Civil Procedure.

(c) This section shall not apply to the seizure of any property as
a result of a jeopardy assessment.

9273. Exemptions from levy under Chapter 4 (commencing with
Section 703.010) of Title 9 of the Code of Civil Procedure shall be
adjusted for purposes of enforcing the collection of debts under this
part to reflect changes in the California Consumer Price Index
whenever the change is more than 5 percent higher than any
previous adjustment.

9274. (a) A taxpayer may file a claim with the board for
reimbursement of bank charges incurred by the taxpayer as the
direct result of an erroneous levy or notice to withhold by the board.
Bank charges include a financial institution's customary charge for
complying with the levy or notice to withhold instructions and
reasonable charges for overdrafts that are a direct consequence of
the erroneous levy or notice to withhold. The charges are those paid
by the taxpayer and not waived for reimbursement by the financial
institution. Each claimant applying for reimbursement shall file a
claim with the board that shall be in a form as may be prescribed by
the board. In order for the board to grant a claim, the board shall
determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold was caused by board
error.

(2) Prior to the levy or notice to withhold, the taxpayer responded
to all contacts by the board and provided the board with any
requested information or documentation sufficient to establish the
taxpayer's position. This provision may be waived by the board for
reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days
from the date of the levy or notice to withhold. Within 30 days from
the date the claim is received, the board shall respond to the claim.
If the board denies the claim, the taxpayer shall be notified in writing
of the reason or reasons for the denial of the claim.

9275. (a) At least 30 days prior to the filing or recording of liens
under Chapter 14 (commencing with Section 7150) or Chapter 14.5
(commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 4 (commencing with Section 8826) of Chapter 4.

(c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

9276. For the purposes of this part only, the board shall not revoke or suspend a person's license pursuant to Section 8704 or 8714 unless the board has mailed a notice preliminary to revocation or suspension that indicates that the taxpayer will be suspended by a date certain pursuant to that section. The notice preliminary to suspension shall be mailed to the taxpayer at least 60 days before the date certain.

9277. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

1. Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

2. Reasonable litigation costs including any of the following:
   (A) Reasonable court costs.
   (B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:
   (i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.
   (ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the
preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 5. An article heading is added to Chapter 8 of Part 13 of Division 2 of the Revenue and Taxation Code immediately preceding Section 30451, to read:

Article 1. Administration

SEC. 6. Article 2 (commencing with Section 30458) is added to Chapter 8 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. The California Taxpayers' Bill of Rights

30458. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

30458.1. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

30458.2. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the board.
(2) Board audit and compliance staff.

(b) The education and information program shall include all of
the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.

(2) Participation in seminars and similar programs organized by federal, state, and local agencies.

(3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.

(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

30458.3. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Cigarette and Tobacco Products Tax Law which may further improve voluntary compliance and the relationship between taxpayers and government.

30458.4. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

30458.5. (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 production 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.

30458.6. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

30458.7. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups,
develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.

30458.8. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

30458.9. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

1) The taxpayer files a claim for the fees and expenses with the State Board of Control.

2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the state was unreasonable.

30459. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.
(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include cigarette and tobacco products tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

30459.1. The board’s executive officer or his or her designee may settle any tax matter disputes involving a disputed tax liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.

30459.2. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers’ Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

30459.3. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

30459.4. (a) A taxpayer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution’s customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the taxpayer and not waived for reimbursement by the financial institution. Each claimant applying for reimbursement shall file a
claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold was caused by board error.

(2) Prior to the levy or notice to withhold, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

30459.5. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 4 (commencing with Section 30241) of Chapter 4.

(c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

30459.6. For the purposes of this part only, the board shall not revoke or suspend a person's license pursuant to Section 30144 or 30148 unless the board has mailed a notice preliminary to revocation or suspension that indicates that the taxpayer will be suspended by a date certain pursuant to that section. The notice preliminary to suspension shall be mailed to the taxpayer at least 60 days before the date certain.

30459.7. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that
action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon a notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 7. An article heading is added to Chapter 9 of Part 14 of Division 2 of the Revenue and Taxation Code immediately preceding Section 32451, to read:

Article 1. Administration

SEC. 8. Article 2 (commencing with Section 32460) is added to Chapter 9 of Part 14 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. The California Taxpayers' Bill of Rights

32460. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

32461. (a) The board shall establish the position of the
Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

32462. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the board.
(2) Board audit and compliance staff.
(b) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
(2) Participation in seminars and similar programs organized by federal, state, and local agencies.
(3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.
(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

32463. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Alcoholic Beverage Tax Law which may further improve voluntary compliance and the relationship between taxpayers and government.

32464. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

32465. (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 production 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.
32466. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.
32467. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.
32468. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:
(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.
(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.
(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.
32469. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:
(1) The taxpayer files a claim for the fee and expenses with the State Board of Control.
(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.
(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.
(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.
(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that
the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

32470. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include alcoholic beverage tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

32471. The board's executive officer or his or her designee may settle any tax matter disputes involving a disputed tax liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.

32472. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.
(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

32473. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

32474. (a) A taxpayer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the taxpayer and not waived for reimbursement by the financial institution. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

1. The erroneous levy or notice to withhold was caused by board error.

2. Prior to the levy or notice to withhold, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

32475. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 5 (commencing with Section 32311) of Chapter 6.

(c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain
a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

32476. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 9. Article 5 (commencing with Section 40200) is added to Chapter 7 of Part 19 of Division 2 of the Revenue and Taxation Code, to read:
Article 5. The California Taxpayers' Bill of Rights

40200. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

40201. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

40202. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the board.
(2) Board audit and compliance staff.

(b) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
(2) Participation in seminars and similar programs organized by federal, state, and local agencies.
(3) Revision of taxpayer education materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.
(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

40203. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Energy Resources Surcharge Law which may further improve voluntary compliance and the relationship between taxpayers and government.

40204. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to
taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

40205. (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 production 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.

40206. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

40207. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases which take more time than the appropriate standard timeframe.

40208. Procedures of the board, relating to appeals staff review conferences before a staff attorney of supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

40209. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the State Board of Control.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the
board.

(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

40210. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include energy resources surcharge violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

40211. The board's executive officer or his or her designee may settle any tax matter disputes involving a disputed tax liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.

40212. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice
to withhold threatens the health or welfare of the taxpayer or his or
her spouse and dependents or family.

(b) The board shall not sell any seized property until its has first
notified the taxpayer in writing of the exemptions from levy under
Chapter 4 (commencing with Section 703.010) of Title 9 of the Code
of Civil Procedure.

40213. Exemptions from levy under Chapter 4 (commencing
with Section 703.010) of Title 9 of the Code of Civil Procedure shall
be adjusted for purposes of enforcing the collection of debts under
this part to reflect changes in the California Consumer Price Index
whenever the change is more than 5 percent higher than any
previous adjustment.

40214. (a) A taxpayer may file a claim with the board for
reimbursement of bank charges incurred by the taxpayer as the
direct result of an erroneous levy or notice to withhold by the board.
Bank charges include a financial institution's customary charge for
complying with the levy or notice to withhold instructions and
reasonable charges for overdrafts that are a direct consequence of
the erroneous levy or notice to withhold. The charges are those paid
by the taxpayer and not waived for reimbursement by the financial
institution. Each claimant applying for reimbursement shall file a
claim with the board that shall be in a form as may be prescribed by
the board. In order for the board to grant a claim, the board shall
determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold was caused by board
error.

(2) Prior to the levy or notice to withhold, the taxpayer responded
to all contacts by the board and provided the board with any
requested information or documentation sufficient to establish the
taxpayer's position. This provision may be waived by the board for
reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days
from the date of the levy or notice to withhold. Within 30 days from
the date the claim is received, the board shall respond to the claim.
If the board denies the claim, the taxpayer shall be notified in writing
of the reason or reasons for the denial of the claim.

40215. (a) At least 30 days prior to the filing or recording of liens
under Chapter 14 (commencing with Section 7150) or Chapter 14.5
(commencing with Section 7220) of Division 7 of Title 1 of the
Government Code, the board shall mail to the taxpayer a preliminary
notice. The notice shall specify the statutory authority of the board
for filing or recording the lien, indicate the earliest date on which the
lien may be filed or recorded, and state the remedies available to the
taxpayer to prevent the filing or recording of the lien. In the event
tax liens are filed for the same liability in multiple counties, only one
preliminary notice shall be sent.

(b) If the board determines that filing a lien was in error, it shall
mail a release to the taxpayer and the entity recording the lien as soon
as possible, but no later than seven days, after this determination and
receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(c) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

40216. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party’s case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer’s position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 10. Article 5 (commencing with Section 41160) is added to Chapter 7 of Part 20 of Division 2 of the Revenue and Taxation Code, to read:
Article 5. The California Taxpayers' Bill of Rights

41160. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

41161. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparably loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

41162. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

1. Taxpayers newly registered with the board.
2. Board audit and compliance staff.
3. The education and information program shall include all of the following:

1. A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
2. Participation in seminars and similar programs organized by federal, state, and local agencies.
3. Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer noncompliance in simplified terms.
4. Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
5. Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or the Controller.

41163. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Emergency Telephone Users Surcharge Law which may further improve voluntary compliance and the relationship between taxpayers and government.

41164. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to
taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

41165. (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 production 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.

41166. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

41167. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases which take more time than the appropriate standard timeframe.

41168. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

41169. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the State Board of Control.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the
board.

(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

41170. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include emergency telephone users surcharge violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

41171. The board's executive officer or his or her designee may settle any tax matter disputes involving a disputed tax liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.

41172. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice
to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

41173. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

41174. (a) A taxpayer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the taxpayer and not waived for reimbursement by the financial institution. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

1. The erroneous levy or notice to withhold was caused by board error.

2. Prior to the levy or notice to withhold, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

41175. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) If the board determines that filing a lien was in error, it shall
mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(c) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

41176. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.
(2) Reasonable litigation costs including any of the following:
   (A) Reasonable court costs.
   (B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:
      (i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.
      (ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.
      (iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivisions (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 11. An article heading is added to Chapter 6 of Part 22 of Division 2 of the Revenue and Taxation Code immediately preceding Section 43501, to read:
Article 1. Administration

SEC. 12. Article 2 (commencing with Section 43511) is added to Chapter 6 of Part 22 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. The California Taxpayers' Bill of Rights

43511. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

43512. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

43513. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the board.
(2) Board audit and compliance staff.

(b) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
(2) Participation in seminars and similar programs organized by federal, state, and local agencies.
(3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.
(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance of inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

43514. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Hazardous Substances Tax Law which may further improve voluntary
compliance and the relationship between taxpayers and government.

43515. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedure, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

43516. (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 production 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.

43517. The board shall develop and implement a program that will evaluate an individual employee’s or officer’s performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers’ Rights Advocate.

43518. The board shall, in cooperation with the Toxic Substances Control Department of the California EPA, the Taxpayers’ Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases which take more time than the appropriate standard timeframe.

43519. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

43520. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:
(1) The taxpayer files a claim for the fees and expenses with the State Board of Control.
(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.
(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.
(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:
(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.
(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

43521. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include hazardous substances tax violations.

(e) For the purposes of this section:
(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.
(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

43522. The board's executive officer or his or her designee may settle any tax matter disputes involving a disputed tax liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.
43523. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

43524. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

43525. (a) A taxpayer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the taxpayer and not waived for reimbursement by the financial institution. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold was caused by board error.

(2) Prior to the levy or notice to withhold, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

43526. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary
notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 5 (commencing with Section 43350) of Chapter 3.

(c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

43527. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

1. Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

2. Reasonable litigation costs including any of the following:

A. Reasonable court costs.

B. Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

i. The reasonable expenses of expert witnesses in connection with the civil proceedings, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

ii. The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party’s case.

iii. Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on
the part of the plaintiff which contributed to the damages.
(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.
SEC. 13. An article heading is added to Chapter 6 of Part 23 of Division 2 of the Revenue and Taxation Code immediately preceding Section 45851, to read:

Article 1. Administration

SEC. 14. Article 2 (commencing with Section 45856) is added to Chapter 6 of Part 23 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. The California Taxpayers' Bill of Rights

45856. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.
45857. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of fee payer complaints and problems, including any fee payer complaints regarding unsatisfactory treatment of fee payers by board employees, and staying actions where fee payers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.
(b) The advocate shall report directly to the executive officer of the board.
45858. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:
(1) Fee payers newly registered with the board.
(2) Board audit and compliance staff.
(b) The education and information program shall include all of the following:
(1) A program of written communication with newly registered fee payers explaining in simplified terms their duties and responsibilities.
(2) Participation in seminars and similar programs organized by federal, state, and local agencies.
(3) Revision of fee payer educational materials currently produced by the board that explain the most common areas of fee payer nonconformance in simplified terms.
(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to fee payer activities and areas of recurrent fee payer noncompliance or inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

45859. The board shall conduct an annual hearing before the full board where industry representatives and individual fee payers are allowed to present their proposals on changes to the Solid Waste Disposal Site Cleanup and Maintenance Fee Law which may further improve voluntary compliance and the relationship between fee payers and the government.

45860. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and fee payers. As appropriate, statements shall be provided to fee payers with the initial notice of audit, the notice of proposed additional fees, any subsequent notice of fees due, or other substantive notices. Additionally, the board shall include this language for statements in the annual fee information bulletins that are mailed to taxpayers.

45861. (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 production 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.

45862. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with fee payers. The development and implementation of the program shall be coordinate with the Taxpayers' Rights Advocate.

45863. The board shall, in cooperation with the Integrated Waste Management Board, the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases which take more time than the appropriate standard timeframe.

45864. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:
(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the fee payer and the fee payer is entitled to receive a copy of the recording.

(c) The fee payer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

45865. (a) Every fee payer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

1. The fee payer files a claim for the fee and expenses with the State Board of Control.

2. The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

3. The board makes a recommendation to the State Board of Control that the fee payer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

4. The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the fee payer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the fee payer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

1. Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

2. If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

45866. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include solid waste disposal site cleanup and maintenance fee violations.

(e) For the purposes of this section:

1. "Investigation" means any oral or written inquiry directed to
any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

45867. The board's executive officer or his or her designee may settle any fee matter disputes involving a disputed fee liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.

45868. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice to withhold threatens the health or welfare of the fee payer or his or her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first notified the fee payer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

45869. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

45870. (a) A fee payer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution's customary charge for comply with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the fee payer and not waived for reimbursement by the financial institution. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold was caused by board error.

(2) Prior to the levy or notice to withhold, the fee payer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish
the fee payer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the fee payer shall be notified in writing of the reason or reasons for the denial of the claim.

45871. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) of Chapter 14.5 (commencing with Section 7220) or Division 7 of Title 1 of the Government Code, the board shall mail to the fee payer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the fee payer to prevent the filing or recording of the lien. In the event fee liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 4 (commencing with Section 45351) of Chapter 3.

(c) If the board determines that filing a lien was in error, it shall mail a release to the fee payer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the fee payer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the fee payer and, upon the request of the fee payer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

45872. (a) If any officer or employee of the board recklessly disregards board-published procedures, a fee payer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

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(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appear to the court that the fee payer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 15. An article heading is added to Chapter 6 of Part 26 of Division 2 of the Revenue and Taxation Code immediately preceding Section 50152, to read:

Article 1. Administration

SEC. 16. Article 2 (commencing with Section 50156) is added to Chapter 6 of Part 26 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. The California Taxpayers' Bill of Rights

50156. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

50156.1. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of fee payer complaints and problems, including any fee payer complaints regarding unsatisfactory treatment of fee payers by board employees, and staying actions where fee payers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

50156.2. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Fee payers newly registered with the board.
(2) Board audit and compliance staff.
(b) The education and information program shall include all of the following:
   (1) A program of written communication with newly registered fee payers explaining in simplified terms their duties and responsibilities.
   (2) Participation of seminars and similar programs organized by federal, state, and local agencies.
   (3) Revision of fee payer educational materials currently produced by the board that explain the most common areas of fee payer nonconformance in simplified terms.
   (4) Implementation of a continuing education program from audit personnel to include the application of new legislation to fee payer activities and areas of recurrent fee payer noncompliance or inconsistency of administration.
   (c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board of of the Controller.
50156.3. The board shall conduct an annual hearing before the full board where industry representatives and individual fee payers are allowed to present their proposals on changes to the underground storage tank maintenance fee law which may further improve voluntary compliance and the relationship between fee payers and government.
50156.4. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and fee payers. As appropriate, statements shall be provided to fee payers with the initial notice of audit, the notice of proposed additional fees, any subsequent notice of fees due, or other substantive notices. Additionally, the board shall include this language for statements in the annual fee information bulletins that are mailed to taxpayers.
50156.5. (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 production 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.
50156.6. The board shall develop and implement a program that will evaluate an individual employee’s or officer’s performance with respect to his or her contact with fee payers. The development and implementation of the program shall be coordinated with the Taxpayers’ Rights Advocate.
50156.7. The board shall, in cooperation with the State Water Resources Control Board, the Taxpayers’ Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.

50156.8. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the fee payer.

(b) The conference may be recorded only if prior notice is given to the fee payer and the fee payer is entitled to receive a copy of the recording.

(c) The fee payer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

50156.9. (a) Every fee payer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The fee payer files a claim for the fee and expenses with the State Board of Control.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board makes a recommendation to the State Board of Control that the fee payer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the fee payer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the fee payer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

50156.10. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.
(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include underground storage tank fee violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

50156.11. The board's executive officer or his or her designee may settle any fee matter disputes involving a disputed fee liability of five thousand dollars ($5,000) or less. The settlement shall be approved by the State Board of Control, and the terms of the settlement shall be available to the public. The Auditor General shall, on a periodic basis, monitor agreements made pursuant to this section and report his or her findings to the Legislature.

50156.12. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event of any of the following:

(1) The expense of the sale process exceeds the liability for which the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy or notice to withhold upon his or her finding that the levy or notice to withhold threatens the health or welfare of the fee payer or his or her spouse and dependents or family.

(b) The board shall not sell any seized property until it has first notified the fee payer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

50156.13. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

50156.14. (a) A fee payer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of
the erroneous levy or notice to withhold. The charges are those paid to the fee payer and not waived for reimbursement by the financial institution. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold was caused by board error.

(2) Prior to the levy or notice to withhold, the fee payer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the fee payer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the fee payer shall be notified in writing of the reason or reasons for the denial of the claim.

50156.15. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the fee payer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the fee payer to prevent the filing or recording of the lien. In the event fee liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 4 (commencing with Section 50120.1) of Chapter 3.

(c) If the board determines that filing a lien was in error, it shall mail a release to the fee payer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the fee payer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the fee payer and, upon the request of the fee payer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

50156.16. (a) If any officer or employee of the board recklessly disregards board-published procedures, a fee payer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable
to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs including any of the following:
   (A) Reasonable court costs.
   (B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:
      (i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.
      (ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.
      (iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.
   (c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.
   (d) Whenever it appears to the court that the fee payer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

CHAPTER 439

An act to amend Section 233 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 3, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. Section 233 of the Vehicle Code is amended to read: 233. (a) Except as provided in subdivision (b), a “bus” is any vehicle, including a trailer bus, designed, used, or maintained for carrying more than 15 persons including the driver, except a vanpool vehicle.

(b) A vehicle designed, used, or maintained for carrying more than 10 persons, including the driver, which is used to transport persons for compensation or profit, or is used by any nonprofit
organization or group, is also a bus.
(c) This section does not alter the definition of a schoolbus, school pupil activity bus, general public paratransit vehicle, farm labor vehicle, or youth bus.

CHAPTER 440

An act to add Section 14088.25 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 4, 1992. Filed with Secretary of State August 4, 1992]

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

SECTION 1. Section 14088.25 is added to the Welfare and Institutions Code, to read:

14088.25. (a) The department may conduct onsite reviews of a provider or facility that has agreed with the primary care case management contractor or a potential contractor to provide services to beneficiaries enrolled with the contractor. These reviews may be for purposes such as evaluating the capabilities of potential contractors, monitoring quality of care, investigating complaints, and ensuring contractor compliance with the terms of the contract entered into pursuant to this article.

(b) Prior to adding a provider or facility to an existing network of providers and facilities, the primary care case management contractor shall submit a complete prequalification package to the department. The department shall provide to the contractor written acknowledgement that the package is complete within 10 working days.

(c) (1) If the provider or facility proposed for addition to the contractor’s existing network holds a valid and current Medi-Cal provider number, the provider or facility may begin treating beneficiaries enrolled with the contractor immediately upon the contractor’s receipt of the acknowledgement required by subdivision (b) subject to paragraph (2) and subdivision (d).

(2) Whenever warranted, the department may rescind the privilege provided for in paragraph (1) by advance notification to the contractor, pending the onsite review required by subdivision (e). Notification shall be in writing and describe the conditions which support the rescission of the privilege.

(d) (1) The department shall conduct an onsite review of the provider or facility within a reasonable period of time after receipt of the package, which shall be not more than 60 days after receipt of the package, unless there are extenuating circumstances.

(2) The department shall notify the contractor in writing of the department’s final decision on the request to add the provider or
facility to the contractor’s existing network within 10 working days of the date of the review.

(e) In the conduct of the onsite review of the provider or facility, the department shall not condition approval of the site on adherence by the provider or facility to requirements that are not contained in statute, regulation, or commonly accepted community standards of medical practice that directly apply to the category of provider or facility being inspected. This subdivision does not, however, relieve the contractor of any obligations under the contract entered into pursuant to this article.

CHAPTER 441


[Approved by Governor August 4, 1992. Filed with Secretary of State August 4, 1992.]

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 12 months following initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, 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. Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

(1) File a written resignation with the appointing power.

(2) File a written statement with the filing officer on a form prescribed by the commission and signed under the penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the
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. 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 442

An act to add Section 14137.8 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 4, 1992. Filed with Secretary of State August 4, 1992.]

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

SECTION 1. The Legislature finds and declares as follows:
(a) Approximately one out of every four persons from among the more than 250,000 adult Californians recognized by the medical community as suffering from a serious mental disorder is also treatment resistant, meaning that currently available treatments are inadequate for his or her mental disorder.
(b) Many of these treatment resistant persons with mental illness are also Medi-Cal beneficiaries and require a large amount of public funds due to the chronic course and severity of their illnesses, resulting in a great loss of human potential and public resources.
(c) Investigational services, including treatment with Investigational New Drugs, clinical trials, investigational procedures, and other ancillary services, as prescribed by a patient's contracting physician, can be effective means by which treatment resistant patients can receive promising treatments and diagnostic information.
(d) Unfortunately, confusion exists among Medi-Cal field consultants, contracting physicians, beneficiaries and others regarding when investigative services should be considered as part of the medically necessary array of services included in a beneficiary's treatment plan with regard to the approval and reimbursement by Medi-Cal for acute inpatient care.
(e) Therefore, it is the intent of the Legislature, by clarifying existing regulatory criteria under subdivision (h) of Section 51303 of the California Code of Regulations, that approval of a request for acute inpatient care be solely dependent upon the medical necessity for this care, as documented by the beneficiary's contracting physician in accordance with Medi-Cal policy, rather than whether or not components of this care include treatment with Investigational New Drugs, clinical trials, investigative services, or
other ancillary services.

SEC. 2. Section 14137.8 is added to the Welfare and Institutions Code, to read:

14137.8. Approval of a request for acute inpatient care shall be solely dependent upon the medical necessity for this care, as documented in the proposed treatment plan. Treatment with Investigational New Drugs, clinical trials, or other ancillary or investigational services, if medical necessity is otherwise documented, shall not in itself be construed to be part of a research study protocol, and shall not constitute grounds for denial on that basis.

CHAPTER 443

An act to amend Sections 88051 and 88138 of the Education Code, relating to postsecondary education.

[Approved by Governor August 4, 1992 Filed with Secretary of State August 5, 1992]

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

SECTION 1. Section 88051 of the Education Code is amended to read:

88051. (a) On or after November 8, 1967, the classified employees of any district whose average daily attendance is 3,000 or greater, may, in accordance with this article, petition the governing board to make Article 3 (commencing with Section 88060) applicable to their employer district. That petition shall read substantially as follows:

"We, the undersigned classified employees of the ________ (name of school district), constituting 15 percent or more of the classified personnel entitled to vote, request the governing board to submit to election the question of whether or not the merit (civil service) system shall become applicable to this district.

NAME
POSITION CLASSIFICATION"

"Classified employee," as used in this section, shall be construed to include all personnel who are a part of the classified service as defined in Section 88003.

(b) Within 120 days after receipt of the petition the governing board shall do all of the following:

(1) Obtain the services of competent and qualified persons to present the pros and cons of the issue. Notwithstanding this paragraph, the classified employees who submitted the petition may select the person or persons to present the proponent position on the issue.
(2) Provide adequate and ample opportunity for all of its classified personnel to attend one or more meetings at which the issue is presented.

(3) Having complied with paragraphs (1) and (2), conduct an election by secret ballot of its classified personnel to determine whether or not they desire to make the merit system applicable to the district. The ballot shall read:

"Shall the merit (civil service) system for classified employees be applicable in the __________ (name of school district)?

☐ Yes
☐ No"

Although the ballot shall not require the employees' signatures or other personal identifying requirements, the governing board shall devise an identification system to ensure against fraud in the balloting process.

(4) The governing board shall appoint a three- or five-person tabulating committee, at least one member of which shall be a member of the governing board, to canvass the ballots and present the results to the governing board. If a simple majority votes in favor of the merit system, that system shall become applicable in the district.

(c) The tabulating committee required under this section shall certify the results of the election to the governing board at the next regular or special meeting of the board following the date the committee completes tabulation of the votes. If the tabulating committee completes the tabulation on the same day that the governing board meets in regular or special session, the committee shall certify the results of the election to the board at that meeting.

SEC. 2. Section 88138 of the Education Code is amended to read:

88138. A merit (civil service) system within a community college district may be terminated by one of the following methods:

(a) If the governing board of a community college district, receives a written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the board calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years, the board shall order the county superintendent of schools to place the question of termination of the system on the ballot at the next regular governing board member election, or the next primary or general election in a general election year, whichever is the earlier after receipt by the county superintendent of schools.

The statement of purpose of the election shall read:

"Shall the merit (civil service) system for school employees not employed as faculty or educational administrators, as provided for in Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3 of the Education Code of the State of
California, and which has been in operation for at least five years, be
terminated by the ________ Community College District of
_______ County (or counties, where appropriate) on ________
(date to be specified by board)?"

The petition calling for the election, to be valid, shall contain the
statement of purpose for the election as contained in this section.

(b) If the governing board of a community college district
receives a written petition from 40 percent of the classified
employees entitled to vote calling for the termination of the merit
(civil service) system and the system has been in operation for not
less than five years or has been imposed pursuant to the terms of
Section 45119 or 45120, the governing board shall conduct an election
by secret ballot of its classified personnel to determine whether or
not they desire to have the merit system terminated within the
district. The ballot shall read: "Shall the merit (civil service) system
for classified employees be terminated in the ________ (name of
community college district) as of ________ (termination date)?"

As used in this subdivision, "classified employees" means all
personnel who are a part of the classified service who are appointed
in accordance with Section 88091.

In order to be valid, the petition calling for the termination of the
merit (civil service) system must be submitted to the governing
board of a community college district within 90 days after the date
that the notice for the circulation of the petition was filed with the
governing board of the community college district. The election shall
be held during the regular academic year and shall be held no earlier
than 45 days and no later than 180 days after the date that the petition
was submitted to the governing board.

If the merit system was adopted pursuant to Section 88057,
classified employees entitled to vote in an election pursuant to this
subdivision shall be limited to those classified employees who reside
in the district.

(c) The governing board of a community college district shall
device an identification system designed to protect against fraud in
the balloting process. In addition, the governing board shall appoint
a three-member tabulation committee consisting of one member of
the governing board, one member of the personnel commission of
the community college district, and one member who shall be a
classified employee of the community college district. It shall be the
responsibility of the tabulation committee to canvass the election
ballots and to certify the results of the election to the governing
board at the next regular meeting of the governing board following
the completion of the tabulation of the election results by the
committee.

(d) Notwithstanding any other provision of law, the governing
board of a community college district shall not be required to
provide release time for classified personnel to vote in an election
conducted pursuant to subdivision (b). The governing board shall
not conduct an election under subdivision (b) more than once in any
two-year period.

(e) It shall be unlawful for a public school employer and the exclusive representative of the classified employees of a community college district to include the subject of the termination of the merit (classified service) system within the scope of representation.

(f) Members of the classified service shall be provided an adequate and ample opportunity to be informed of the arguments in favor of and in opposition to the termination of the merit (classified service) system prior to the conducting of an election called pursuant to subdivision (b). That opportunity shall include an open forum during which proponents of, and opponents to, the termination of the merit (civil service) system shall be permitted to debate the issue.

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 444

An act to amend Sections 65089, 65089.2, 65089.3, and 65089.4 of, and to add and repeal Section 65089.7 of, the Government Code, relating to transportation.

[Approved by Governor August 4, 1992. Filed with Secretary of State August 5, 1992]

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

SECTION 1. Section 65089 of the Government Code is amended to read:

65089. (a) A congestion management program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution
control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated 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.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system. Level of service (LOS) shall be measured by Circular 212, (or by the most recent version of the Highway Capacity Manual), or by a uniform methodology adopted by the agency which is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department shall make this determination instead if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is farthest from level of service A, except where a segment or intersection has been designated as deficient and a deficiency plan has been adopted pursuant to Section 65089.3.

(2) Standards established for the frequency and routing of public transit, and for the coordination of transit service provided by separate operators.

(3) A trip reduction and travel demand element that promotes alternative transportation methods, such as carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including flexible work hours and parking management programs.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided.

(5) A seven-year capital improvement program to maintain or improve the traffic level of service and transit performance standards developed pursuant to paragraphs (1) and (2), and to

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mitigate regional transportation impacts identified pursuant to paragraph (4), which conforms to transportation-related vehicle emissions air quality mitigation measures.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

SEC. 2. Section 65089.2 of the Government Code is amended to read:

65089.2. (a) Congestion management programs shall be submitted to the regional agency. The regional agency shall evaluate the consistency between the program and the regional transportation plans required pursuant to Section 65080. In the case of a multicounty regional transportation planning agency, that agency shall evaluate the consistency and compatibility of the programs within the region.

(b) The regional agency, upon finding that the program is consistent, shall incorporate the program into the regional transportation improvement program as provided for in Section 65082. If the regional agency finds the program is inconsistent, it may exclude any project in the congestion management program from inclusion in the regional transportation improvement program.

(c) (1) It is the intent of the Legislature that the regional agency, when its boundaries include areas in more than one county, should resolve inconsistencies and mediate disputes which arise between agencies related to congestion management programs adopted for those areas.

(2) It is the further intent of the Legislature that disputes which may arise between regional agencies, or agencies which are not within the boundaries of a multicounty regional transportation planning agency, should be mediated and resolved by the Secretary of the Business, Housing and Transportation Agency, or an employee of that agency designated by that secretary, in consultation with the air pollution control district or air quality management district within whose boundaries the regional agency or agencies are located.

SEC. 3. Section 65089.3 of the Government Code is amended to read:

65089.3. (a) The agency shall monitor the implementation of all elements of the congestion management program. Annually, the
agency shall determine if the county and cities are conforming to the congestion management program, including, but not limited to, all of the following:

(1) Consistency with levels of service and performance standards, except as provided in subdivisions (b) and (c).

(2) Adoption and implementation of a trip reduction and travel demand ordinance.

(3) Adoption and implementation of a program to analyze the impacts of land use decisions, including the estimate of the costs associated with mitigating these impacts.

(b) (1) A city or county may designate individual deficient segments or intersections which do not meet the established level of service standards if, prior to the designation, at a noticed public hearing, the city or county has adopted a deficiency plan which shall include all of the following:

(A) An analysis of the causes of the deficiency.

(B) A list of improvements necessary for the deficient segment or intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.

(C) A list of improvements, programs, or actions, and estimates of costs, that will (i) measurably improve the level of service of the system, as defined in subdivision (b) of Section 65089, and (ii) contribute to significant improvements in air quality, such as improved public transit service and facilities, improved nonmotorized transportation facilities, high occupancy vehicle facilities, and transportation control measures. The air quality management district or the air pollution control district shall establish and periodically revise a list of approved improvements, programs, and actions which meet the scope of this paragraph. If an improvement, program, or action is on the approved list and has not yet been fully implemented, it shall be deemed to contribute to significant improvements in air quality. If an improvement, program, or action is not on the approved list, it shall not be implemented unless approved by the local air quality management district or air pollution control district.

(D) An action plan, consistent with the provisions of Chapter 5 (commencing with Section 66000) of Division 1 of Title 7, that shall be implemented, consisting of improvements identified in paragraph (B), or improvements, programs, or actions identified in paragraph (C), that are found by the agency to be in the interest of the public's health, safety and welfare. The action plan shall include a specific implementation schedule.

(2) A city or county shall forward its adopted deficiency plan to the agency. The agency shall hold a noticed public hearing within 60 days of receiving the deficiency plan. Following the hearing, the agency shall either accept or reject the deficiency plan in its entirety, but the agency may not modify the deficiency plan. If the agency rejects the plan, it shall notify the city or county of the reasons for that rejection.
(c) The agency, after consultation with the regional agency, the department, and the local air quality management district or air pollution control district, shall exclude from the determination of conformance with level of service standards, the impacts of any of the following:

(1) Interregional travel.
(2) Construction, rehabilitation, or maintenance of facilities that impact the system.
(3) Freeway ramp metering.
(4) Traffic signal coordination by the state or multijurisdictional agencies.
(5) Traffic generated by the provision of low and very low income housing.
(6) (A) Traffic generated by high density residential development located within one-fourth of a mile of a fixed rail passenger station.
(B) Traffic generated by any mixed use development located within one-fourth of a mile of a fixed rail passenger station, if more than half of the land area, or floor area, of the mixed use development is used for high density residential housing, as determined by the agency.
(C) For the purposes of this section, the following terms have the following meanings:
   (i) "High density" means residential density which is equal to or greater than 120 percent of the maximum residential density allowed under the local general plan and zoning ordinance.
   (ii) "Mixed use development" means development which integrates compatible commercial or retail uses, or both, with residential uses, and which, due to the proximity of job locations, shopping opportunities, and residences, will discourage new trip generation.
(d) For the purposes of this chapter, the impacts of a trip which originates in one county and which terminates in another county shall be included in the determination of conformance with level of service standards with respect to the originating county only. A roundtrip shall be considered to consist of two individual trips.
(e) It is the intent of the Legislature that a deficiency plan be prepared and adopted by the city or county, and approved by the agency, prior to the occurrence of a deficiency.

SEC. 4. Section 65089.4 of the Government Code is amended to read:

65089.4. (a) If, pursuant to the annual monitoring provided for in Section 65089.3, the agency determines, following a noticed public hearing, that a city or county is not conforming with the requirements of the congestion management program, the agency shall notify the city or county in writing of the specific areas of nonconformance. If, within 90 days of the receipt of the written notice of nonconformance, the city or county has not come into conformance with the congestion management program, the
governing body of the agency shall make a finding of nonconformance and shall submit the finding to the commission and to the Controller.

(b) (1) Upon receiving notice from the agency of nonconformance, the Controller shall withhold apportionments of funds required to be apportioned to that nonconforming city or county by Section 2105 of the Streets and Highways Code.

(2) If, within the 12-month period following the receipt of a notice of nonconformance, the Controller is notified by the agency that the city or county is in conformance, the Controller shall allocate the apportionments withheld pursuant to this section to the city or county.

(3) If the Controller is not notified by the agency that the city or county is in conformance pursuant to paragraph (2), the Controller shall allocate the apportionments withheld pursuant to this section to the agency.

(c) The agency shall use funds apportioned under this section for projects of regional significance which are included in the capital improvement program required by paragraph (5) of subdivision (b) of Section 65089, or in a deficiency plan which has been adopted by the agency. The agency shall not use these funds for administration or planning purposes.

SEC. 5. Section 65089.7 is added to the Government Code, to read:

65089.7. (a) Buildings and structures that were damaged or destroyed in Los Angeles County as a result of the civil unrest during the state of emergency declared by the Governor on April 29, 1992, are not subject to the requirements of this chapter when permission is sought to repair or rebuild. This section does not exempt buildings or structures from any other requirement of the local jurisdiction otherwise applicable.

(b) This section shall become inoperative on June 1, 1995, and as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, delete or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. (a) The Los Angeles County Metropolitan Transportation Authority may, in cooperation with other interested public and private entities, conduct a study of the requirements of the congestion management program prescribed by Chapter 2.6 (commencing with Section 65088) of Title 7 of Division 1 of the Government Code, with the objective of recommending modifications, if any, to the program which reduce or eliminate any inconsistency with the requirements of the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988) and the federal Clean Air Act Amendments of 1990 (P.L. 101-549). The elements of the study shall include both of the following:

(1) Comparison of the effectiveness of the use of level of service standards with other measurable standards, including, but not limited to, vehicle miles traveled and average vehicle ridership, for
both determining mobility and achieving the reductions in motor vehicle emissions required under state and federal law.

(2) Consideration of the most efficient, simple, and cost-effective institutional structure and roles necessary to implement any recommendations, including, but not limited to, a review of existing requirements to implement transportation control measures pursuant to state and federal air quality requirements.

(b) The authority may accept public and private contributions to fund the study.

(c) If a study is conducted, a study steering committee shall be selected by the executive director of the authority, that includes all of the following:

(1) A representative of a national environmental organization.

(2) Two persons representing air quality management or pollution control districts, one of which shall be the South Coast Air Quality Management District.

(3) A representative of the California Building Industry Association.

(4) A representative of Californians for Better Transportation.

(5) Two persons representing multicounty regional transportation planning agencies, one of which is located in southern California and one of which is located in northern California.

(6) A person representing cities.

(7) A person representing counties.

(8) A person representing transit operators.

(9) Two persons representing agencies designated to develop a congestion management program, including one representative of an agency in northern California, and one representative of an agency in southern California.

(10) A representative of the Department of Transportation designated by the Governor.

(11) A representative of the Governor’s Office of Planning and Research designated by the Governor.

(12) A representative of the State Air Resources Board designated by the Governor.

CHAPTER 445

An act to amend Sections 48904 and 48980 of the Education Code, relating to schools.

[Approved by Governor August 4, 1992. Filed with Secretary of State August 5, 1992.]

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

SECTION 1. Section 48904 of the Education Code is amended to read:
48904. (a) (1) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by, or performing volunteer services for, a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed ten thousand dollars ($10,000). The parent or guardian shall also be liable for the amount of any reward not exceeding ten thousand dollars ($10,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the district or private school authorized to make the demand.

(2) The Superintendent of Public Instruction shall compute an adjustment of the liability limits prescribed by this subdivision at a rate equivalent to the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year.

(b) (1) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil’s parent or guardian has paid for the damages thereto, as provided in subdivision (a).

(2) The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil’s alleged misconduct before withholding the pupil’s grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

(3) The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

SEC. 2. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall
notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550, Article 3 (commencing with Section 56030) of Chapter 1 of Part 30, and Chapter 2.3 (commencing with Section 32255) of Part 19. A governing board may also send this notification to the parent or guardian upon the enrollment of a pupil entering school later in the school year.

(b) The notification shall also advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification may also advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(d) School districts which elect to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) shall inform parents or guardians of the program as specified in Section 32390.

(e) Until June 30, 1995, the notification shall also advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204.

CHAPTER 446

An act to amend Sections 976.5, 977, 977.5, 1033, 1034, and 1110 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor August 4, 1992. Filed with Secretary of State August 5, 1992.]

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

SECTION 1. Section 976.5 of the Unemployment Insurance Code is amended to read:

976.5. (a) Except as provided in subdivision (b), in addition to other contributions required by this division, every employer, except an employer to which subdivision (c) is applicable, may submit a voluntary unemployment insurance contribution for the purpose of redetermining its unemployment insurance contribution rate. No redetermination of a contribution rate shall be made unless the voluntary contribution is submitted as required in subdivision (c) of Section 1110. No redetermination shall reduce an employer's unemployment insurance contribution rate by more than three rates as provided in Section 977.

(b) This section shall not be operative in calendar years in which
Contribution Rate Schedules E and F in Section 977 are in effect, or in calendar years to which the emergency solvency surcharge provided in Section 977.5 is in effect.

(c) This section shall not apply to any of the following:
(1) An employer not eligible for a contribution rate other than that provided pursuant to Section 982.
(2) An employer with a negative reserve account balance on the computation date.
(3) An employer who was notified prior to September 1 of any unpaid amount owed to the department which is not the subject of a timely petition for reassessment pending before the appeals board on September 30 preceding the year to which a contribution rate is applicable.

SEC. 2. Section 977 of the Unemployment Insurance Code is amended to read:

977. (a) If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll which appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in the appropriate schedule, as defined in subdivision (b), which shall be a percentage of the wages specified in Section 930.

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<th>Reserve Ratio</th>
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(b) (1) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is greater than 1.8 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule AA.

(2) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is equal to or less than 1.8 percent and greater than 1.6 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule A.

(3) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is equal to or less than 1.6 percent and greater than 1.4 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule B.

(4) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is equal to or less than 1.4 percent and greater than 1.2 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule C.

(5) Whenever the balance in the Unemployment Fund on
September 30 of any calendar year is equal to or less than 1.2 percent and greater than 1.0 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule D.

(6) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is equal to or less than 1.0 percent and greater than or equal to 0.8 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule E.

(7) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is less than 0.8 percent and greater than or equal to 0.6 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule F.

SEC. 3. Section 977.5 of the Unemployment Insurance Code is amended to read:

977.5. Whenever the balance in the Unemployment Fund on September 30 of any calendar year is less than 0.6 percent of the wages (as defined by Section 940) in employment, subject to this part, paid during the 12-month period ending on the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at an emergency solvency surcharge rate. The emergency solvency surcharge rate shall be 1.15 times the rate the employer would have paid in Schedule F of subdivision (a) of Section 977, rounded to the nearest one-tenth of 1 percent.

SEC. 4. Section 1033 of the Unemployment Insurance Code is amended to read:

1033. The director shall not less frequently than once each year furnish each employer with an itemized statement of the charges to the reserve account, and a statement of the reserve account showing the credits and charges, the net balance of the reserve account and the contribution rate for the applicable rating period.

SEC. 5. Section 1034 of the Unemployment Insurance Code is amended to read:

1034. (a) The employer, within 60 days after the date of mailing of any statement of charges or credits and charges to the reserve account, or within an additional period not exceeding 60 days which may for good cause be granted by the director, may file with the director a written protest on any item shown thereon. The protest
shall set forth the specific grounds on which it is made. No protest may be made on the ground that a claimant was ineligible for a benefit payment where the employer was notified as required by this division and any authorized regulation of the filing of a claim for the benefits or of a determination of the claimant's eligibility therefor and the employer failed to file a timely appeal on the benefit claim, or a final decision of an administrative law judge or of the appeals board affirmed the payment of the benefits. Except as to corrections made by the director as provided in Section 1036, the contribution rate and other items shown on any such statement of charges or statement of account shall be final unless a protest is filed within the time prescribed in this section.

(b) The employer, within 30 days after the last working day of March, may file a protest on the grounds that the director did not allow voluntary unemployment insurance contributions to the reserve account in accordance with Section 976.5.

SEC. 6. 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. Any employer whose eligibility for an unemployment insurance contribution rate determination is redetermined to make that employer eligible to submit voluntary unemployment insurance contributions in accordance with Section 976.5, may submit a voluntary unemployment insurance contribution within 30 days of the date of notification of the redetermination.
An act to amend Sections 22952 and 22954 of the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 1992. Filed with Secretary of State August 6, 1992.]

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

SECTION 1. Section 22952 of the Government Code is amended to read:

22952. The State of California, through the Department of Personnel Administration, and the Trustees of the California State University and the Regents of the University of California, directly or through the Department of Personnel Administration, may contract, upon negotiations with employee organizations, with carriers for dental care plans for employees and annuitants, including eligible dependents, provided the carriers have operated successfully in the area of dental care benefits for a reasonable period prior to contracting for such plans, or have a contract to provide benefit plans under Section 22790 of the Government Code, as amended by Chapter 403 of the Statutes of 1979. The dental care plans may include a monthly premium copayment to be paid by the employees and annuitants. Dental care plans provided under this authority may be self-funded by the employer if it is cost-effective to do so.

No contract for any dental care plan may be entered into unless funds for a dental care plan contract are appropriated by the Legislature in a subsequently enacted statute. Notwithstanding Section 13340, where a dental care plan is self-funded, funds used for that plan shall be considered continuously appropriated.

SEC. 2. Section 22954 of the Government Code is amended to read:

22954. Any annuitant who, at the time he or she became an annuitant, or who on January 1, 1992, was enrolled in a dental care plan under state or federal provisions, may continue his or her enrollment, including eligible dependents, without discrimination as to premium rates or benefit coverage. The dental care plans may require a monthly premium copayment to be paid by the annuitant, not to exceed the copayment paid for the state-sponsored indemnity dental plan by represented employees, or excluded employees, whichever is less. The premium copayment amount shall be deducted by the Public Employees' Retirement System from the annuitant's monthly allowance.

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 provisions of this act to be applicable as soon as possible in the 1991-92 fiscal year, and so facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 448

An act to amend Sections 20024.002 and 20818 of, and to add Section 20821.5 to, and to add and repeal Section 20499.5 of, the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 1992. Filed with Secretary of State August 6, 1992]

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

SECTION 1. Section 20024.002 of the Government Code is amended to read:

20024.002. (a) Notwithstanding Section 20024.01, "final compensation" for the purposes of determining any pension or benefit with respect to a state member who retires or dies on and after July 1, 1991, means the highest annual compensation which was earnable by the state member during any consecutive 12-month period during his or her membership in the system or which is designated by the application for retirement.

(b) With respect to a state member who retires or dies on or after July 1, 1991, and who was a managerial employee, as defined by subdivision (e) of Section 3513, or a supervisory employee, as defined by subdivision (g) of Section 3513, whose monthly salary range was administratively reduced by 5 percent because of the salary range reductions administratively imposed upon managers and supervisors during the 1991-92 fiscal year, "final compensation" means the highest annual compensation the state member would have earned had his or her salary range not been reduced by the 5-percent reduction. This subdivision shall only apply if the period during which the state member's salary was reduced would have otherwise been included in determining his or her final compensation. The costs, if any, that may result from the use of the higher final compensation shall be paid for by the employer in the same manner as other retirement benefits are funded.

SEC. 1.3. Section 20499.5 is added to the Government Code, to read:

20499.5. (a) Notwithstanding any other provision of this part, a contracting agency, other than a school employer, that is forced to reduce the compensation of its employees as a direct result of a fiscal
emergency may, pursuant to this section and in a manner prescribed by the board, preserve the retirement benefits of its employees at a level no lower than that achieved prior to the reduction. The operative date of the benefit adjustments shall be the date of adoption of this section by the governing body or the first day of the pay period in which the reduction occurred but not earlier than July 1, 1992.

(b) This section shall not apply to any contracting agency unless and until its governing body adopts a resolution, in a form provided by the board, to be subject to it and a copy is filed with the system.

(c) 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 that date, deletes or extends that date.

SEC. 1.5. Section 20818 of the Government Code is amended to read:

20818. Notwithstanding any other provisions of this part, when the governing body of a contracting agency determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency would be served, a local member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification, department, or other organizational unit designated by the governing body of the contracting agency and retires within any period designated in and subsequent to the effective date of the contract amendment provided the period is not less than 90 days nor more than 180 days.

(b) The governing body transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The governing body shall certify that it is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs that constitute at least one percent of the job classification, department or organizational unit as designated by the governing board, resulting from the curtailment of, or change in the manner of performing, its services.

(d) The governing body shall certify that it is its intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that any vacancies thus created or at least one vacancy in any position in any department or other organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the work force of such department or organizational unit.

The amount of service credit shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of his retirement and the date
he would be required to be retired because of age.

A governing body which elects to make the payment prescribed by subdivision (b) shall make such payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the contracting agency during the period designated in subdivision (a) and who has less than five years of service credit.

This section shall not apply to any contracting agency unless and until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after the effective date of this section, by express provision in such contract making the contracting agency subject to the provisions of this section.

Notwithstanding Section 20740, an election to become subject to this section shall not exclude an agency from the definition of "employer" for purposes of Section 20740.

This section shall remain in effect until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date deletes or extends that date.

SEC. 2. Section 20821.5 is added to the Government Code, to read:

20821.5. Any funds transferred to the retirement system on account of liability for additional service credit granted pursuant to Section 20586, 20587, 20816, 20817, 20818, 20821, or 20822 shall be paid over a time period acceptable to the employer and the board, but in no case shall that period exceed five years.

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:
The reduction in the amount of retirement benefits from the Public Employees' Retirement System that resulted from the salary reduction administratively imposed in the 1991-92 fiscal year upon state managers and supervisors was not intended. No limit exists upon the length of time in which employers may pay that system for the liability that arises from grants of additional service credit. Fiscal emergencies experienced by local public agencies are resulting in unintended reductions in service credit for local members of that system. Therefore, in order that the earned retirement benefits of those state managers and supervisors who have retired or will be retiring while those salary reductions are in effect may be preserved as soon as possible, that limits may be placed upon those payment periods as soon as possible, and that remedial action may be taken with respect to those affected local members as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 449

An act to amend Sections 19052, 19133, 19405, 25782, 25962, and 26072 of, and to repeal Section 21015 of, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 1992. Filed with Secretary of State August 6, 1992.]

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

SECTION 1. Section 19052 of the Revenue and Taxation Code is amended to read:

19052. (a) Except as provided in subdivision (b), if the Franchise Tax Board determines that the taxpayer paid an amount not required to be paid under this part, the Franchise Tax Board without obtaining the approval of the State Board of Control, shall set forth that fact in its records and may either credit the amount on any amounts then due and payable under this part from the taxpayer by whom the amount was paid or refund the amount or the balance to the taxpayer or his or her successors, administrators, or executors.

(b) No refund exceeding fifty thousand dollars ($50,000) shall be allowed or made until approved by the State Board of Control. Notwithstanding the preceding sentence, State Board of Control approval shall not be required with respect to a refund resulting either from withholding, or the payment of estimated tax, or prepayment of taxes during and for the taxable year, or from a settlement approved pursuant to Section 19133.

SEC. 2. Section 19133 of the Revenue and Taxation Code is amended to read:

19133. (a) (1) Subject to paragraph (2), the executive officer or
chief counsel, if authorized by the executive officer, of the Franchise Tax Board may recommend to the Franchise Tax Board, itself, a settlement of any civil tax matter disputes.

(2) No recommendation of settlement shall be submitted to the Franchise Tax Board unless and until that recommendation has been submitted by the executive officer or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise in writing the executive officer or chief counsel of the Franchise Tax Board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive officer or chief counsel shall, with each recommendation of settlement submitted to the Franchise Tax Board, also submit the Attorney General’s written conclusions obtained pursuant to this paragraph.

(3) The members of the Franchise Tax Board shall not participate in the settlement of these tax matters, except as provided in subdivision (c).

(b) Whenever a reduction of tax in excess of five hundred dollars ($500) is approved pursuant to this section, there shall be placed on file in the office of the executive officer of the Franchise Tax Board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount involved.

(3) The amount payable or refundable pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General’s conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(c) (1) Any recommendation for settlement shall be approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive officer or chief counsel in accordance with the decision of the Franchise Tax Board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the Franchise Tax Board. Where the Franchise Tax Board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation,
and may be resubmitted to the Franchise Tax Board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive officer or chief counsel.

(d) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(e) Any proceedings undertaken by the Franchise Tax Board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (b), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19281) of Chapter 21.

(f) This section shall apply only to civil tax matter disputes existing on July 1, 1992, with respect to which recommendations for settlement, pursuant to paragraph (2) of subdivision (a), are first submitted to the Attorney General no later than June 30, 1993, and are first submitted to the Franchise Tax Board no later than September 15, 1993.

(g) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the Franchise Tax Board in implementing and administering the settlement program authorized by this section.

SEC. 3. Section 19405 of the Revenue and Taxation Code is amended to read:

19405. (a) Any person who—

(1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter,

(2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the Personal Income Tax Law, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document,

(3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the Personal Income Tax Law, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed or advises, aids in, or connives at that execution thereof,

(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Chapter 19 (commencing with Section 18801) of this part; or Chapter 5 (commencing with Section 706.010) of
Division 2 of, and Chapter 8 (commencing with Section 688.010) of Division 1 of, Title 9 of the Code of Civil Procedure, with intent to evade or defeat the assessment or collection of any tax imposed by this part, or

(5) In connection with any settlement under Section 19133, or offer of that settlement, or in connection with any closing agreement under Section 19132 or offer to enter into any such agreement, willfully does any of the following:

(A) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(B) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than twenty thousand dollars ($20,000) or imprisoned not more than three years, or both, together with the costs of prosecution.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him or her.

(c) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, or any agent, fiduciary, or representative of, or any other individual acting on behalf of, the taxpayer.

SEC. 4. Section 21015 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 25782 of the Revenue and Taxation Code is amended to read:

25782. (a) (1) Subject to paragraph (2), the executive officer or chief counsel, if authorized by the executive officer, of the Franchise Tax Board may recommend to the Franchise Tax Board, itself, a settlement of any civil tax matter dispute.

(2) No recommendation of settlement shall be submitted to the Franchise Tax Board unless and until that recommendation has been submitted by the executive officer or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise in writing the executive officer or chief counsel of the Franchise Tax Board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive officer or chief counsel shall, with each recommendation of settlement submitted to the Franchise Tax Board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(3) The members of the Franchise Tax Board shall not participate in the settlement of these tax matters, except as provided in subdivision (c).

(b) Whenever a reduction of tax in excess of five hundred dollars
(§500) is approved pursuant to this section, there shall be placed on file in the office of the executive officer of the Franchise Tax Board a public record with respect to that settlement. The public record shall include, but need not be limited to, all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.
(2) The total amount involved.
(3) The amount payable or refundable pursuant to the settlement.
(4) A summary of the reasons why the settlement is in the best interests of the State of California.
(5) The Attorney General’s conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(c) (1) Any recommendation for settlement shall be approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive officer or chief counsel in accordance with the decision of the Franchise Tax Board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the Franchise Tax Board. Where the Franchise Tax Board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the Franchise Tax Board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive officer or chief counsel.

(d) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(e) Any proceedings undertaken by the Franchise Tax Board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (b), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19281) of Chapter 21.

(f) This section shall apply only to civil tax matter disputes existing on July 1, 1992, with respect to which recommendations for settlement, pursuant to paragraph (2) of subdivision (a), are first submitted to the Attorney General no later than June 30, 1993, and are first submitted to the Franchise Tax Board no later than
September 15, 1993.

(g) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the Franchise Tax Board in implementing and administering the settlement program authorized by this section.

SEC. 6. Section 25962 of the Revenue and Taxation Code is amended to read:

25962. (a) Any person who—

(1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter,

(2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the Bank and Corporation Tax Law, of a return, affidavit, claim or other document, which is fraudulent or is false as to any material matter, whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document,

(3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the Bank and Corporation Tax Law, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed or advises, aids in, or connives at that execution thereof,

(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Chapter 23 (commencing with Section 26131) of this part, with intent to evade or defeat the assessment or collection of any tax imposed by this part, or

(5) In connection with any settlement under Section 25782, or offer of that settlement, or in connection with any closing agreement under Section 25781 or offer to enter into any such agreement, willfully does any of the following:

(A) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(B) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall be guilty of a felony and, upon conviction thereof, shall be fined not more that one hundred thousand dollars ($100,000) or imprisoned not more than three years, or both, together with the costs of prosecution.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for
all purposes that the return, statement, or other document was actually signed by him or her.

(c) For purposes of this section, "person" means the taxpayer, any corporation, agent, fiduciary, or representative of, or any other entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or which owns or controls the taxpayer, directly or indirectly.

SEC. 7. Section 26072 of the Revenue and Taxation Code is amended to read:

26072. (a) Except as provided in subdivision (b), if the Franchise Tax Board determines that the taxpayer paid an amount not required to be paid under this part, the Franchise Tax Board without obtaining the approval of the State Board of Control, shall set forth that fact in its records and may either credit the amount on any amounts then due and payable under this part from the taxpayer by whom the amount was paid or refund the amount or the balance to the taxpayer or its successors.

(b) No refund exceeding fifty thousand dollars ($50,000) shall be allowed or made until approved by the State Board of Control. Notwithstanding the preceding sentence, State Board of Control approval shall not be required with respect to a refund resulting from the payment of estimated tax or a rate determination pursuant to Section 23186.1 (relating to bank and financial corporation rates), or from a settlement approved pursuant to Section 25782.

SEC. 8. The sum of two million seven hundred thousand dollars ($2,700,000) is hereby appropriated from the General Fund to the Department of Finance for allocation by the Department of Finance to the Franchise Tax Board and the Department of Justice in amounts sufficient to reimburse those agencies for costs incurred in implementing this act.

SEC. 9. The Franchise Tax Board shall report to the Legislature no later than October 1, 1993, with respect to the merits of the settlement program established by this act. The Auditor General shall similarly report to the Legislature no later than December 1, 1993.

SEC. 10. It is the intent of the Legislature that:

(a) The Franchise Tax Board promptly initiate a program of settling unpaid assessments currently the subject of a protest or appeal.

(b) The Franchise Tax Board, its staff, and the Attorney General pursue settlements with respect to unpaid assessments with due diligence, consistent with a reasonable evaluation of the costs and risks associated with litigation of those matters.

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.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to obtain essential state revenues as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 450

An act to add and repeal Section 22732 of the Education Code, and to add and repeal Section 20822 of the Government Code, relating to the California State University, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 1992. Filed with Secretary of State August 6, 1992.]

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

SECTION 1. Section 22732 is added to the Education Code, to read:

22732. Notwithstanding Section 22731 and any other provision of this part, for the 1992–93 fiscal year, when the Trustees of the California State University determine that because of an impending curtailment of service, or change in the manner of performing service, the best interests of the California State University would be served by encouraging the retirement of employees of the California State University and the Governor indicates his or her agreement by issuing a related executive order, the trustees may grant eligible employees additional service credit if the following conditions exist:

(a) The member meets the age and service requirements of Section 23901 and retires on service retirement on or before a date determined by the trustees which is within a period that is not more than 120 days after the trustees' determination of an impending curtailment or change.

(b) The trustees agree to transmit to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit under this section and the amount the member would have received without the service credit. The transfer to the retirement fund shall be made during a four-year period and in a manner acceptable to the trustees and the board. If payment in full is not received within 30 days of the invoice, regular interest shall be charged on any unpaid balance.
As used in this section, "member" means an employee of the California State University who is included in California State University Faculty Bargaining Unit No. 3 who is employed in a job classification, department, or other organizational unit designated by the trustees.

As used in this section, "trustees" means the Trustees of the California State University or its authorized designee.

The amount of additional service credit shall not be more than four years regardless of credited service.

This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending two years beyond the date of issuance of the trustees' determination or if the member is not eligible to retire without the additional credit available under this section.

Any member who qualifies under this section, upon subsequent reentry to the system or upon any subsequent service under contract or any other basis with the trustees, shall forfeit the service credits acquired under this section, except when the subsequent service results from temporary employment of tenured or probationary faculty in the 1992–93 fiscal year that is required in order to preserve the academic integrity of a particular department or program. As used in this section, "academic integrity of a particular department or program" means the ability of a department or program to offer one or more courses that are required for the graduation of students with declared majors in that particular department or program.

Each time that additional service credit is granted pursuant to this section, the same amount of service credit shall be granted to each member who receives the credit.

This section shall remain in effect only until June 30, 1993, and as of that date is repealed, unless a later enacted statute which is enacted before June 30, 1993, deletes or extends that date.

SEC. 2. Section 20822 is added to the Government Code, to read:

20822. Notwithstanding Section 20816 and any other provision of this part, for the 1992–93 fiscal year, when the Trustees of the California State University determine that because of an impending curtailment of service, or change in the manner of performing service, the best interests of the California State University would be served by encouraging the retirement of employees of the California State University and the Governor indicates his or her agreement by issuing a related executive order, the trustees may grant eligible employees additional service credit if the following conditions exist:

(a) The member meets the age and service requirements of Section 20950 or 20950.1 and retires on service retirement on or before a date determined by the trustees that is within a period that is not more than 120 days after the trustees' determination of an impending curtailment or change.

(b) The trustees agree to transmit to the retirement fund an amount determined by the board which is equal to the actuarial
equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without that service credit. The transfer to the retirement fund shall be made during a four-year period and in a manner acceptable to the trustees and the board. If payment in full is not received within 30 days of the invoice, regular interest shall be charged on any unpaid balance.

As used in this section, "trustees" means the Trustees of the California State University or its authorized designee.

As used in this section, "member" means an employee of the California State University who is included in California State University Faculty Bargaining Unit No. 3 who is employed in a job classification, department, or other organizational unit designated by the trustees.

The amount of additional service credit shall not be more than four years.

This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending two years beyond the date of issuance of the trustees' determination or if the member is not eligible to retire without the additional credit available under this section.

Any member who qualifies under this section, upon subsequent reentry to the system or upon any subsequent service under contract or any other basis with the trustees, shall forfeit the service credits acquired under this section, except when the subsequent service results from temporary employment of tenured or probationary faculty in the 1992–93 fiscal year that is required in order to preserve the academic integrity of a particular department or program. As used in this section, "academic integrity of a particular department or program" means the ability of a department or program to offer one or more courses which are required for the graduation of students with declared majors in that particular department or program.

Each time that additional service credit is granted pursuant to this section, the same amount of service credit shall be granted to each member who receives the credit.

This section shall remain in effect only until June 30, 1993, and as of that date is repealed, unless a later enacted statute which is enacted before June 30, 1993, deletes or extends that date.

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

Because of the unprecedented shortfall in state revenues, and the need to reduce personnel costs to the California State University in the 1992–93 fiscal year, it is necessary that this act take effect immediately.
An act to amend Sections 1002 and 5012 of, and to add Section 72035 to, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 7, 1992. Filed with Secretary of State August 7, 1992.]

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

SECTION 1. Section 1002 of the Education Code is amended to read:

1002. (a) Upon being so requested by the county board of education, the county committee on school district organization, by a two-thirds vote of the members, may either change the boundaries of any or all of the trustee areas of the county, or propose to increase or decrease the number of members of the county board of education, or both. The trustee areas shall be as nearly equal in population as may be, except that in establishing or changing the boundaries of the trustee areas the county committee may give consideration to the following factors:

1. Topography.
2. Geography.
3. Cohesiveness, contiguity, integrity, and compactness of territory.
4. Community of interests of the trustee areas.
In any event, the county committee shall ensure that trustee areas are as nearly equal in population as practicable.

(b) Following each decennial federal census, and using population figures validated by the Population Research Unit of the Department of Finance as a basis, the county committee shall adjust the boundaries of any or all of the trustee areas of the county board of education as necessary to meet the population criteria set forth in subdivision (a).

(c) Changes in trustee area boundaries or a proposed reduction in the number of county board of education members shall be made in writing and filed with the county board of supervisors not later than the first day of March of any school year.

(d) In those counties in which the election of members of county boards of education are required to be held on the same date as prescribed for the election of members of governing boards of school districts, as provided in Section 1007, the county committees on school district organization shall fix the boundaries of trustee areas, insofar as possible, to coincide with the boundaries of school districts.

(e) Whenever the boundaries of trustee areas are changed so as to be coterminous with those of supervisorial districts of the county, the election for members of the county board of education shall be consolidated with the countywide election.
SEC. 2. Section 5012 of the Education Code is amended to read:
5012. (a) In any school district or community college district
governing board election the name of any person shall be placed on
the ballot, subject to Sections 35107 and 72103, if there is filed with
the county clerk having jurisdiction not more than 113 days nor less
than 88 days prior to the election a declaration of candidacy
substantially in the form set forth in subdivision (a) of Section 5032,
containing the appropriate information in the blank spaces and
signed by the person whose name is thereby to be placed on the
ballot.

No candidate whose declaration of candidacy has been filed for any
school district or community college district governing board
election or county board of education election may withdraw as a
candidate after the 88th day prior to the election.

Notwithstanding any other provision of law, except as provided in
subdivision (b), no person shall file nomination papers for more than
one district office, including a county board of education office, at the
same election.

(b) Notwithstanding any other provision of law, if a proposal to
form a unified school district is on the same ballot as the election of
governing board members of that district, any candidate for a
position on the existing governing board may file nomination papers
for that position pursuant to subdivision (a) and may, at the same
election, also file nomination papers for a position on the governing
board of the proposed unified school district.

SEC. 2.5. Section 72035 is added to the Education Code, to read:
72035. Notwithstanding any other provision of law, including, but
not limited to, Sections 5000.1 and 5010.5, and the Charter of the City
of San Diego, the number of members, the election of members, and
the reappointment of trustee areas of the governing board of the
San Diego Community College District shall be conducted pursuant
to this section.

(a) Candidates for election as a member of the governing board
of the district shall be nominated by trustee area at a district primary
election held on the date of the statewide direct primary election. At
the district primary election, the two candidates receiving the
highest number of votes within the trustee area shall be nominees for
the general district election for that trustee area, and the nominee
who receives a majority of the votes cast by the voters of the district
in the districtwide general district election shall be elected to
represent that trustee area. The general district election shall be held
on the same date as the statewide general election.

Candidates for election as members of the governing board shall
file a declaration of candidacy as provided in this code. Each member
of the governing board elected at the general district election shall
hold office for a term of four years commencing on the first Friday
in December next succeeding his or her election.

The members of the governing board in office on the effective
date of the act that enacted this section at the 1991–92 Regular
Session of the Legislature shall hold office until the first Friday in December of the year in which their respective term of office would otherwise have terminated, or until a successor qualifies therefor.

(b) The territory of the district shall be divided into trustee areas and one member of the governing board shall be elected from each trustee area. A candidate for election as a member of the governing board shall reside in, and be registered to vote in, the trustee area he or she seeks to represent.

(c) The governing board of the district shall be composed of not less than five members and not more than nine, as determined by the governing board. Sections 5019 to 5030, inclusive, do not apply to the governing board's determination of the number of members pursuant to this subdivision. If the number of members of the governing board is increased or decreased, the governing board shall establish new trustee areas, abolish trustee areas, or adjust the boundaries of trustee areas so that the number of trustee areas is equal to the number of governing board members. If the number of members of the governing board is increased, the additional members of the governing board shall be elected at the next regular general district election of board members occurring at least 123 days after the governing board approved the increased number of board members. Prior to the next general district election, the governing board shall divide by lot the additional trustee area positions that are created so that the term of one-half of the board members elected to those positions shall expire on the first Friday in December following the next general district election. The term of the other board members elected to fill the remainder of the additional positions shall expire on the first Friday in December following the second general district election succeeding their election.

(d) The governing board shall adjust the boundaries of each trustee area in existence on January 1, 1992, to reflect population changes enumerated in the 1990 decennial federal census. The purpose of the adjustment is to establish trustee areas so that the population of each area is, as nearly as may be, the same proportion of the total population of the district as each of the other areas. Thereafter, the boundaries of trustee areas shall be adjusted pursuant to Section 5019.5 and may be abolished or rearranged as otherwise provided in this code.

(e) Pursuant to Sections 5019 and 5030, the county committee on school district organization may propose to the district voters that the member residing in each trustee area be elected by the registered voters of that particular trustee area. The proposal shall be submitted to the voters of the district at the next regular general district election occurring at least 123 days after the adoption of the proposal by the county committee on school district organization. If that proposal is approved by a majority of the voters voting in the election, then notwithstanding subdivision (a), there shall be no direct primary election for governing board members at the next election for members. Instead, members shall be elected at a general
district election held on the same day as the statewide general election. At that general district election, board member candidates shall be elected to represent the trustee area in which they reside and are registered to vote by the registered voters of that trustee area. The candidate in each trustee area receiving the highest number of votes shall be elected.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to Section 1 of this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because Section 2.5 of 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 Constitution and shall go into immediate effect. The facts constituting the necessity are:

First, it is necessary for the county committee on school district organization to begin compiling, as soon as possible, data required to adjust the boundaries of county board of education trustee areas. Secondly, when a separate community college governing board was formed by the San Diego Unified School District in 1972, Section 72035 of the Education Code provided that the election of members of the governing board of the community college district would be governed by the city charter. Section 72035 was repealed by a Chapter 1372 of the Statutes of 1990, leaving unsettled the procedure for electing members of the governing board of the district. In order to begin compiling that information and to establish an election procedure for members of the governing board as soon as possible, it is necessary for this act to take effect immediately.
CHAPTER 452

An act to amend, repeal, and add Sections 1347, 3700, 3701, 3702, 3702.5, 3704, and 3704.5 of, to add Sections 3682, 3683, 3684, 3685, 3686, and 3701.5 to, and to amend and repeal Section 3706 of, the Fish and Game Code, relating to wildlife, and making an appropriation therefor.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 1347 of the Fish and Game Code is amended to read:

1347. As a result of such studies the board shall determine what areas, lands, or rights in lands or waters should be acquired by the state in order to effectuate a coordinated and balanced program resulting in the maximum revival of wildlife in the state and in the maximum recreational advantages to the people of the state.

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

SEC. 2. Section 1347 is added to the Fish and Game Code, to read:

1347. As a result of the studies, the board shall determine what areas, lands, or rights in lands or waters should be acquired by the state in order to effectuate a coordinated and balanced program resulting in the maximum restoration of wildlife in the state and in the maximum recreational advantages to the people of the state.

This section shall become operative on July 1, 1993.

SEC. 3. Section 3682 is added to the Fish and Game Code, to read:

3682. (a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any upland game bird species without first procuring an upland game bird stamp, and having the stamp permanently affixed to his or her valid hunting license.

(b) Upland game bird stamps may be obtained from the department, or a licensed agent authorized pursuant to Section 1055, for a fee of five dollars ($5), adjusted pursuant to Section 713.

(c) This section shall become operative on July 1, 1993.

SEC. 4. Section 3683 is added to the Fish and Game Code, to read:

3683. Upland game bird species include resident game birds, defined as Chinese spotted doves, ringed turtledoves of the family columbidae; California quail and varieties thereof, Gambel's or desert quail, mountain quail and varieties thereof, ruffed grouse, sage hens and sage grouse; white-tailed ptarmigan, Hungarian partridges, red-legged partridges including the chukar and other varieties, ringed-neck pheasants and varieties, and wild turkeys of the order galliformes; and migratory game birds including jacksnipe,
western mourning doves, white-winged doves, and band-tailed pigeons.

This section shall become operative on July 1, 1993.

SEC. 5. Section 3684 is added to the Fish and Game Code, to read:

3684. All funds derived from the sale of upland game bird stamps shall be deposited in the Fish and Game Preservation Fund and shall be expended solely for purposes specified in Section 3685. The department shall maintain the internal accountability necessary to ensure that all restrictions and requirements pertaining to the expenditure of revenues received pursuant to this section are met.

This section shall become operative on July 1, 1993.

SEC. 6. Section 3685 is added to the Fish and Game Code, to read:

3685. Funds received pursuant to Section 3684 shall be annually available for appropriation by the Legislature for programs, projects, and land acquisitions to benefit upland game bird species, and for related hunting opportunities and public outreach.

This section shall become operative on July 1, 1993.

SEC. 7. Section 3686 is added to the Fish and Game Code, to read:

3686. Projects authorized pursuant to Section 3685 shall be governed by Section 1501.5. With the approval of the entity in control of property affected by a project, the department may make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of those projects, or the department may reimburse the controlling entity for its costs of accomplishing the project.

This section shall become operative on July 1, 1993.

SEC. 8. Section 3700 of the Fish and Game Code is amended to read:

3700. (a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any migratory game bird, except jacksnipe, coots, gallinules, western mourning doves, white-winged doves, and band-tailed pigeons, without first procuring a state duck stamp and having the state duck stamp in his or her possession while taking those birds.

(b) State duck stamps shall be sold for a fee of seven dollars and fifty cents ($7.50) by the department and by license agents, who are authorized by the department pursuant to Section 1055, in the same manner as hunting licenses. The commission shall determine the form of state duck stamps pursuant to Section 1050.

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

SEC. 9. Section 3700 is added to the Fish and Game Code, to read:

3700. (a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any migratory game bird, except jacksnipe, coots, gallinules, western mourning doves, white-winged doves, and band-tailed pigeons, without first procuring either an open edition or a Governor's edition state duck stamp, as provided in subdivisions (b) and (c), and having the state duck stamp in his or her possession while taking those birds.
(b) State duck stamps, open edition, shall be sold for a fee of ten dollars ($10), by the department and by license agents, who are authorized by the department pursuant to Section 1055, in the same manner as hunting licenses.

(c) State duck stamps, Governor’s edition, may be printed and sold on a bid basis, beginning at a minimum bid, as determined by the department or its representative.

(d) The commission shall determine the form of the state duck stamp.

(e) The department may prepare and sell artwork, posters, and other promotional materials related to the sale of duck stamps or waterfowl hunting and conservation.

(f) This section shall become operative on July 1, 1993.

SEC. 10. Section 3701 of the Fish and Game Code is amended to read:

3701. All funds derived from the sale of state duck stamps shall be deposited in the State Duck Stamp Account in the Fish and Game Preservation Fund to permit separate accountability for the receipt and expenditure of funds derived from the sale of state duck stamps. An amount not to exceed twenty-five cents ($0.25) for each state duck stamp sold may be used to reimburse the department for the costs of administering this article. The amount used to reimburse the department shall be in addition to compensation allowed persons authorized to issue and sell licenses pursuant to Section 1055.

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

SEC. 11. Section 3701 is added to the Fish and Game Code, to read:

3701. All funds derived from the sale of state duck stamps, and related items authorized by subdivision (e) of Section 3700, shall be deposited in the State Duck Stamp Account in the Fish and Game Preservation Fund to permit separate accountability for the receipt and expenditure of these funds. An amount not to exceed 6 percent of the amount annually deposited in the account may be used for administrative overhead related to the use of those funds and for implementation of the federal Migratory Bird Harvest Program.

This section shall become operative on July 1, 1993.

SEC. 12. Section 3701.5 is added to the Fish and Game Code, to read:

3701.5. Not more than ten thousand dollars ($10,000) may be expended annually for the purposes of subdivision (e) of Section 3700 during the 1993–94 and 1994–95 fiscal years.

This section shall become operative July 1, 1993.

SEC. 13. Section 3702 of the Fish and Game Code is amended to read:

3702. Funds deposited in the State Duck Stamp Account shall be used for projects approved by the commission for the purpose of protecting, preserving, restoring, enhancing, and developing
migratory waterfowl breeding and wintering habitat. The commission may enter into contracts with nonprofit organizations for the use of these funds outside the state, or outside the United States, when it finds that the contracts are necessary for carrying out the purposes of this article.

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

SEC. 14. Section 3702 is added to the Fish and Game Code, to read:

3702. Funds deposited in the State Duck Stamp Account shall be used for projects approved by the commission for the purpose of protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding and wintering habitat, evaluating habitat projects, and conducting waterfowl resource assessments and other waterfowl related research. These funds may be used to reimburse nonprofit organizations for completed habitat projects. Subject to Section 3704, the department may make grants or enter into contracts with nonprofit organizations for the use of these funds when it finds that the contracts are necessary for carrying out the purposes of this article.

This section shall become operative on July 1, 1993.

SEC. 15. Section 3702.5 of the Fish and Game Code is amended to read:

3702.5. Funds deposited in the State Duck Stamp Account may also be used to evaluate projects approved by the commission pursuant to this article when deemed necessary by the commission. The commission may enter into contracts with nonprofit organizations of its selection for the conduct of the evaluations.

The costs of the evaluations shall be included in the allocation of funds from the State Duck Stamp Account prescribed in Section 3704 as appropriate to the location of the project being evaluated.

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

SEC. 16. Section 3702.5 is added to the Fish and Game Code, to read:

3702.5. The department may permit individual artists to sell a limited number of prints of duck stamp related artwork or posters.

This section shall become operative on July 1, 1993.

SEC. 17. Section 3704 of the Fish and Game Code is amended to read:

3704. Two dollars and twenty-five cents ($2.25) of the amount collected by the department for each state duck stamp sold shall be allocated by the commission for the preservation of waterfowl habitat in those areas of Canada from which come substantial numbers of waterfowl migrating to or through California. The available balance of the funds shall be used for protecting, preserving, restoring, enhancing, and developing migratory
waterfowl breeding and wintering habitat in California, provided that any lands acquired in California with those funds shall be open to waterfowl hunting as a public shooting ground or wildlife management area.

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

SEC. 18. Section 3704 is added to the Fish and Game Code, to read:

3704. Two dollars and twenty-five cents ($2.25) of the amount collected by the department for each state duck stamp sold shall be allocated by the commission for the purposes of the North American Waterfowl Management Plan in those areas of Canada from which come substantial numbers of waterfowl migrating to, or through, California. These funds shall be matched with federal or private funds available for that purpose. The available balance of the funds shall be used for any project authorized pursuant to Section 3702 in California. However, any lands acquired in California with those funds shall be open to waterfowl hunting as a public shooting ground or wildlife management area.

This section shall become operative on July 1, 1993.

SEC. 19. Section 3704.5 of the Fish and Game Code is amended to read:

3704.5. Waterfowl habitat improvement projects on property owned by the state for which the commission approves the use of funds are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. With the approval of the state agency in control of the property, the commission may enter into contracts with nonprofit organizations for the accomplishment of those projects, or the commission may approve funds to reimburse the controlling agency for its costs of accomplishing the project.

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

SEC. 20. Section 3704.5 is added to the Fish and Game Code, to read:

3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code. With the approval of the entity in control of property affected by a project, the department may make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of those projects, or the department may reimburse the controlling entity for its costs of accomplishing the project.

This section shall become operative on July 1, 1993.

SEC. 21. Section 3706 of the Fish and Game Code is amended to read:

3706. The commission shall, not later than the fifth calendar day
of each regular session, submit a report to the Legislature summarizing activity, including receipt and expenditure of funds, and public benefits achieved pursuant to this article.

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

SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime 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 453

An act to add Section 2938.1 to the Civil Code, relating to real property.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992 ]

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

SECTION 1. Section 2938.1 is added to the Civil Code, to read: 2938.1. (a) An assignment of the rents, issues, and profits of real property, stating that it is given as additional security, is perfected by the recordation, in the county in which the real property is located, of an instrument granting that assignment. Recordation shall perfect that assignment without the necessity of the beneficiary or mortgagee obtaining possession of the real property, appointing a receiver, or taking any other action.

(b) Notwithstanding subdivision (a), until such time, if any, as the trustor or mortgagor is in default of its obligation to the beneficiary or mortgagee, the beneficiary or mortgagee shall not exercise any rights to collect the rents, issues, and profits.

(c) An assignment as additional security may be contained in a mortgage, deed of trust, or other recorded instrument.

(d) This section shall not invalidate assignments as additional security which have been perfected by other means prior to January 1, 1993, and shall only apply to assignments as additional security which are executed on and after January 1, 1993. This section shall not apply to assignments of rents, issues, and profits of real property which state that they are absolute, as provided in Section 2938.
CHAPTER 454

An act to amend Sections 32320 and 84501 of, and to add Article 2.5 (commencing with Section 84820) to Chapter 5 of Part 50 of, the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. The Legislature finds and declares as follows:
(a) At an election held on March 5, 1991, the voters of the Natomas Union Elementary School District in Sacramento County overwhelmingly approved a ballot measure to unify that school district within its existing boundaries.
(b) That election was held pursuant to the approval of a reorganization petition by the State Board of Education in accordance with Chapter 4 (commencing with Section 35700) of Part 21 of the Education Code.
(c) The appropriate certificate of the election results was transmitted to the Sacramento County Board of Supervisors on March 18, 1991.
(d) The Sacramento County Board of Supervisors did not issue the order to unify the Natomas Union Elementary School pursuant to the election results, as required by Section 35765 of the Education Code, until January 28, 1992.
(e) Because the ministerial action of the Sacramento County Board of Supervisors described in subdivision (d) was delayed until after December 31, 1991, under current law the unification of the Natomas Union Elementary School District will not be effective until July 1, 1993.
SEC. 2. Notwithstanding any other provision of law, the action to unify the Natomas Union Elementary School District that was approved at the election held on March 5, 1991, as described in Section 1 of this act, shall be effective for all purposes on July 1, 1992.
SEC. 3. Due to the unique circumstances specified in Section 1 of this act concerning the Natomas Union Elementary School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.
SEC. 4. Section 32320 of the Education Code is amended to read:
32320. No state-owned college, university, or other school shall charge any tuition, or incidental fees to any of the following:
(a) Any dependent eligible to receive assistance under Article 2 (commencing with Section 890) of Chapter 4 of Division 4 of the Military and Veterans Code.
(b) Any child of any veteran of the United States military who has
a service-connected disability, or who has been killed in service or has died of a service-connected disability, where the annual income of the child, including the value of any support received from a parent, does not exceed five thousand dollars ($5,000).

(c) Notwithstanding Section 893 of the Military and Veterans Code, the Department of Veterans Affairs may determine the eligibility for fee waivers for a child described in subdivision (b).

(d) Any dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty, and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, means a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

Nothing contained in this section shall prevent the Regents of the University of California from charging to and collecting from nonresident students an admission fee and rate of tuition nor shall anything in this section prevent the charging and collecting of fees required of nonresident students admitted to schools under the jurisdiction of the State Department of Education or the Director of Education or to a state university under the jurisdiction of the Trustees of the California State University.

This section shall not apply to a dependent of a veteran within the meaning of paragraph (4) of subdivision (a) of Section 890 of the Military and Veterans Code.

SEC. 5. Section 84501 of the Education Code is amended to read:

84501. Except for purposes of distributing lottery revenues pursuant to Section 84830, commencing with the 1991–92 fiscal year, the term "community college average daily attendance" (ADA) means full-time equivalent student (FTES) as that term is defined by regulations adopted by the Board of Governors of the California Community Colleges.

SEC. 6. Article 2.5 (commencing with Section 84820) is added to Chapter 5 of Part 50 of the Education Code, to read:

Article 2.5. Adjustments to Lottery Fund Allocations

84820. (a) The Legislature finds and declares that for the 1990–91 fiscal year, each community college district collected data based on both average daily attendance and full-time equivalent students, and were required to compute a statewide percentage on the basis of comparing average daily attendance to full-time equivalent students. The Legislature also finds that each fiscal year thereafter, pursuant to Section 84501, community college districts are required to collect data based only on full-time equivalent students.

(b) In order to adjust the allocation of lottery revenue as a result
of the shift by community college districts from average daily attendance to full-time equivalent students as a method of measuring workload, the chancellor shall comply with the following procedure:

(1) Report for the 1991–92 fiscal year the full-time equivalent students that equals the product derived by multiplying the 1990–91 statewide percentage by the full-time equivalent students generated during the 1991–92 fiscal year.

(2) Report for the 1992–93 fiscal year the full-time equivalent students that equals the workload measure derived from applying the 1990–91 statewide percentage to the full-time equivalent students generated in the 1992–93 fiscal year, as well as the actual full-time equivalent students generated in the 1992–93 fiscal year.

(c) The workload measures reported by the chancellor pursuant to paragraphs (1) and (2) of subdivision (b) shall be considered together with workload units generated by the other public education entities specified in Section 8880.5 of the Government Code to ensure that each entity receives a maximum allocation of lottery revenue up to the amount allocated per workload measure to each entity for the 1991–92 fiscal year. If there is lottery revenue in excess of the amount allocated per workload measure for the 1991–92 fiscal year, the excess funds shall be allocated by the Controller as follows:

(1) Fifty percent to public education entities other than community colleges.

(2) Fifty percent to community colleges in order to equalize the amount per workload measure, as determined pursuant to paragraph (2) of subdivision (b), to the level established pursuant to paragraph (1) of subdivision (c). Any funds remaining after making this computation shall be distributed by the Controller to community colleges with the objective of increasing the community college share of lottery revenues to 100 percent of its full-time equivalent students amount. When the community college share of lottery revenues reaches 100 percent of its full-time equivalent students amount or the amount distributed to other public education entities, including the amount distributed pursuant to paragraph (1) of subdivision (c), any remaining funds shall be distributed pursuant to Section 8880.5 of the Government Code.

(d) For the 1993–94 fiscal year and each fiscal year thereafter, the chancellor shall report the same percentage of full-time equivalent students as was funded in the prior fiscal year. This workload measure and the workload units generated by the other public education entities shall be the basis for determining allocations of lottery revenues up to the same amount per workload measure as was allocated for the prior fiscal year.

(e) For the 1993–94 fiscal year and each fiscal year thereafter, if excess funds remain after the Controller has complied with subdivision (d), the excess funds shall be allocated pursuant to paragraphs (1) and (2) of subdivision (c) with the objective of increasing the community college share of lottery revenues to 100
percent of its full-time equivalent students amount.

(f) Commencing January 1, 1993, any lottery revenue allocated to a public education entity pursuant to Section 8880.5 of the Government Code shall not be reduced by more than one-half of 1 percent per year when that reduction is the direct result of any entity changing its method of computing workload units.

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

In order to ensure the timely unification of the Natomas Unified School District as authorized by the voters, to authorize tuition waivers for certain dependents of veterans, and to delay the operation of certain statutes relating to the computation of community college average daily attendance as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 455

An act to add Section 222.71 to the Civil Code, and to amend Section 361.5 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 222.71 is added to the Civil Code, to read:

222.71. Where a child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and has thereafter been freed for adoption by the juvenile court, the petition for adoption of the minor may be filed either in the county where the prospective adoptive parents reside or the county where the child was freed for adoption.

SEC. 2. 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. If at the end of the 18-month period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

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.

(6) That the minor has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child, or between the child and another person or animal with the actual or implied consent of, and for the financial gain or other

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advantage of, the parent or guardian; or the penetration or manipulation of the child's genital organs or rectum by any animate or inanimate object, for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of, and for the financial gain or other advantage of, the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child in a closed space; or any other torturous act or omission which would be reasonably understood to cause serious emotional damage.

(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), (5), or (6) 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.

(h) In determining whether reunification services will benefit the child pursuant to paragraph (6) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child.

(2) The circumstances under which the abuse or harm was inflicted on the child.

(3) The severity of the emotional trauma suffered by the child.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 18 months with no continuing supervision.

(6) Whether or not the child desires to be reunified with the offending parent or guardian.

(i) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.
CHAPTER 456

An act to add Section 31149.5 to the Water Code, relating to water.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 31149.5 is added to the Water Code, to read:
31149.5. (a) The Marina County Water District may finance, construct, maintain, operate, lease, use, and sell power to any public utility or public agency from one or more plants within the district's boundaries for the cogeneration of electric power in conjunction with facilities for removing dissolved solids and impurities from seawater, and may finance, construct, maintain, operate, and lease the transmission lines for the conveyance of the power.
(b) Prior to January 1, 1996, the district may not exercise the authority set forth in subdivision (a) to provide water that is a substitute for water from the Monterey County Water Resources Agency's seawater intrusion project.

CHAPTER 457

An act to amend Section 1204 of, and to add Section 1204.3 to, the Health and Safety Code, relating to alternative birth centers.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 1204 of the Health and Safety Code is amended to read:
1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.
(a) Only the following defined classes of primary care clinics shall be eligible for licensure:
(1) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that
the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(2) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.

SEC. 2. Section 1204.3 is added to the Health and Safety Code, to read:

1204.3. (a) An alternative birth center that is licensed as an alternative birth center specialty clinic pursuant to paragraph (4) of
subdivision (b) of Section 1204 shall, as a condition of licensure, and
a primary care clinic licensed pursuant to subdivision (a) of Section
1204 that provides services as an alternative birth center shall, meet
all of the following requirements:
(1) Be a provider of comprehensive perinatal services as defined
in Section 14134.5 of the Welfare and Institutions Code.
(2) Maintain a quality assurance program.
(3) Meet the standards for certification established by the
National Association of Childbearing Centers, or at least equivalent
standards as determined by the state department.
(4) In addition to standards of the National Association of
Childbearing Centers regarding proximity to hospitals and presence
of attendants at births, meet both of the following conditions:
(A) Be located in proximity, in time and distance, to a facility
with the capacity for management of obstetrical and neonatal
emergencies, including the ability to provide Caesarean delivery,
within 30 minutes from time of diagnosis of the emergency.
(B) Require the presence of at least two attendants at all times
during birth, one of whom shall be either a physician and surgeon or
a certified nurse-midwife.
(b) The state department shall issue a permit to a primary care
clinic licensed pursuant to subdivision (a) of Section 1204 certifying
that the primary care clinic has met the requirements of this section
and may provide services as an alternative birth center. Nothing in
this section shall be construed to require that a licensed primary care
clinic obtain an additional license in order to provide services as an
alternative birth center.
(c) (1) Notwithstanding subdivision (a) of Section 1206, no place
or establishment owned or leased and operated as a clinic or office
by one or more licensed health care practitioners and used as an
office for the practice of their profession, within the scope of their
license, shall be represented or otherwise held out to be an
alternative birth center licensed by the state unless it meets the
requirements of this section.
(2) Nothing in this subdivision shall be construed to prohibit
licensed health care practitioners from providing birth related
services, within the scope of their license, in a place or establishment
described in paragraph (1).
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.
An act to amend Section 1349.2 of the Health and Safety Code, relating to health care service plans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 1349.2 of the Health and Safety Code is amended to read:

1349.2. (a) A health care service plan operated by any city, county, city and county, public entity, or political subdivision that satisfies all of the following criteria is exempt from Section 1349:

(1) Provides services only to its employees, their dependents, and retirees, but not to the general public.
(2) Provides funding for the program.
(3) Provides that providers are not at risk in contracting arrangements, that is, that the reimbursement system is on a fee-for-service basis.

(b) The Senate Office of Research shall conduct a study of the factors that should be considered by the Legislature in determining whether to create an exemption, and the scope of the exemption, under this chapter for public entities and political subdivisions operating a health care service plan for their employees, retired employees, and their dependents which satisfies all of the conditions set forth in subdivision (a). The study shall include, but not be limited to, evaluation of all of the following:

(1) An estimate of the number of public entity and political subdivision plans that would be affected by an exemption.
(2) The fiscal impact of licensure on public entities and political subdivisions and upon the regulatory authority, including any increase in public entity or regulatory authority employees needed to comply with licensure.
(3) The impact, if any, on services offered by the plan due to costs associated with regulation, including any unintended results of creating barriers to health care.
(4) Any potential concomitant increase in taxes in order for public entities and political subdivisions to provide health care services.
(5) If the plans are not licensed and monitored, any risks of financial insolvency, inadequate benefit packages, inadequate education of enrollees of plans concerning available benefits and services, appeal rights, or of economic stability of the plan; and any adverse impact on the ability of enrollees of plans to obtain quality health care, including barriers to accessibility and claims payment practices.
(6) The impact on the private sector, including physicians, allied
health providers, and hospitals.

(7) The impact on health care service plans from any increase in enrollee assessments to fund the regulatory authority’s efforts in licensing public entities and political subdivisions.

(8) The impact and effect of competition on private sector plans from licensed public entities and political subdivisions.

(9) Any constitutional barriers precluding the operation of a health care service plan by a joint exercise of powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

In conducting the study, the Senate Office of Research shall seek assistance and input from all interested parties. The study shall be completed and submitted to the Legislature no later than December 31, 1991.

(c) It is the intent of the Legislature that the Senate Office of Research study shall provide relevant factual and legal information that may assist the Legislature in determining whether, and to what extent, a permanent exemption for public entity and political subdivision employee plans would be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and the extent to which regulation of those plans is not essential to the purposes of this chapter.

It is therefore the intent of the Legislature that the temporary exemption in subdivision (a) is to alleviate the necessity for the Department of Corporations to commence enforcement actions against those plans solely because they are unlicensed during this period.

(d) During the time period of temporary exemption, any public entity or political subdivision operating a health care service plan pursuant to subdivision (a) shall not engage in any actions that are contrary to Sections 1378 and 1379 and shall not reduce or change current benefits except in accordance with collective bargaining agreements.

(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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 exemption of certain public entities from health care service plan licensing requirements and the payment of licensing fees during the 1992-93 fiscal year, it is necessary that this act take effect immediately.
CHAPTER 459

An act to amend Sections 11165.7, 11166, 11166.5, and 11172 of, and to add Section 11165.15 to, the Penal Code, relating to child abuse.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, "child care custodian" means a teacher; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; an administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; an administrator or employee of a public or private youth center, youth recreation program, or youth organization; an administrator or employee of a public or private organization whose duties require direct contact and supervision of children; a licensee, an administrator, or an employee of a licensed community care or child day care facility; a headstart teacher; a licensing worker or licensing evaluator; a public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; a social worker, probation officer, or parole officer; an employee of a school district police or security department; any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

(b) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(c) School districts which do not train the employees specified in subdivision (a) in the duties of child care custodians under the child
abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(d) Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse.

SEC. 2. Section 11165.15 is added to the Penal Code, to read:

11165.15. As used in this article, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.

SEC. 3. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (b), any child care custodian, health practitioner, employee of a child protective agency, or child visitation monitor who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. A child protective agency shall be notified and a report shall be prepared and sent even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) Any child care custodian, health practitioner, employee of a child protective agency, or child visitation monitor who has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of, or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practically possible, by telephone and shall prepare and send a written report of it with a copy of the film, photograph, videotape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of
the following:
(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
(2) Penetration of the vagina or rectum by any object.
(3) Masturbation for the purpose of sexual stimulation of the viewer.
(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
(5) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.
(d) Any other person who has knowledge of, or observes, a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.
(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.
(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.
(g) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney’s office every known or suspected instance of child abuse, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relate solely to the inability of the parent to provide the child with regular care due to the parent’s substance abuse, which shall be reported only to the county welfare department. A county probation or welfare department also shall send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately, or as soon as
practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare department. A law enforcement agency shall report to the county welfare department every known or suspected instance of child abuse reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

SEC. 4. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) On and after January 1, 1985, any person who enters into employment as a child care custodian, health practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in Section 11165.15, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

The statement shall include all of the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health practitioner, employee of a child protective agency, or child visitation monitor who has knowledge of, or observes, a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school
who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; administrators and employees of public or private youth centers, youth recreation programs, or youth organizations; administrators and employees of public or private organizations whose duties require direct contact and supervision of children and who have been trained in the duties imposed by this article; licensees, administrators, and employees of licensed community care or child day care facilities; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; social workers, probation officers, or parole officers; employees of a school district police or security department; any person who is an administrator or a presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; marriage, family, and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family, and child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code; state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; and religious practitioners who diagnose, examine, or treat children.

"Child visitation monitor" means any person as defined in Section 11165.15.

The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.

This subdivision is not applicable to persons employed by child protective agencies, public or private youth centers, youth recreation programs, and youth organizations as members of the
support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation, the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement also shall indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in a county jail, by a fine of one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

(d) On and after January 1, 1993, any child visitation monitor, as defined in Section 11165.15, who desires to act in that capacity shall have received training in the duties imposed by this article, including training in child abuse identification and child abuse reporting. The person, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has received this training. This statement may be included in the statement required by subdivision (a) or it may be a separate statement. This statement shall be filed, along with the statement required by subdivision (a), in the court file of the case for which the visitation monitoring is being provided.

SEC. 5. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any such person who makes a report of child abuse known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the
reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, health practitioner, employee of a child protective agency, or child visitation monitor who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child abuse which he or she knows to exist, or reasonably should know to exist, as required by this article, is guilty of a misdemeanor, punishable by confinement in a county jail for a term not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

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 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 460

An act to amend Sections 134, 135, and 1008 of the Code of Civil Procedure, and to repeal Sections 72300 and 72306 of the Government Code, relating to courts.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Since the enactment of Section 1008 of the Code of Civil Procedure, some California courts have found that the section does not apply to interim orders.

(b) In enacting Section 4 of this act, it is the intent of the Legislature to clarify that no motions to reconsider any order made by a judge or a court, whether that order is interim or final, may be heard unless the motion is filed within 10 days after service of written notice of entry of the order, and unless based on new or different facts, circumstances, or law.

(c) In enacting Section 4 of this act, it is the further intent of the Legislature to clarify that no renewal of a previous motion, whether the order deciding the previous motion is interim or final, may be heard unless the motion is based on new or different facts, circumstances, or law.

(d) Inclusion of interim orders within the application of Section 1008 is desirable in order to reduce the number of motions to reconsider and renewals of previous motions heard by judges in this state.

SEC. 2. Section 134 of the Code of Civil Procedure is amended to read:

134. (a) Except as provided in subdivision (c), the courts shall be
closed for the transaction of judicial business on judicial holidays for all but the following purposes:

(1) To give, upon their request, instructions to a jury when deliberating on their verdict.

(2) To receive a verdict or discharge a jury.

(3) For the conduct of arraignments and the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature.

(4) For the conduct of Saturday small claims court sessions pursuant to the Small Claims Act set forth in Chapter 5.5 (commencing with Section 116.110).

(b) Injunctions and writs of prohibition may be issued and served on any day.

(c) In any superior, municipal, or justice court, one or more departments of the court may remain open and in session for the transaction of any business which may come before the department in the exercise of the civil or criminal jurisdiction of the court, or both, on a judicial holiday or at any hours of the day or night, or both, as the judges of the court prescribe.

(d) The fact that a court is open on a judicial holiday shall not make that day a nonholiday for purposes of computing the time required for the conduct of any proceeding nor for the performance of any act. Any paper lodged with the court at a time when the court is open pursuant to subdivision (c), shall be filed by the court on the next day which is not a judicial holiday, if the document meets appropriate criteria for filing.

SEC. 3. Section 135 of the Code of Civil Procedure is amended to read:

135. Every full day designated as a holiday by Section 6700 of the Government Code, including that Thursday of November declared by the President to be Thanksgiving Day, is a judicial holiday, except September 9, known as "Admission Day," and any other day appointed by the President, but not by the Governor, for a public fast, thanksgiving, or holiday. If a judicial holiday falls on a Saturday or a Sunday, the Judicial Council may designate an alternative day for observance of the holiday. Every Saturday and the day after Thanksgiving Day is a judicial holiday. Officers and employees of the courts shall observe only the judicial holidays established pursuant to this section.

SEC. 4. Section 1008 of the Code of Civil Procedure is amended to read:

1008. (a) When an application for an order has been made to a judge, or to a court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. The party making the application shall
state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.

(b) A party who originally made an application for an order which was refused in whole or part, or granted conditionally or on terms, may make a subsequent application for the same order upon new or different facts, circumstances, or law, in which case it shall be shown by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown. For a failure to comply with this subdivision, any order made on a subsequent application may be revoked or set aside on ex parte motion.

(c) If a court at any time determines that there has been a change of law that warrants it to reconsider a prior order it entered, it may do so on its own motion and enter a different order.

(d) A violation of this section may be punished as a contempt and with sanctions as allowed by Section 128.5. In addition, an order made contrary to this section may be revoked by the judge or commissioner who made it, or vacated by a judge of the court in which the action or proceeding is pending.

(e) This section specifies the court’s jurisdiction with regard to applications for reconsideration of its orders and renewals of previous motions, and applies to all applications to reconsider any order of a judge or court, or for the renewal of a previous motion, whether the order deciding the previous matter or motion is interim or final. No application to reconsider any order or for the renewal of a previous motion may be considered by any judge or court unless made according to this section.

(f) For the purposes of this section, an alleged new or different law shall not include a later enacted statute without a retroactive application.

SEC. 5. Section 72300 of the Government Code is repealed.
SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by an option county under the Brown-Presley Trial Court Funding Act (Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code) because this act imposes new duties on the trial courts.

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 461

An act to amend Sections 14591, 14601, 14611, 14623, and 14631 of, and to add Sections 14593 and 14603 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 14591 of the Food and Agricultural Code is amended to read:

14591. Every person who manufactures or distributes fertilizing materials shall, before he or she engages in the activity, obtain a license from the director for each plant and business location which he or she operates. All licenses shall be renewed in January of each odd-numbered year, and shall be valid until December 31 of the following even-numbered year, if issued in January of that same year. However, a person who only distributes or who makes retail sales of packaged agricultural minerals, packaged commercial fertilizers, packaged soil amendments, or packaged auxiliary soil and plant substances, alone or in any combination, which bear the registered label of another licensed person, is not required to obtain the license. The license fee shall not exceed two hundred dollars ($200). The director may, based on the findings and recommendation of the board, reduce the license fee to a lower rate that provides sufficient revenue to carry out this chapter.

SEC. 2. Section 14593 is added to the Food and Agricultural Code, to read:

14593. The license shall expire on December 31, of an even-numbered year. Each application for renewal shall be accompanied by a fee not to exceed two hundred dollars ($200) for each plant or business location which a person operates. If a license is not renewed within one calendar month following expiration, a penalty of fifty dollars ($50) shall be added to the fee and an additional penalty of fifty dollars ($50) shall be added for each succeeding calendar month the business location remains unlicensed. The total penalty, however, shall not exceed 100 percent of the original amount due.

SEC. 3. Section 14601 of the Food and Agricultural Code is amended to read:

14601. Each differing label, other than weight or package size, such as changes in the guaranteed analysis, derivation statement, or anything that implies a different product, for specialty fertilizer,
packaged agricultural mineral, auxiliary soil and plant substance, and packaged soil amendment shall be registered. All registrations shall be renewed in January of an even-numbered year, and shall be valid until December 31 of the following odd-numbered year, if issued in January of that same year. The registration fee shall not exceed two hundred dollars ($200) per product. The director may, based on the finding and recommendation of the board, reduce the registration fee to a lower rate that provides sufficient revenue to carry out this chapter. The director may require proof of labeling statements and other claims made for any specialty fertilizer, agricultural mineral, packaged soil amendment, or auxiliary soil and plant substance, before the director registers any such product. As evidence of proof, the director may rely on experimental data, evaluations, or advice furnished by scientists, including scientists affiliated with the University of California, and may accept or reject additional sources of proof in the evaluation of any fertilizing material. In all cases, experimental proof shall relate to conditions in California under which the product is intended for use.

The director, after hearing, may cancel the registration of, or refuse to register, any specialty fertilizer, packaged agricultural mineral, packaged soil amendment, or auxiliary soil and plant substance, which the director determines is detrimental or injurious to plants, animals, public safety, or the environment when it is applied as directed, which is known to be of little or no value for the purpose for which it is intended, or for which any false or misleading claim is made or implied. The director may cancel the registration of any product of any person who violates this chapter.

The proceedings to determine whether to cancel or refuse registration of any of those products shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall have all the powers that are granted pursuant to Chapter 5.

SEC. 4. Section 14603 is added to the Food and Agricultural Code, to read:

14603. The registration shall expire on December 31, of an odd-numbered year. Each application for renewal shall be accompanied by a fee not to exceed two hundred dollars ($200) for each product label. If a registration is not renewed within one calendar month following expiration, a penalty of fifty dollars ($50) per product label shall be added to the fee.

SEC. 5. Section 14611 of the Food and Agricultural Code is amended to read:

(a) Any licensee whose name appears on the label who sells or distributes bulk fertilizing materials, as defined in Sections 14517 and 14533, to unlicensed purchasers, shall pay to the director an assessment not to exceed two mills ($0.002) per dollar of sales for all fertilizing materials. Any licensee whose name appears on the label of packaged fertilizing materials, as defined in Sections 14551 and 14533, shall pay to the director an assessment of not to exceed two
mills ($0.002) per dollar of sales. The director may, based on the finding and recommendation of the board, reduce the assessment rate to a lower rate that provides sufficient revenue to carry out this chapter.

(b) In addition to the assessment provided in subdivision (a), the director may impose an assessment in an amount not to exceed one mill ($0.001) per dollar of sales for all sales of fertilizing materials, to provide funding for research and education regarding the use and handling of commercial and organic fertilizers, including, but not limited to, any environmental effects.

SEC. 6. Section 14623 of the Food and Agricultural Code is amended to read:

14623. The tonnage report shall be submitted to the director semiannually not later than January 31 and July 31 of each year. The director shall impose a penalty in the amount of two hundred dollars ($200) on any person who does not submit the report on or before those dates.

SEC. 7. Section 14631 of the Food and Agricultural Code is amended to read:

14631. Every lot, parcel, or package of fertilizing material distributed into or within this state shall have attached to it, or the shipment shall be physically accompanied by, a label as required by the director, by regulation. The director may require proof of labeling statements and claims made for any fertilizing material. As evidence of proof, the director may rely on experimental data, evaluations, or advice furnished by scientists, including scientists affiliated with the University of California, and may accept or reject additional sources of proof. The director may cancel the approval of, or refuse to approve, a fertilizing material label if the director determines that adequate proof of label claims do not exist. The director, after hearing, may cancel the license of any person who distributes a fertilizing material with a label for which approval has been canceled or a label that has not been approved by the director.

CHAPTER 462

An act to amend Section 10123.15 of the Insurance Code, relating to insurance.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 10123.15 of the Insurance Code is amended to read:

10123.15. Every group policy of disability insurance which covers hospital, medical, and surgical expenses on a group basis, and which
offers coverage for disorders of the brain shall also offer coverage in the same manner for the treatment of the following biologically based severe mental disorders: schizophrenia, schizo-affective disorder, bipolar disorders and delusional depressions, and pervasive developmental disorder. Coverage for these mental disorders shall be subject to the same terms and conditions applied to the treatment of other disorders of the brain; however, an insurer may reserve the right to confirm diagnoses and to review the appropriateness of specific treatment plans as necessary to ensure that coverage under this section is provided for only those diagnostic and treatment services which are medically necessary.

Nothing in this section shall be construed to affect the scope of licensure of any health care professional nor to impair rights to reimbursement guaranteed health care providers pursuant to Section 10176.

CHAPTER 463

An act to amend Section 6254.3 of the Government Code, relating to public records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 6254.3 of the Government Code is amended to read:

6254.3. (a) The home addresses and home telephone numbers of state employees and employees of a school district or county office of education shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency, school district, or county office of education when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state, school districts, and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled
dependents.

(b) Upon written request of any employee, a state agency, school district, or county office of education shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

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 implement the protections provided to school employees at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 464

An act to amend Section 1506 of the Health and Safety Code, relating to foster family agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 1506 of the Health and Safety Code is amended to read:

1506. (a) (1) Any holder of a valid license issued by the department which authorizes the licensee to engage in any foster family agency functions, may use only a certified family home which has been certified by that agency or a licensed foster family home approved for this use by the licensing county pursuant to Section 1506.5.

(2) Any home selected and certified for the reception and care of
children by that licensee shall not, during the time it is certified and used only by that agency for these placements or care, be subject to Section 1506. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(b) (1) A foster family agency shall certify to the department that the home has met the department's licensing standards. A foster family agency may require a family home to meet additional standards or be compatible with its treatment approach.

(2) The foster family agency shall issue a certificate of approval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home. The certificate shall be valid for a period not to exceed one year. The annual recertification shall require a certified family home to complete at least 12 hours of structured applicable training or continuing education. At least one hour of training during the first six months following initial certification shall be dedicated to meeting the requirements of paragraph (1) of subdivision (b) of Section 11174.1 of the Penal Code.

(3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing agency.

(c) The department shall develop licensing regulations differentiating between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(d) As used in this chapter, "certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(e) Requirements for social work personnel for a foster family agency shall be a master’s degree from an accredited or state approved graduate school in social work or social welfare, marriage, family, and child counseling, child psychology, child development, counseling psychology, social psychology, or equivalent education and experience, as determined by the state department.

(f) (1) In addition to the degree specifications in subdivision (e), all of the following coursework and field practice or experience shall be required of all new hires for the position of social work personnel effective January 1, 1993:

(A) At least three semester units or 100 days, of field practice or experience in a public or private social service agency setting at the master’s level.

(B) At least nine semester units of coursework related to children and families, or 18 months experience in working with children and families.

(C) At least three semester units in working with minority populations or six months of experience in working with minority populations or six months in-service training in working with
minority populations within the first year of employment as a condition of employment.

(D) At least three semester units in child welfare, or two years' experience in a public or private child welfare social services setting.

(2) (A) Persons who do not meet the master's degree requirements specified in subdivision (e) may apply for an exception as provided for in subdivisions (g) and (h), provided the applicant satisfies the coursework and field practice or experience requirements in paragraph (1) of this subdivision.

(B) Exceptions granted by the department prior to January 1, 1993, shall remain in effect.

(3) (A) Persons who are hired as social work personnel on or after January 1, 1992, but prior to January 1, 1993, who do not meet the requirements listed in this subdivision shall be required to successfully meet those requirements by December 31, 1994, in order to remain employed as social work personnel in a foster family agency.

(B) Employees who were hired prior to January 1, 1992, shall not be required to meet the requirements of this subdivision in order to remain employed as social work personnel in a foster family agency.

(g) Individuals seeking an exception to the requirements of subdivision (e) or (f) based on completion of equivalent education and experience shall apply to the department by the process established by the department.

(h) The State Department of Social Services shall be required to complete the process for the exception to minimum education and experience requirements for social work personnel in subdivisions (e) and (f) within 30 days of receiving the exception application of social work personnel qualifications from the foster family agency.

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 State Department of Social Services to clarify and adopt regulations implementing these provisions at the earliest possible time, it is necessary that this act take effect immediately.
CHAPTER 465

An act to amend the heading of Article 2 (commencing with Section 11560) of Chapter 10 of Division 10 of, and to amend Sections 11560, 11561, 11562, and 11563 of, the Health and Safety Code, and to amend Section 3003 of the Penal Code, relating to prisoners.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. The heading of Article 2 (commencing with Section 11560) of Chapter 10 of Division 10 of the Health and Safety Code is amended to read:

Article 2. Substance Abuse Treatment Control Units

SEC. 2. Section 11560 of the Health and Safety Code is amended to read:

11560. The Department of Corrections and the Department of the Youth Authority are authorized to establish substance abuse treatment control units in state correctional facilities or training schools or as separate establishments for any study, research, and treatment that may be necessary for the control of the addiction or habituation, or imminent addiction or habituation, to controlled substances or alcohol of persons committed to the custody of the Director of Corrections or the Director of the Youth Authority.

SEC. 3. Section 11561 of the Health and Safety Code is amended to read:

11561. When the Board of Prison Terms concludes that there are reasonable grounds for believing that a man on parole is addicted or habituated to, or is in imminent danger of addiction or habituation to, controlled substances or alcohol it may, in accordance with procedures used to revoke parole, issue an order to detain or place that person in a substance abuse treatment control unit for a period not to exceed 90 days. The order shall be a sufficient warrant for any peace officer or employee of the Department of Corrections to return to physical custody that person. Detention pursuant to the order shall not be deemed a suspension, cancellation, or revocation of parole until such time as the Board of Prison Terms so orders pursuant to Section 3060 of the Penal Code. A parolee taken into physical custody pursuant to Section 3060 of the Penal Code may be detained in a substance abuse treatment control unit established pursuant to this article.

No man on parole shall be placed in a substance abuse treatment control unit against his will.

SEC. 4. Section 11562 of the Health and Safety Code is amended to read:
11562. When the Youth Authority concludes that there are reasonable grounds for believing that a person committed to its custody, and on parole, is addicted or habituated to, or is in imminent danger of addiction or habituation to, controlled substances or alcohol, it may, in accordance with procedures used to revoke parole, issue an order to detain or place that person in a substance abuse treatment control unit for not to exceed 90 days. The order shall be a sufficient warrant for any peace officer or employee of the Department of the Youth Authority to return to physical custody that person. Detention pursuant to the order shall not be deemed a suspension, cancellation, or revocation of parole unless the Youth Authority so orders pursuant to Section 1767.3 of the Welfare and Institutions Code.

With the consent of the Director of Corrections, the Director of the Youth Authority may, pursuant to this section, confine the addicted or habituated or potentially addicted or habituated person, over 18 years of age, in a substance abuse treatment control unit established by the Department of Corrections.

No person committed to the custody of the Youth Authority and on parole shall be placed in a substance abuse treatment control unit against his or her will.

SEC. 5. Section 11563 of the Health and Safety Code is amended to read:

11563. When the Board of Prison Terms concludes that there are reasonable grounds for believing that a woman on parole is addicted or habituated to, or is in imminent danger of addiction or habituation to, controlled substances or alcohol, it may, in accordance with procedures used to revoke parole, issue an order to detain or place that person in a substance abuse treatment control unit for a period not to exceed 90 days. The order shall be a sufficient warrant for any peace officer or employee of the Department of Corrections to return to physical custody that person. Detention pursuant to the order shall not be deemed a suspension, cancellation, or revocation of parole until such time as the board so orders pursuant to Section 3060 of the Penal Code. A parolee taken into physical custody pursuant to Section 3060, 6043, or 6044 of the Penal Code may be detained in a substance abuse treatment control unit established pursuant to this article.

No woman on parole shall be placed in a substance abuse treatment control unit against her will.

SEC. 6. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as provided in subdivision (d), an inmate who is released on parole shall be returned to the county from which he or she was committed.

For purposes of this subdivision, "county from which he or she was committed" means the county where the crime for which the inmate was convicted occurred and shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison facility or while confined for treatment in a state
hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the Board of Prison Terms setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the inmate having been in another county.

(5) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) Notwithstanding any other law, an inmate who is released on parole shall not be returned to within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 and 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, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(d) An inmate may be paroled to another state pursuant to any other law.
CHAPTER 466

An act to amend Section 2197.5 of the Civil Code, relating to common carriers.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 2197.5 of the Civil Code is amended to read:
2197.5. (a) In addition to the liability established by Section 2197, the consignee is liable to the motor carrier for the charges if the freight is shipped prepaid and the delay was caused by either the consignor or the consignee.
(b) Nothing in this section shall affect the rights, duties, and obligations between a railroad or steamship company and a motor carrier.

CHAPTER 467

An act to amend Section 2807 of the Penal Code, relating to prisons.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 2807 of the Penal Code is amended to read:
2807. (a) The authority is hereby authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. Products may be purchased by state agencies to be offered for sale to inmates of the department and to any other person under the care of the state who resides in state-operated institutional facilities. Fresh meat may be purchased by food service operations in state-owned facilities and sold for onsite consumption.
(b) All things authorized to be produced under subdivision (a) shall be purchased by the state, or any agency thereof, and may be purchased by any county, city, district, or political subdivision, or any agency thereof, or by any state agency to offer for sale to persons residing in state-operated institutions, at the prices fixed by the board. State agencies shall make maximum utilization of these products, and shall consult with the staff of the authority to develop new products and adapt existing products to meet their needs.
(c) The following state agencies and officers shall report by January 1 of each year to the Director of General Services and to the Chairperson of the Joint Legislative Budget Committee on their use in the prior fiscal year of goods and services provided by the authority, and shall include comments on planned future use of these goods and services:

(1) The State and Consumer Services Agency.
(2) The Business, Transportation and Housing Agency.
(3) The Health and Welfare Agency.
(4) The Resources Agency.
(5) The Youth and Adult Correctional Agency.
(6) The California Environmental Protection Agency.
(7) The Department of Food and Agriculture.
(8) The Attorney General.
(9) The Secretary of State.
(10) The Treasurer.
(11) The Controller.
(12) The Superintendent of Public Instruction.

Reports submitted under this subdivision shall be specific as to department and unit under each agency's or office's jurisdiction.

CHAPTER 468

An act to add Section 5412.2 to the Public Utilities Code, and to amend Section 40303 of the Vehicle Code, relating to carriers.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 5412.2 is added to the Public Utilities Code, to read:

5412.2. (a) When a person is convicted of the offense of the operating of a charter-party carrier of passengers or a taxicab without a valid certificate or permit, in addition to any other penalties provided by law, if the court determines the operator has the ability to pay, the court shall impose a mandatory fine not exceeding one thousand dollars ($1,000) for the first conviction, not exceeding two thousand dollars ($2,000) for the second conviction, not exceeding three thousand dollars ($3,000) for the third conviction, not exceeding four thousand dollars ($4,000) for the fourth conviction, and not exceeding five thousand dollars ($5,000) for the fifth conviction.

(b) As used in this section, "taxicab" means a passenger vehicle designed for carrying not more than eight persons, excluding the driver, and used to carry passengers for hire. "Taxicab" shall not include a charter-party carrier of passengers within the meaning of
the Passenger Charter-Party Carriers' Act, Chapter 8 (commencing with Section 5351).

SEC. 2. Section 40303 of the Vehicle Code is amended to read:

40303. Whenever any person is arrested for any of the following offenses and the arresting officer is not required to take the person without unnecessary delay before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a 10 days' notice to appear as provided in this section or be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made:

(a) Section 10852 or 10853, relating to injuring or tampering with a vehicle.

(b) Section 23103 or 23104, relating to reckless driving.

(c) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lights upon the vehicle under Section 2804 hereof, which is punishable as a misdemeanor.

(d) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to a brake test which is punishable as a misdemeanor.

(e) Section 2800, relating to the refusal to submit vehicle and load to an inspection, measurement, or weighing as prescribed in Section 2802 or a refusal to adjust the load or obtain a permit as prescribed in Section 2803.

(f) Section 2800, insofar as it relates to any driver who continues to drive after being lawfully ordered not to drive by a member of the California Highway Patrol for violating the driver's hours of service or driver's log regulations adopted pursuant to subdivision (a) of Section 34501.

(g) Section 20002 or 20003, relating to duties in the event of an accident.

(h) Section 23109, relating to participating in speed contests or exhibition of speed.

(i) Section 14601, 14601.1, or 14601.2, relating to driving while license is suspended or revoked.

(j) When the person arrested has attempted to evade arrest.

(k) Section 23332, relating to persons upon vehicular crossings.

(l) Section 2813, relating to the refusal to stop and submit a vehicle to an inspection of its size, weight, and equipment.

(m) Section 21461.5, insofar as it relates to a pedestrian who, after being cited for a violation of Section 21461.5, is, within 24 hours, again found upon the freeway in violation of Section 21461.5 and thereafter refuses to leave the freeway after being lawfully ordered to do so by a peace officer and after having been informed that his or her failure to leave could result in his or her arrest.

(n) Section 2800, insofar as it relates to a pedestrian who, after having been cited for a violation of Section 2800 for failure to obey
a lawful order of a peace officer issued pursuant to Section 21962, is
within 24 hours again found upon the bridge or overpass and
thereafter refuses to leave after being lawfully ordered to do so by
a peace officer and after having been informed that his or her failure
to leave could result in his or her arrest.

(o) Section 21200.5, relating to riding a bicycle while under the
influence of an alcoholic beverage or any drug.

(p) From January 1, 1993, to December 31, 1993, inclusive, Section
5411 of the Public Utilities Code, relating to charter-party carriers of
passengers, as defined in Section 5360 of the Public Utilities Code,
operating a vehicle without a valid certificate or permit within two
miles of the international boundary between the United States and
Mexico. This subdivision shall apply only where the vehicle is
designed to carry more than eight persons, excluding the driver, and
used for carrying passengers for hire.

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 3334 of the Civil Code, relating to real
property.

[Approved by Governor August 9, 1992. Filed with
Secretary of State August 10, 1992]

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

SECTION 1. Section 3334 of the Civil Code is amended to read:
3334. (a) The detriment caused by the wrongful occupation of
real property, in cases not embraced in Section 3335 of this code, the
Eminent Domain Law (Title 7 (commencing with Section 1230.010)
of Part 3 of the Code of Civil Procedure), or Section 1174 of the Code
of Civil Procedure, is deemed to include the value of the use of the
property for the time of that wrongful occupation, not exceeding five
years next preceding the commencement of the action or
proceeding to enforce the right to damages, the reasonable cost of
repair or restoration of the property to its original condition, and the
costs, if any, of recovering the possession.

(b) (1) Except as provided in paragraph (2), for purposes of
subdivision (a), the value of the use of the property shall be the
greater of the reasonable rental value of that property or the benefits
obtained by the person wrongfully occupying the property by reason of
that wrongful occupation.

(2) If a wrongful occupation of real property subject to this section
is the result of a mistake of fact of the wrongful occupier, the value
of the use of the property, for purposes of subdivision (a), shall be
the reasonable rental value of the property.

CHAPTER 470

An act to amend Section 2432 of, and to add Sections 2483.5 and
2445 to, the Civil Code, relating to powers of attorney, and declaring
the urgency thereof, to take effect immediately.

[Approved by Governor August 9, 1992. Filed with
Secretary of State August 10, 1992.]

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

SECTION 1. Section 2432 of the Civil Code is amended to read:

2432. (a) An attorney in fact under a durable power of attorney
may not make health care decisions unless all of the following
requirements are satisfied:

(1) The durable power of attorney specifically authorizes the
attorney in fact to make health care decisions.

(2) The durable power of attorney contains the date of its
execution.

(3) The durable power of attorney is witnessed by one of the
following methods:

(A) The durable power of attorney is signed by at least two
witnesses each of whom witnessed either the signing of the
instrument by the principal or the principal’s acknowledgment of
the signature or of the instrument, each witness making the
following declaration in substance: “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 to be the
principal, or that the identity of the principal was proved to me by
convincing evidence, 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 the principal’s health care provider, an
employee of the principal’s 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.” At least one of the witnesses must also have signed 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."

(B) The durable power of attorney is acknowledged before a notary public at any place within this state, the notary public certifying to the substance of the following:

State of California
County of ________     } ss.

On this _________ day of ________, in the year ________, before me, ____________________________________________,

(Insert name of notary public)

personally appeared ____________________________________________,

(Insert name of principal)

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

NOTARY SEAL

(Signature of Notary Public)

(b) Except as provided in Section 2432.5:

(1) Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a community care facility or residential care facility for the elderly nor an employee of an operator of a community care facility or residential care facility for the elderly, may be designated as the attorney in fact to make health care decisions under a durable power of attorney.

(2) A health care provider or employee of a health care provider may not act as an attorney in fact to make health care decisions if the health care provider becomes the principal's treating health care provider.

(c) A conservator may not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care executed by a person who is a conservatee under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, unless (1) the power of attorney is otherwise valid, (2) the conservatee is represented by legal counsel, and (3) the lawyer representing the conservatee signs a certificate stating in substance: "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) None of the following may be used as a witness under subdivision (a):

(1) The principal's health care provider.
(2) An employee of the principal's health care provider.
(3) The attorney in fact.
(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.
(7) An employee of an operator of a residential care facility for the elderly.

(e) At least one of the persons used as a witness under subdivision (a) shall be a person who is not one of the following:

(1) A relative of the principal by blood, marriage, or adoption.
(2) A person who would be entitled to any portion of the estate of the principal upon his or her death under any will or codicil thereto of the principal existing at the time of execution of the durable power of attorney or by operation of law then existing.

(f) A durable power of attorney for health care is not effective if the principal is a patient in a skilled nursing facility as defined in subdivision (c) of Section 1250 of the Health and Safety Code at the time of its execution unless one of the witnesses 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. The patient advocate or ombudsman shall include in the declaration required by subdivision (a) a declaration that he or she is serving as a witness as required by this subdivision. It is the intent of this subdivision to recognize that some patients in skilled nursing facilities are insulated from a voluntary decisionmaking role, by virtue of the custodial nature of their care, so as to require special assurance that they are capable of willfully and voluntarily executing a durable power of attorney for health care.

SEC. 2. Section 2438.5 is added to the Civil Code, to read:

2438.5. In the absence of knowledge to the contrary, a physician and surgeon or other health care provider may presume that a durable power of attorney for health care or similar instrument, whether executed in another state or jurisdiction or in this state, is valid.

SEC. 3. Section 2445 is added to the Civil Code, to read:

2445. A durable power of attorney for health care or similar instrument executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction or of this state, shall be valid and enforceable in this state to the same extent as a durable power of attorney for health care validly executed in this state.

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

In order to protect the rights of patients and to permit individuals to make health care decisions utilizing durable powers of attorney for health care, it is necessary that this act take effect immediately.

CHAPTER 471

An act to add Section 25503.4 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 25503.4 is added to the Business and Professions Code, to read:

25503.4. (a) Notwithstanding any other provision of this division, a winegrower, California winegrower's agent, importer, or any director, partner, officer, agent, or representative of that person, may conduct or participate in, and serve wine at, an instructional event for consumers held at a retailer's premises featuring wines produced by or for the winegrower or, imported by the importer, subject to the following conditions:

1. No premium, gift, free goods, or other thing of value shall be given away in connection with the instructional event by the winegrower, California winegrower's agent, importer, or retailer, except as authorized by this division.

2. No alcoholic beverages shall be given away in connection with the instructional event; provided, however, that wine, taken from barrels or from tanks, that is used in blending the wines being featured may be sampled at the instructional event. For the purposes of this section, minimal amounts of the samples provided for tasting at the instructional event in addition to the wines being featured shall not constitute a thing of value.

(b) Notwithstanding any other provision of this division, a winegrower, California winegrower's agent, or importer, in advance of an instructional event for consumers being held at a retailer's premises, may list in an advertisement the name and address of the retailer, the names of the wines being featured at the instructional event, and the time, date, and location of, and other information about, the instructional event, provided:

1. The advertisement does not also contain the retail price of the wines.

2. The listing of the retailer's name and address is the only reference to the retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole. Pictures
or illustrations of the retailer's premises and laudatory references to
the retailer in such advertisements are not hereby authorized.

(c) Notwithstanding any other provision of this division, the name
and address of a winegrower, wine importer, or winegrower's agent
licensee, the brand names of wine being featured, and the time, date,
location, and other identifying information of a wine promotional
lecture at retail premises may be listed in advance of the event in an
advertisement of the off-sale or on-sale retail licensee.

(d) Nothing in this section authorizes a winegrower, wine
importer, or winegrower's agent licensee to share in the costs, if any,
of the retailer licensee's advertisement.

(e) Nothing in this section authorizes any person to consume any
alcoholic beverage on any premises licensed with an off-sale retail
license.

CHAPTER 472

An act to amend Sections 220.20, 227.20, 227.30, 227.40, 227.46,
227.50, and 233 of the Civil Code, relating to children.

[Approved by Governor August 9, 1992 Filed with
Secretary of State August 10, 1992]

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

SECTION 1. Section 220.20 of the Civil Code is amended to read:
220.20. As used in this chapter, the following terms have the
following meanings:

(a) "Adoptive parent" means a person who has petitioned the
court for, and obtained, an order or final decree for the adoption of
a particular child or children.

(b) "Agency adoption" means the adoption of a child, other than
an intercountry adoption, in which the department or an agency
licensed by the department is a party to, or joins in, the petition for
adoption.

(c) "Applicant" means a person who has submitted a written
application to adopt a child from the department or licensed
adoption agency and who is being considered by the department or
agency for the adoptive placement of a child.

(d) "Birth parent" means the biological parent or, in the case of
a child previously adopted, the adoptive parent.

(e) "Child" and "children" mean minor child and minor children,
respectively.

(f) "Delegated county adoption agency" means a licensed county
adoption agency that has agreed to provide those services described
in Article 3 (commencing with Section 224.10).

(g) "Department" means the State Department of Social
Services.
(h) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, which does all of the following:

1. Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

2. Assesses the birth parents, prospective adoptive parents, or child.


4. Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis. Full-service adoption agencies may provide services to birth parents or prospective adoptive parents pursuant to Section 224.50 until January 1, 1994.

(i) "Independent adoption" means the adoption of a child in which neither the department nor an agency licensed by the department is a party to, or joins in, the petition for adoption.

(j) "Intercountry adoption" means the adoption of a foreign-born child for whom federal law makes a special immigration visa available. Intercountry adoption includes completion of the adoption in the child's native country or completion of the adoption in California.

(k) "Licensed adoption agency" means an agency licensed by the department to provide adoption services, including a licensed county adoption agency and a licensed private adoption agency.

(l) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, which does all of the following:

1. Assesses the prospective adoptive parents.

2. Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved prospective adoptive applicants.

3. Cooperatively supervises adoptive placements with a full-service adoption agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. Noncustodial adoption agencies may provide services to birth parents or prospective adoptive parents pursuant to Section 224.50 until January 1, 1994.

(m) "Personal knowledge" includes, but is not limited to, substantially correct knowledge of all of the following regarding the prospective adoptive parents: their full legal name, age, religion, race or ethnicity, employment, whether other children or adults reside in their home, any health conditions curtailing their normal daily activities or reducing their normal life expectancy, and their general area of residence or, upon request, their address.

(n) "Petitioner" means a prospective adoptive parent who has filed an adoption petition with the superior court pursuant to the
provisions of this chapter in the county within which he or she resides.

(o) "Place for adoption" means, in the case of an independent adoption, the selection of a prospective adoptive parent or parents for a child by the birth parent or parents.

(p) "Prospective adoptive parent" means a person who has filed or intends to file a petition to adopt a child who has been or who is to be placed in his or her physical care.

(q) "Special needs child" means a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical, or emotional handicaps or age of three years or more.

(r) "Stepparent adoption" means the adoption of a child by a stepparent when one birth parent retains his or her custody and control of the child.

(s) "Qualified court investigator" means a superior court investigator with the same minimum qualifications as a probation officer or county welfare worker designated to conduct stepparent adoption investigations in stepparent adoption proceedings and proceedings to declare a minor free from parental custody and control.

SEC. 2. Section 227.20 of the Civil Code is amended to read:

227.20. The probation officer, qualified court investigator, or, at the option of the board of supervisors, the county welfare department in the county in which the action for adoption is pending shall make an investigation of each case of adoption by a stepparent. No order of adoption shall be made by the court until after the probation officer or qualified court investigator has filed his or her, or the welfare department has filed its, report and recommendation and it has been considered by the court.

No home study shall be required of the petitioner's home in such a case unless ordered by the court. The agency conducting the investigation or any interested person may request the court to order a home study or the court may order such a study on its own motion.

As used in this section, "home study" means a physical investigation of the premises where the child is residing.

SEC. 3. Section 227.30 of the Civil Code is amended to read:

227.30. A stepparent adopting a child of his or her spouse shall be liable for all reasonable costs incurred in connection with the stepparent adoption, including, but not limited to, costs incurred for the investigation required by Section 227.20, up to a maximum of two hundred dollars ($200). The probation officer, qualified court investigator, or county welfare department may defer, waive, or reduce the fee for costs when such a payment would cause economic hardship to the prospective adoptive parent which would be detrimental to the welfare of the adoptive child.

SEC. 4. Section 227.40 of the Civil Code is amended to read:

227.40. In a stepparent adoption, the consent of either or both
parents must be signed in the presence of a county clerk, probation officer, qualified court investigator, or county welfare department staff member of any county of this state and the county clerk, probation officer, qualified court investigator, or county welfare department staff member before whom the consent is signed shall immediately file the consent with the clerk of the superior court of the county where the petition is filed and the clerk shall immediately notify the probation officer or, at the option of the board of supervisors, the county welfare department of the same county.

If the birth parent of a child to be adopted is outside the State of California at the time of signing consent, his or her consent may be signed before a notary, or other person authorized to perform notarial acts.

The consent, when reciting that the person giving it is entitled to sole custody of the child, shall, when duly acknowledged before the county clerk, probation officer, qualified court investigator, or county welfare department staff member be prima facie evidence of the right of the person making it to the sole custody of the child and that person’s sole right to consent.

A birth parent who is a minor shall have the right to sign a consent for the adoption of his or her child and the consent shall not be subject to revocation by reason of the minority.

SEC. 5. Section 227.46 of the Civil Code is amended to read:

227.46. (a) Once given, consent of the birth parent to the adoption of the child by the stepparent may not be withdrawn except with court approval. Request for that approval may be made by motion, or a birth parent seeking to withdraw his or her consent may file with the clerk of the superior court where the petition is pending, a petition for approval of withdrawal of consent, without the necessity of payment of any fee for the filing of the petition. The petition or motion shall be in writing, and shall set forth the reasons for withdrawal of consent, but otherwise may be in any form.

(b) The clerk of the court shall set the matter for hearing, and shall give notice thereof to the probation officer, qualified court investigator, or county welfare department, to the persons to whose adoption of the child the consent was given, and to the birth parent or parents by certified mail, return receipt requested, to the address of each as shown in the proceeding, at least 10 days before the time set for hearing.

(c) The probation officer, qualified court investigator, or county welfare department shall, prior to the hearing of the motion or petition for withdrawal, file a full report with the court and shall appear at the hearing to represent the interests of the child.

(d) At the hearing, the parties may appear in person or with counsel. The hearing shall be held in chambers, but the court reporter shall report the proceedings and his or her fee therefor shall be paid from the county treasury on order of the court. If the court finds that withdrawal of the consent to adoption is reasonable in view of all the circumstances, and that withdrawal of the consent will be
for the best interests of the child, the court shall approve the withdrawal of the consent; otherwise the court shall withhold its approval. Consideration of the best interests of the child shall include, but not be limited to, an assessment of the child's age, the extent of bonding with the prospective adoptive parent, the extent of bonding or the potential to bond with the birth parent, and the ability of the birth parent to provide adequate and proper care and guidance to the child. If the court approves the withdrawal of consent, the adoption proceedings shall be dismissed.

(e) Any order of the court granting or withholding approval of a withdrawal of a consent to an adoption may be appealed from in the same manner as an order of the juvenile court declaring any person to be a ward of the juvenile court.

SEC. 6. Section 227.50 of the Civil Code is amended to read:

227.50. Whenever the petitioner moves 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 probation officer, qualified court investigator, or county welfare department of that action.

In any adoption proceeding in which the birth parent has refused to give the required consent, the petition shall be dismissed.

SEC. 7. Section 233 of the Civil Code is amended to read:

233. (a) Any interested person may petition the superior court of the county in which a minor person described in Section 232 resides or in which the minor person is found or in which any of the acts which are set forth in Section 232 are alleged to have occurred, for an order or judgment declaring the minor person free from the custody and control of either or both of his or her parents. There shall be no filing fee charged for any action instituted in accordance with this section. Upon the filing of the petition, the clerk of the court shall, in accordance with the direction of the court, immediately notify the juvenile probation officer, the qualified court investigator, or the county department designated by the board of supervisors to administer the public social services program, who shall immediately investigate the circumstances of the minor person and the circumstances which are alleged to bring the minor person within any of the provisions of Section 232. The juvenile probation officer, qualified court investigator, or the county department shall render to the court a written report of the investigation with a recommendation to the court of the proper disposition to be made in the action in the best interests of the minor person.

The report shall include all of the following:

1. A statement that the person making the report explained the nature of the legal action to end parental custody and control to the minor.

2. A statement of the minor's feelings and thoughts concerning the pending action.

3. A statement of the minor's attitude towards his or her parent or parents and particularly whether or not the minor would prefer
living with his or her parent or parents.

(4) A statement that the minor was informed of his or her right to attend the hearing on the petition and the minor’s feelings concerning attending the hearing. The court shall receive the report in evidence and shall read and consider the contents thereof in rendering its judgment.

(5) If the age, or the physical, emotional, or other condition of the minor precludes his or her meaningful response to the explanations, inquiries, and information required by the provisions of subdivisions (a), (b), (c), and (d), a description of the condition shall satisfy the requirements of those subdivisions.

(b) “Qualified court investigator,” as used in this section, has the meaning set forth in Section 220.20.

CHAPTER 473

An act to amend Section 11489 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor August 9, 1992.Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 11489 of the Health and Safety Code, as added by Section 3 of Chapter 641 of the Statutes of 1991, 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. In the County of Marin, funds used to pay for any overtime work of a local law enforcement agency which is attributable to the seizure shall not be subject to subdivision (d).

(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 (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.

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.

CHAPTER 474

An act to amend Sections 52331 and 52356 of, and to add Sections 52354.5 and 52354.8 to, the Food and Agricultural Code, relating to seed.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 52331 of the Food and Agricultural Code is amended to read:

52331. The director, by regulations, shall do all of the following:
(a) Adopt germination standards for vegetable seed.
(b) Adopt tolerances to be applied in all enforcement procedure required by this chapter.
(c) Prescribe methods of procedure in the examination of lots of any agricultural or vegetable seed, and in securing samples of such lots.

(d) Establish a reasonable schedule of fees for tests, examinations, and services except those which are required for quarantine or other purposes, not directly related to the enforcement of this chapter. The schedule shall be based upon the approximate cost of the service rendered. The director may, however, provide for the examination of seeds for identification purposes without charge.

(e) Adopt such other regulations as will assist in carrying out the purposes of this chapter.

Every standard or tolerance which is adopted pursuant to this chapter shall be as nearly as practicable to that which is established under the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.).

SEC. 2. Section 52354.5 is added to the Food and Agricultural Code, to read:

52354.5. The director shall fix the annual assessment established pursuant to Section 52354 in an amount that will provide sufficient funds to carry out this chapter, and the date and method of collecting the assessment. The board shall make a recommendation regarding the level of assessment to the director.

SEC. 3. Section 52354.8 is added to the Food and Agricultural Code, to read:

52354.8. If the assessment established pursuant to Section 52354 and fixed by the director pursuant to Section 52354.5 is not paid within one calendar month after the end of the fiscal year for which the assessment is made, a penalty of 10 percent of the amount of the assessment shall be imposed.

SEC. 4. Section 52356 of the Food and Agricultural Code is amended to read:

52356. Total expenditures from funds derived from registration fees and dollar volume assessments under this chapter shall not exceed the department's cost of carrying out this chapter, including only that portion of state seed laboratory activity involved in official samples, which shall not exceed one-third of the net operating cost of the state seed laboratory. No official samples shall be analyzed by the department whenever the cost of that analysis exceeds one-third of the net operating cost of the laboratory.
CHAPTER 475

An act to amend Section 1377 of the Penal Code, relating to crimes.

[Approved by Governor August 9, 1992 Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 1377 of the Penal Code is amended to read:
1377. When the person injured by an act constituting a misdemeanor has a remedy by a civil action, the offense may be compromised, as provided in Section 1378, except when it is committed as follows:
(a) By or upon an officer of justice, while in the execution of the duties of his or her office.
(b) Riotously.
(c) With an intent to commit a felony.
(d) In violation of any court order as described in Section 273.6.
(e) By or upon any family or household member, or upon any person when the violation involves any person described in subdivision (b) of Section 542 of the Code of Civil Procedure or subdivision (b) of Section 13700 of this code, and when the defendant has civilly compromised any domestic violence offense committed upon any victim within seven years of the commission of the currently charged offense.

When an offense by or upon any family or household member, or upon any person, when the violation involves any person described in subdivision (b) of Section 542 of the Code of Civil Procedure or subdivision (b) of Section 13700 of this code, is sought to be compromised and the prosecution objects to that civil compromise pursuant to this section, the court shall hold a hearing that is noticed within 10 court days where the victim is present and acknowledges and presents proof of satisfaction for injury. During the hearing, the prosecution shall have an opportunity to present evidence and make arguments with regard to the proposed civil compromise, and the court may question the victim in open court on the issue of the satisfaction being presented as a basis for the compromise.

For purposes of this subdivision, a victim of a domestic violence offense is a person described in subdivision (b) of Section 542 of the Code of Civil Procedure or subdivision (b) of Section 13700 of this code.
CHAPTER 476

An act to amend Sections 17213, 17312, 17321, 17331.2, 17332, and 17347 of the Financial Code, relating to escrow agents.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 17213 of the Financial Code is amended to read:

17213. (a) An escrow agent shall not transact business pursuant to this division under any other name than that set forth in the articles of incorporation as filed with the commissioner.

(b) An escrow agent’s license is not transferable or assignable. Further, no license may be acquired, either in whole or in part, through stock purchase, foreclosure pursuant to a pledge or hypothecation, or other devices without the consent of the commissioner. Prior to the transfer of 10 percent or more of the shares of an escrow agent, a new application for licensure shall be filed as required by Section 17201.

SEC. 2. Section 17312 of the Financial Code is amended to read:

17312. (a) Each person licensed pursuant to the provisions of this division shall participate as a member in Fidelity Corporation in accordance with this chapter and rules to be established by the board of directors of Fidelity Corporation. Fidelity Corporation shall not deny membership to any escrow agent holding a valid unrevoked license under the Escrow Law.

(b) Upon filing a new application for licensure as required by subdivision (b) of Section 17213, a copy thereof shall be filed concurrently with Fidelity Corporation, but no additional membership fee or deposit shall be required.

SEC. 3. Section 17321 of the Financial Code is amended to read:

17321. Fidelity Corporation shall bill and collect from each member an annual premium which in the aggregate shall consist of assessments for the operations fund and the fidelity fund.

(a) The annual assessment for the operations fund shall be assessed no later than October 15 of each year for the current fiscal year in accordance with subdivision (b) of Section 17320. The assessment shall include:

(1) All costs and expenses of administration as budgeted by the board of directors for the current fiscal year.

(2) Any expenses actually incurred in the preceding fiscal year which exceeded the budgeted costs of expenses and administration except for expenses recovered pursuant to subdivision (a) of Section 17321.1.

Each member’s assessment shall be determined pro rata based upon the ratio of each member’s licensed locations to the total

67630
licensed locations of all members as of the preceding June 30.

Members licensed on or after July 1 of each year shall be assessed only for costs and expenses pursuant to paragraph (1) of this subdivision. This assessment shall be prorated on a monthly basis.

(b) The annual assessment for the fidelity fund shall be assessed no later than May 1. The assessment shall be calculated as follows:

(1) If the membership fund and fidelity fund in the aggregate equal an amount less than five million dollars ($5,000,000), then the assessment shall be the greater of: (A) one million dollars ($1,000,000); or (B) the sum of (i) the greater of an amount necessary to bring the membership fund and fidelity fund in the aggregate up to five million dollars ($5,000,000) or the total of all claims paid during the preceding fiscal year (except to the extent of any special assessment made pursuant to subdivision (b) of Section 17321.1) plus (ii) the greater of four hundred thousand dollars ($400,000) or 0.045 percent of the total average trust obligations of all members as reflected in the most recent report required by Section 17348.

(2) If the membership fund and fidelity fund in the aggregate equal an amount that is at least five million dollars ($5,000,000) but less than 1 percent of the total average trust obligations for all members as reflected in the most recent report required by Section 17348 or the fidelity fund equals an amount less than five million dollars ($5,000,000), then the assessment shall be: (A) an amount equal to the total of all claims paid during the preceding fiscal year (except to the extent of any special assessment made pursuant to subdivision (b) of Section 17321.1); and (B) an amount which is the greater of four hundred thousand dollars ($400,000) or 0.045 percent of the total average trust obligations of all members as reflected in the most recent report required by Section 17348.

(3) If the membership fund and fidelity fund in the aggregate equal 1 percent of the total average trust obligations of all members as reflected in the most recent report required by Section 17348 and the fidelity fund equals at least five million dollars ($5,000,000), then the assessment shall be an amount equal to the actuarial projection of losses for the forthcoming fiscal year.

Each member's fidelity fund assessment for paragraphs (1), (2), and (3) shall be the amount derived by multiplying the amount to be assessed by the ratio that each member's risk factors bear to the total of all members' risk factors.

A member's risk factors shall be computed in accordance with the following formula, except that the total factors of a member shall be reduced by one for each licensed branch location:
Coverage per Licensed Location

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(c) Notwithstanding subdivision (b), the assessment for the fidelity fund for the fiscal year beginning July 1, 1989, shall be made immediately upon 90-day notice of cancellation of the fidelity bond or insurance policy permitted by paragraph (2) of subdivision (c) of Section 17310, but in no event later than 60 days prior to the date of cancellation.

SEC. 4. Section 17331.2 of the Financial Code is amended to read:

17331.2. (a) Fidelity Corporation shall deny the application for a certificate or revoke the certificate of any person, upon any of the following grounds:

(1) The application contains a material misrepresentation of fact or fails to disclose a material fact so as to render the application false or misleading, or if any fact or condition exists which, if it had existed at the time of the original application for a certificate, reasonably would have warranted Fidelity Corporation to refuse originally to issue such certificate.

(2) That the person has been convicted of, or pleaded nolo contendere to, a crime or offense, whether a felony, an offense punishable as a felony, or a misdemeanor, which involved dishonesty, fraud, deceit, embezzlement, fraudulent conversion, misappropriation of property, or any other crime reasonably related to the qualifications, functions, or duties of a person engaged in business in accordance with this division, which conviction has not been expunged and the person has not obtained a certificate of rehabilitation, as allowed by the Penal Code. If, however, the conviction is more than 10 years old, or if the conviction is for a minor offense or infraction, then the person may have a Fidelity Corporation certificate upon showing by clear and convincing proof to a reasonable certainty that the conviction is no longer reasonably related to the qualifications, functions, or duties of that person's employment with a member.

(3) That the person has been held liable in a civil action by final judgment of any court except small claims courts, if the judgment involved dishonesty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property. The person may have a Fidelity Corporation certificate upon showing by clear and convincing proof to a reasonable certainty that the judgment is no longer reasonably related to the qualifications, functions, or duties of that person's employment with a member.
(4) That the person has committed or caused to be committed an act which caused any member to suffer a loss; or that the person has committed or caused to be committed or colluded with any other person committing any act which caused a loss, for which Fidelity Corporation or the insurer on any insurance policy or fidelity bond purchased by Fidelity Corporation, or both, to become liable to indemnify any member.

(5) That the person has been barred from employment by final order of the commissioner pursuant to Section 17423.

(6) That the person has been deemed not qualified to serve in any capacity as a director or officer or in any other position involving management duties with a financial institution, pursuant to Division 1.8 (commencing with Section 4990).

(7) That the person has been denied coverage or reinstatement by any insurer under any fidelity bond or crime policy, unless a decision of reinstatement of coverage has been made after such denial. A person who obtained a decision of reinstatement of coverage prior to the effective date of this section may have a Fidelity Corporation certificate notwithstanding paragraphs (2) and (3) of this subdivision, unless any other ground for denial or revocation applies to that person.

(b) Fidelity Corporation may suspend the certificate of any person upon any of the following grounds:

(1) That the person has been censured or suspended from any position of employment or management or control of any escrow agent, by final order of the commissioner.

(2) That there is an action commenced by the commissioner to either suspend or bar such person, under Section 17423.

(3) That any member with whom the person was employed has given a proof of loss or a notice of an occurrence which may give rise to a claim for a loss of trust obligations either of which identifies the person as the person responsible for the loss or as a person acting in collusion with the person causing the loss.

(c) Upon denial of an application for, or upon suspension or revocation of the certificate of any person, Fidelity Corporation shall provide written notice to the member with whom that person is employed of the decision, pending any appeal therefrom which might be made. Thereafter, the member shall not allow that person to have access to money or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent. Fidelity Corporation shall notify the person in writing of the decision to deny, suspend, or revoke the certificate and of the person’s right of appeal, together with the notice of appeal. The grounds and basis for the decision shall be stated in the notice thereof. All notices may be served either personally or by mail, properly addressed to the address of record for the member and the person.

(d) Any person whose application for a certificate has been denied, or whose certificate has been suspended or revoked, may
appeal the decision, as provided in Section 17331.3. While such appeal is pending, the person may not have access to money or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent. Failure to remove the person whose application has been denied, or whose certificate has been suspended or revoked, as a signer on the trust accounts may be subject to action by the commissioner as provided for in this division and shall be subject to penalties as set forth in Section 17331.1.

(e) Upon expiration of the time for an appeal, or upon conclusion of the appeal, the decision to deny an application for or to suspend or revoke the certificate of any person shall become final. Fidelity Corporation shall give written notice to the member and to the person of the final decision within 10 days. Thereafter, Fidelity Corporation shall disclose in writing to all members the identity of persons whose application has been denied or whose certificate has been revoked.

SEC. 5. Section 17332 of the Financial Code is amended to read:

17332. When either Fidelity Corporation or the insurer providing the fidelity bond or insurance policy, if any, under Section 17310, or both, pay an obligation on behalf of a member, Fidelity Corporation and the insurer shall be subrogated to the rights, claims, and remedies of the member up to the amount paid by Fidelity Corporation and the insurer on behalf of the member. In any subrogation action filed by Fidelity Corporation, the provider of the fidelity bond or insurance policy if payment was made thereunder, or both, Fidelity Corporation shall have the first right to the proceeds of any judgment or settlement obtained against the subrogees, up to the amount actually paid on the claim by Fidelity Corporation, plus reasonable costs and attorney’s fees which may be awarded either as part of any judgment or as an item of costs, as provided for in paragraph (10) of subdivision (a) and paragraph (5) of subdivision (c) of Section 1033.5 of the Code of Civil Procedure. No member engaged in business pursuant to Section 17200 shall be required to pay those costs and attorney’s fees awarded pursuant to this section. Amounts recouped by Fidelity Corporation through subrogation, minus all costs, attorney’s fees, and other administrative expenses incurred in obtaining that recovery, shall be credited to the fidelity fund.

SEC. 6. Section 17347 of the Financial Code is amended to read:

17347. (a) The Secretary of State shall not file articles for the incorporation of Fidelity Corporation or an amendment to the articles unless the commissioner has issued a written approval of the articles or amendment.

(b) Fidelity Corporation shall not adopt any bylaws or amendments thereto without the written consent of the commissioner. Within 60 calendar days from the receipt of any bylaws or amendments thereto, submitted to the commissioner, the commissioner shall inform Fidelity Corporation, in writing, that the
bylaws or amendments are not disapproved, or that those bylaws or amendments are disapproved and specify the information needed to complete the submittal. Within 60 calendar days from the receipt of a complete submittal, the commissioner shall reach a decision on the submittal.

SEC. 7. It is the intent of the Legislature by amendments to Sections 17331, 17331.1, 17331.2, and 17331.3 of the Financial Code, enacted during the 1991–92 Regular Session, to assist the Department of Corporations to protect the public from fraudulent, corrupt, dishonest, or unlawful service in the handling of escrow trust obligations. It is not the intent to punish any particular person or class of persons; rather, the public and the escrow profession must be protected from dishonest, disreputable, or otherwise unlawful practitioners of escrow services, who by their own misconduct, disqualify themselves from engaging in escrow services.

It is the reasonable expectation of the Legislature and the public that an employee of a licensed escrow agent will not have a propensity or predisposition to cause a loss of trust obligations or to have committed wrongful or criminal acts which are an indicia thereof. The licensed escrow agents also have a reasonable expectation that, as members of Fidelity Corporation, they should not bear the risk of losses of trust obligations which might be caused by those persons.

Persons who have or hereafter commit the wrongful acts described in this act are not reasonably suited or worthy to occupy a fiduciary position of trust, as an officer, director, or employee of an escrow agent. Persons who commit these acts shall not satisfy the requirements of Section 17203.1 of the Financial Code, which is a condition to any officer, director, trustee, or employee entering upon their duties.

CHAPTER 477

An act to add and repeal Section 18986.46 of the Welfare and Institutions Code, relating to children's services.

[Approved by Governor August 9, 1992 Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 18986.46 is added to the Welfare and Institutions Code, to read:

18986.46. (a) This section, rather than Section 18986.45, shall apply to San Diego County.

(b) Notwithstanding any provision of state law governing the disclosure of information and records, persons who are trained, qualified, and assigned by their respective agencies to serve on
children's multidisciplinary services teams within integrated
children's services programs may disclose to one another information
and view records on a child or the child's family. Information
disclosed or records viewed by members of the team shall be limited
to relevant information or records necessary to formulate an
integrated services plan or to deliver services to children and their
families.

(c) If the members of a multidisciplinary services team within an
integrated children's services program require records held by other
team members, copies may be provided subject to the limitations in
subdivision (d). Requests for copies shall be limited to the records
necessary to formulate an integrated services plan, or to deliver
services to children and their families.

(d) The release of copies of mental health records, physical health
records, and drug or alcohol records may take place only after the
team has received a form permitting release of records on the child
or the child's family, signed by the child's parent, guardian, or legal
representative, including the court which has jurisdiction over those
children who are wards of the court.

(e) The multidisciplinary team may designate persons qualified
pursuant to Section 18986.40 to be a member of the team for a
particular case. A person designated as a team member pursuant to
this subdivision may receive and disclose relevant information and
records, subject to the confidentiality provisions of subdivision (g).

(f) The sharing of information permitted under subdivision (c)
shall be governed by memoranda of understanding between the
agencies represented on the multidisciplinary team. These
memoranda shall specify the types of information that may be shared
without a signed release form, in accordance with subdivision (d),
and the process to be used to ensure that current confidentiality
requirements, as described in subdivision (g), are met.

(g) Every member of the children's multidisciplinary services
team who receives information or records on children and families
served in the integrated children's services program shall be under
the same privacy and confidentiality obligations and subject to the
same confidentiality penalties as the person disclosing or providing
the information or records. The information or records obtained shall
be maintained in a manner that ensures the maximum protection of
privacy and confidentiality rights.

(h) This section shall not be construed to restrict guarantees of
confidentiality provided under federal law.

(i) Nothing in this section or Section 18986.45 shall be construed
to affect the authority of a health care provider to disclose medical
information pursuant to paragraph (1) of subdivision (c) of Section
56.10 of the Civil Code.

(j) This section shall remain in effect only until January 1, 1996,
and as of that date is repealed, unless a later enacted statute deletes
or extends that date.
An act to amend Section 29535.3 of the Government Code, relating to transportation.

[Approved by Governor August 10, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. Section 29535.3 of the Government Code is amended to read:

29535.3. (a) Notwithstanding Section 29535, for the County of Monterey, the local transportation commission shall be composed of five members of the board of supervisors and one member appointed by the city council of each incorporated city in the county. An appointed member of the board of supervisors and a city council appointing a member may each designate an alternate member to act in the place of the member so appointed.

(b) The commission may be known as the Transportation Agency for Monterey County or by any other name, as determined by the commission.

(c) The commission is the legal successor to the Monterey County Transportation Commission for all purposes, including those set forth in Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code, and particularly Section 99638. The commission has all of the powers, express or implied, necessary to carry out the intent of that Part 11.5, including the power of eminent domain and the power to preserve, acquire, construct, or improve any of the following:

1. Rights-of-way for rail purposes.
2. Rail terminals and stations.
3. Rolling stock, including locomotives, passenger cars, and related rail equipment and facilities.
4. Grade separation and other improvements along rail rights-of-way for rail purposes.
5. Rail maintenance facilities.
6. Other capital facilities deemed necessary for a rail service, including soundwalls. The commission may contract for the operation of rail service in Monterey County and for connections with rail service in adjacent and neighboring counties and cities.
An act to add Article 11 (commencing with Section 9889.60) to Chapter 20.3 of Division 3 of the Business and Professions Code, relating to automobile repair.

[Approved by Governor August 10, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. This act shall be known as the "Auto Body Repair Study Act of 1992."

SEC. 2. The Legislature finds and declares:
(a) That millions of vehicle owners each year require body repair to their vehicles as a result of collision or other damage.
(b) That auto body repair shops, estimated at 5,000 to 6,000 shops in California, are registered by the Bureau of Automotive Repair which requires filing an application and paying a fee.
(c) That there are no minimum standards of competence for the estimated 30,000 auto body technicians working in auto body repair shops.
(d) That there are no minimum standards of competence for an estimated several thousand automotive physical damage appraisers and adjusters as defined in Section 9889.64.
(e) That, as estimated nationally, improper repairs cost consumers five billion dollars ($5,000,000,000) in depreciation value in 1990.
(f) That the Fraud Bureau in the Department of Insurance investigates approximately 230 complaints annually of fraudulent practices or collusion between unscrupulous auto body repair shops and appraisers and adjusters.
(g) That there are no statutory minimum standards of competence to protect the public from potentially unsafe and improper body repairs to their vehicles.
(h) That under the current registration program the Bureau of Automotive Repair is unable to completely identify all shops that perform auto body repairs.
(i) That under the current Bureau of Automotive Repair registration program, applicants are not required to demonstrate that they comply with certain essential federal local and state permit requirements. Noncompliance with these essential permit requirements may be endangering the public health, safety, and welfare.
(j) That it is therefore necessary to require the Bureau of Automotive Repair to create an advisory study committee on auto body repair for the purpose of identifying the problems that may exist which adversely impact upon consumers, and to report its findings and recommendations to the Legislature.
SEC. 3. Article 11 (commencing with Section 9889.60) is added to Chapter 20.3 of Division 3 of the Business and Professions Code, to read:

Article 11. Auto Body Repair Study

9889.60. The director shall direct the Bureau of Automotive Repair to create with existing bureau resources a voluntary advisory committee on auto body repair, comprised of consumer advocate representatives, experts within the auto body repair and related industries, who shall not be eligible to claim travel expenses, and the Bureau of Automotive Repair, to conduct a study for the purpose of:

(a) Identifying existing or potential harm to consumers through unsafe, improper or fraudulent auto body repairs.

(b) Identifying industry issues including, but not limited to, the need to increase the competency of body shop owners, auto body technicians, adjusters and appraisers, and the need to prescribe performance standards.

(c) Identifying why problems are not being resolved by existing laws and regulations.

(d) Identifying need for minimum requirements for auto body repair shops, including, but not limited to:

   (1) Equipment necessary to repair vehicles.

   (2) Manuals and other repair literature.

   (3) Employee standards.

   (4) Performance bonds and insurance.

   (5) Records of repairs.

   (6) Shop classification.

   (7) Education and training.

   (8) Continuing education requirements.

   (e) Identifying the incidence and effect of auto body repair shops that do not comply with federal, state, or local requirements to obtain necessary permits or licenses.

   (f) Identifying possible solutions to problems including self-regulation, certification, licensing, pursuit of public awareness, consumer self-protection, and consumer classes.

   (g) Identifying costs associated with each of the solutions.

   (h) Identifying funding sources to implement solutions.

9889.62. The director shall report findings and recommendations to the Legislature by December 1, 1993, at which time the voluntary advisory committee shall cease to exist.

9889.64. For purposes of the study specified in Section 9889.60, the following definitions shall apply:

(a) "Auto body repair shop" means a place of business wholly or partially engaged in automotive collision repair or reconstruction of automobile or truck bodies for compensation.

(b) "Auto body technician" means a person wholly or partially engaged in making automotive collision repairs or reconstruction of automobile or truck bodies for compensation in an auto body repair
shop.

(c) "Automotive physical damage appraiser and adjuster" means a person other than a person required to be licensed under the Insurance Code, who, for compensation, estimates damage and needed repairs to a vehicle as a result of collision or other causes of damage.

9889.66. The form for registration pursuant to Section 9884 shall contain sufficient information to enable the Bureau of Automotive Repair to identify all registrants performing automotive collision repair work.

9889.68. Any auto insurance company check or draft issued to a repairer pursuant to Insurance Code Section 560 shall include the repairer's registration number or Tax Payer Identification Number.

CHAPTER 480

An act to amend Section 42280 of the Education Code, relating to school finance.

[Approved by Governor August 10, 1992. Filed with Secretary of State August 10, 1992]

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

SECTION 1. It is the intent of the Legislature that a school district not experience a reduction in its revenue limit when it undergoes growth in average daily attendance. The provisions of this act are intended to carry out that intent by ensuring that a school district that previously benefitted from the revenue limit provisions for necessary small schools shall continue to benefit from those provisions even when its average daily attendance increases and exceeds 2,500 units.

SEC. 2. Section 42280 of the Education Code is amended to read:

42280. (a) For each school district that meets, in the current or prior fiscal year, the conditions specified in Section 42281, 42282, or 42284 the county superintendent of schools shall compute, for each qualifying school in the district, an amount pursuant to this article.

(b) For each school district that is a countywide unified school district that had fewer than 2,501 units of average daily attendance in the 1990–91 fiscal year, the county superintendent of schools shall compute an amount pursuant to this article for those schools that meet the conditions specified in Sections 42283 and 42285 in the current or prior fiscal year. This subdivision is only applicable to those schools funded pursuant to this article in the 1990–91 fiscal year and, in subsequent years, if the school district has no more than 3,000 units of average daily attendance.

SEC. 3. The Legislature finds and declares that the River Delta Unified School District is a geographically large district that serves
pupils from a wide and varied area.

SEC. 4. Notwithstanding any other provision of law, River Delta Unified School District shall be eligible to receive apportionments pursuant to the schedule and criteria for small necessary high schools set forth in Section 42282 of the Education Code if the district has no more than 3,000 units of average daily attendance.

SEC. 5. Due to the unique circumstances of the River Delta Unified School District set forth in Section 4 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.

SEC. 6. Regardless of the effective date of this act, it is the intent of the Legislature to make changes in state apportionments for school districts and county offices of education for the entire 1992–93 fiscal year. For the purpose of implementing the changes required by this act, the Superintendent of Public Instruction and other public officers shall take all necessary steps to effectuate the required adjustments, including, but not limited to, making adjustments to allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund and other public funds.

CHAPTER 481

An act to add Article 4 (commencing with Section 1745) to Chapter 10.5 of Part 2 of Division 2 of the Water Code, relating to water.

[Approved by Governor August 12, 1992. Filed with Secretary of State August 12, 1992]

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

SECTION 1. Article 4 (commencing with Section 1745) is added to Chapter 10.5 of Part 2 of Division 2 of the Water Code, to read:

Article 4. Water Supplier Contracts

1745. As used in this article, the following terms have the following meanings:
(a) "Person" includes a public agency.
(b) "Water supplier" means a local public agency or private company supplying or storing water, or a mutual water company.

1745.02. A water supplier may, for a consideration to be specified in the contract, contract with persons entitled to service within the supplier's service area to reduce or eliminate for a specified period of time their use of water supplied by the water supplier.

1745.03. Services performed under a contract entered into
pursuant to this chapter or Chapter 3.6 (commencing with Section 380) of Division 1 which is offered generally to all persons entitled to water service from the water supplier are public services generally provided by the public agency for purposes of paragraph (3) of subdivision (a) of Section 1091.5 of the Government Code.

1745.04. A water supplier may contract with a state drought water bank or with any other water supplier or user inside or outside the service area of the water supplier to transfer, or store as part of a transfer, water if the water supplier has allocated to the water users within its service area the water available for the water year, and no other user will receive less than the amount provided by that allocation or be otherwise unreasonably adversely affected without that user’s consent.

1745.05. Water stored by the water supplier and water made available from either of the following sources may be transferred by the water supplier pursuant to Section 1745.04:

(a) Conservation or alternate water supply measures taken by individual water users or by the water supplier.

(b) Water developed pursuant to a contract by a water user to reduce water use below the user’s allocation or to eliminate the use of water during the water year, including a contract to grow crops without the use of water from the water supplier, to fallow land, or to undertake other action to reduce or eliminate water use. The amount of water made available by land fallowing may not exceed 20 percent of the water that would have been applied or stored by the water supplier in the absence of any contract entered into pursuant to this article in any given hydrological year, unless the agency approves, following reasonable notice and a public hearing, a larger percentage.

1745.06. A water supplier may transfer water pursuant to Section 1745.04 whether or not the water proposed to be transferred is surplus to the needs within the service area of the water supplier.

1745.07. No transfer of water pursuant to this article or any other provision of law shall cause a forfeiture, diminution, or impairment of any water rights. A transfer that is approved pursuant to this article or any other provision of law is deemed to be a beneficial use by the transferor under this code.

1745.08. This article is in addition to, and not a limitation on, the authority of any public agency under any other provision of law, including, but not limited to, Article 1 (commencing with Section 1725).

1745.09. Nothing in this article does any of the following:

(a) Creates in any person a right to require any water supplier to enter into a contract providing for the reduction or elimination of water use or for the transfer of water.

(b) Creates in any person reducing water use any interest in the water rights of the water supplier.

(c) Limits or otherwise affects the jurisdiction of any regulatory public agency over water transfers.
(d) Makes any change in existing water rights.

1745.10. A water user that transfers surface water pursuant to this article may not replace that water with groundwater unless the groundwater use is either of the following:

(a) Consistent with a groundwater management plan adopted pursuant to state law for the affected area.

(b) Approved by the water supplier from whose service area the water is to be transferred and that water supplier, if a groundwater management plan has not been adopted, determines that the transfer will not create, or contribute to, conditions of long-term overdraft in the affected groundwater basin.

1745.11. Nothing in this article prohibits the transfer of previously recharged groundwater from an overdrafted groundwater basin or the replacement of transferred surface water with groundwater previously recharged into an overdrafted groundwater basin, if the recharge was part of a groundwater banking operation.

CHAPTER 482

An act to amend Sections 69535, 94302, 94310, 94312.2, 94330, and 94331 of, and to add Sections 66903.3, 69513.1, and 94304.3 to, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 1992. Filed with Secretary of State August 14, 1992.]

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

SECTION 1. Section 66903.3 is added to the Education Code, to read:

66903.3. The commission may delegate to the director any power, duty, purpose, function, or jurisdiction that the commission may lawfully delegate, including the authority to enter into and sign contracts on behalf of the commission. The director may redelegate any of those powers, duties, purposes, functions, or jurisdictions to his or her designee, unless by statute, or rule or regulation, the director is expressly required to act personally.

SEC. 2. Section 69513.1 is added to the Education Code, to read:

69513.1. The commission may delegate to the director any power, duty, purpose, function, or jurisdiction that the commission may lawfully delegate, including the authority to enter into and sign contracts on behalf of the commission. The director may redelegate any of those powers, duties, purposes, functions, or jurisdictions to his or her designee, unless by statute, or rule or regulation, the director is expressly required to act personally.

SEC. 3. Section 69535 of the Education Code is amended to read:

68160
69535. (a) Cal Grant Program awards shall be based upon the financial need of the applicant. The level of financial need of each applicant shall be determined by the commission pursuant to Article 1.5 (commencing with Section 69503).

(b) For the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants.

(c) All Cal Grant Program award recipients shall be residents of California, as determined by the commission pursuant to Part 41 (commencing with Section 68000), and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission.

(d) Part-time students shall not be discriminated against in the selection of Cal Grant Program award recipients, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. First-time Cal Grant Program award recipients who are part-time students shall be eligible for a full-time renewal award.

(e) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, or age.

(f) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in subdivisions (b) and (c) of Section 69535.1, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of a total of four years of full-time attendance in an undergraduate program.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(h) The commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The commission may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as the commission may deem proper.

(j) The commission may establish Cal Grant Program awards in one hundred dollar ($100) increments.

(k) A Cal Grant Program award may be utilized only at a California postsecondary educational institution or program that
participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant program.

SEC. 4. Section 69766.1 is added to the Education Code, to read:

69766.1. (a) Notwithstanding Section 13340 of the Government Code, in addition to the purposes for which funds are appropriated pursuant to Section 69766, there is hereby appropriated from the State Guaranteed Loan Reserve Fund to the commission for the 1992-93 fiscal year only, the amount of funds necessary to make payments for the purchase of defaulted student loans.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the Federal Trust Fund for transfer to the State Guaranteed Loan Reserve Fund, for the 1992-93 fiscal year only, all federal reinsurance payments received on defaulted student loans and deposited in the Federal Trust Fund.

SEC. 5. Section 94302 of the Education Code is amended to read:

94302. As used in this chapter, unless the context requires otherwise:

(a) “Accredited” means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education, or the Committee of Bar Examiners for the State of California. It shall not include those institutions that have applied for accreditation, or are identified by accrediting associations as candidates for accreditation or have provisional accreditation.

(b) “Agency” means any person or business entity, regardless of the form of organization, that employs or in any manner contracts with one or more agents. “Agency” does not include an institution.

(c) “Agency approval” means a written document issued by the Council for Private Postsecondary and Vocational Education authorizing a business entity or an institution to engage in the recruitment of students for enrollment in private postsecondary and vocational institutions approved under this chapter.

(d) “Agent” means any person who, at a place away from the institution’s premises or site of instruction, for consideration, solicits, promotes, advertises, offers, or attempts to secure enrollment for an institution, refers any person to an institution either for enrollment or to receive a solicitation for enrollment, or accepts application fees or admissions fees for education in an institution. Administrators and faculty who make informational public appearances, but whose primary task does not include service as a paid recruiter, are exempted from this definition.

(e) “Agent’s permit” means a nontransferable written document issued to an agent pursuant to this chapter by the Council for Private Postsecondary and Vocational Education.

(f) “Applicant” means a new institution that has submitted an application but has not been evaluated by the council. An applicant institution shall not enroll students or offer educational services.

(g) “Approval” or “approval to operate” means that the council has determined and certified that an institution meets minimum
standards established by the council for integrity, financial stability, and educational quality, including the offering of bona fide instruction by qualified faculty and the appropriate assessment of students' achievement prior to, during, and at the end of its program.

(h) "Branch" means a site located within 50 miles of the main location. Only educational services that are approved at the main location shall be offered at the branch. For the purpose of conducting onsite inspections and evaluations, hotel conference rooms, faculty offices, and homes are not considered branches.

(i) "Certificate of authorization for service" means a written, nontransferable document issued by the council authorizing an individual to be an instructor or administrator in any private vocational postsecondary educational institution in California which is approved under subdivision (a) of Section 94311.

(j) "Change of location" means a move of up to 25 miles of the location at which an institution offers any education, training, or instruction. A change of location of 25 or more miles is deemed the establishment of a new location of instruction requiring a separate approval to operate, unless otherwise provided by the council.

(k) "Correspondence school" or "home study school" means any institution that provides correspondence lessons for study and completion by a student at a location separate from the institution, including those institutions which offer that instruction by correspondence in combination with in-residence instruction.

(l) "Council" means the Council for Private Postsecondary and Vocational Education established pursuant to Section 94304.

(m) "Course of study" means either a single course or a set of related courses for which a student enrolls.

(n) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

(o) "Degree title" means a discipline, major, or subject area of study, the completion of which leads to the award of a degree.

(p) "Diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level.

(q) "Education," or "education services," or "educational program" includes, but is not limited to, any class, course, or programs of training, instruction, or study.

(r) "Institution" means any private postsecondary educational institution. An "institution" includes its branch and satellite
campuses, unless otherwise provided by the council.

(s) "Institutional approval" means an institution that has been evaluated by the council and has been found to be in compliance with the council's standards pursuant to this chapter.

(t) "Instruction" includes any specific, formal arrangement by an institution or its enrollees to participate in learning experiences in which the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(u) "Out-of-state school" means any private postsecondary or vocational educational institution offering career or job training programs, including both an in-residence institution and a home study institution that has its place of instruction or its principal location outside the boundaries of the state, or that offers or conducts courses of instruction or subjects on premises maintained by the school outside the boundaries of the state, or that provides correspondence or home study lesson materials from a location outside the boundaries of this state, or that evaluates completed lesson materials or otherwise conducts its evaluation service from a location outside the boundaries of this state, or that otherwise offers or provides California students with courses of instruction or subjects through activities engaged in or conducted outside the boundaries of the state.

(v) "Person" means a natural person or any business entity, regardless of the form or organization.

(w) "Private postsecondary educational institution" means any person doing business in California that offers to provide or provides, for a tuition, fee, or other charge, any instruction, training, or education primarily to people who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance. The following are not considered to be private postsecondary educational institutions under this chapter:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the 12th grade.

(2) Education solely avocational or recreational in nature, and institutions offering this education exclusively.

(3) Education sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(4) Postsecondary or vocational educational institutions established, operated, and governed by the federal government or by this state, or its political subdivisions.

(5) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church or religious denomination, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, if the education is limited to instructions in the principles of that church or denomination, or to courses offered pursuant to Section 2789 of the Business and Professions Code, and
the diploma or degree is limited to evidence of completion of that education, and the meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church or denomination. Institutions operating under this paragraph shall offer degrees and diplomas only in the beliefs and practices of the denomination, church, or religion. The enactment of this paragraph expresses legislative intent that the state shall not involve itself in the content of degree programs awarded by any institution operating under this paragraph, as long as the institution awards degrees and diplomas only in areas specified in the previous sentence. Institutions operating under this paragraph shall not award degrees in any area of physical science. Any degree or diploma granted in any area of study under these provisions shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area. The enactment of this paragraph is intended to prevent any entity claiming to be a nonprofit institution owned, controlled, and operated and maintained by a bona fide church or religious denomination, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, from marketing and granting degrees or diplomas that are represented as being linked to their church or denomination but which, in reality, are degrees in secular areas of study.

(x) "Satellite" means an auxiliary classroom located within 50 miles of a branch or the main location. A satellite is a temporary facility. All of the following shall apply to a satellite:

1. Only educational services that are approved at the main location shall be offered at the satellite.
2. The institution shall maintain no permanent records of attendance or academic progress at the satellite.
3. No solicitation or enrollment of students shall occur at the satellite.
4. The satellite shall not be identified in any advertising.

For the purpose of conducting onsite inspections and evaluations, hotel conference rooms, faculty offices, and homes are not considered satellites.

(y) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(z) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, or from or through which, educational services are offered or educational degrees or diplomas are offered or granted.

SEC. 6. Section 94304.3 is added to the Education Code, to read:

94304.3. The council may delegate to the director any power, duty, purpose, function, or jurisdiction that the council may lawfully delegate, including the authority to enter into and sign contracts on behalf of the council. The director may redelegate any of those
powers, duties, purposes, functions, or jurisdictions to his or her designee, unless by statute, or rule or regulation, the director is expressly required to act personally.

SEC. 7. Section 94310 of the Education Code is amended to read:
94310. No private postsecondary educational institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of subdivision (a) or (i), as follows:

(a) The institution is approved by the council to operate in California and award degrees. The council shall not approve an institution to issue degrees, diplomas, or certificates pursuant to this subdivision until it has conducted a qualitative review and assessment of, and has approved, each degree program offered by the institution, and all of the operations of the institution, and has determined all of the following:

(1) The institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to ensure its capability of fulfilling the program or programs for enrolled students.

(2) The faculty are fully qualified to undertake the level of instruction that they are assigned and shall possess appropriate degrees and have demonstrated professional achievement in the major field or fields offered, in sufficient numbers to provide the educational services.

(3) The education services and curriculum clearly relate to the objectives of the proposed program or programs and offer students the opportunity for a quality education.

(4) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(5) The course of study for which the degree is granted provides the curriculum necessary to achieve its professed or claimed academic objective for higher education, and the institution requires a level of academic achievement appropriate to that degree.

(6) The institution provides adequate student advisement services, academic planning and curriculum development activities, research supervision for students enrolled in Ph.D. programs, and clinical supervision for students enrolled in various health profession programs.

(7) If the institution offers credit for prior experiential learning it may do so only after an evaluation by qualified faculty and only in disciplines within the institution’s curricular offerings that are appropriate to the degree to be pursued. The council shall develop specific standards regarding the criteria for awarding credit for prior experiential learning at the graduate level, including the maximum number of hours for which credit may be awarded.

(b) The approval process shall include a qualitative review and assessment of all of the following:

(1) Institutional purpose, mission, and objectives.
(2) Governance and administration.
(3) Curriculum.
(4) Instruction.
(5) Faculty, including their qualifications.
(6) Physical facilities.
(7) Administrative personnel.
(8) Procedures for keeping educational records.
(9) Tuition, fee, and refund schedules.
(10) Admissions standards.
(11) Financial aid policies and practices.
(12) Scholastic regulations and graduation requirements.
(13) Ethical principles and practices.
(14) Library and other learning resources.
(15) Student activities and services.
(16) Degrees offered.

The standards and procedures utilized by the council shall foster the development of high quality, innovative educational programs and emerging new fields of study within postsecondary education. In addition, the standards and procedures utilized by the council shall not unreasonably hinder educational innovation and competition.

It is the intent of the Legislature that the minimum standards for approval for degree-granting institutions established in Section 94310 not exceed the accreditation standards utilized by the Western Association of Schools and Colleges.

(c) The council may, at its discretion, delegate the responsibilities for regulation and oversight of accredited degree granting law schools to the California Committee of Bar Examiners, and that accreditation may be accepted by the council in lieu of state approval.

(d) (1) The council shall conduct a qualitative review and assessment of the institution and all programs offered, including the items listed in subdivision (b), through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the council for that purpose. Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not site-based. The visiting committee shall be impaneled by the council within 90 days of the date of the receipt of a completed application and shall be composed of educators, and other individuals with expertise in the areas listed in subdivision (b), from degree-granting institutions legally operating within the state. Within 90 days of the receipt of the visiting committee's evaluation report and recommendations, or any reasonable extension of time not to exceed 90 days, the council shall take one of the following actions:

(A) 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 this chapter then in effect, the council may grant an approval to operate for a period not to exceed five years.
(B) If the institution is in compliance with this chapter, but has operated within three years before the filing of the application in violation 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. Conditional approval shall not exceed two years.

(C) The council may deny the application. If the application is denied, the council may, in its discretion, permit the institution to continue offering the course of instruction to students already enrolled or may order the institution to cease instruction and provide a refund of tuition and all other charges to students.

(D) (i) 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 filing of the application. 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.

(ii) 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 ensure 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 this subdivision.

(2) When evaluating an institution whose purpose is to advance postsecondary education through innovative methods, the visiting committee shall comprise educators who are familiar with and receptive to evidence bearing on the educational quality and accomplishments of those methods.

(3) The standards and procedures utilized by the council shall not unreasonably hinder educational innovation and competition.

(4) It is the intent of the Legislature that the council, prior to June 1, 1992, conduct an onsite review of all institutions approved by the
Superintendent of Public Instruction between January 1, 1989, and December 31, 1990, that did not receive an onsite review by a visiting committee that included at least one permanent employee of the Private Postsecondary Education Division of the State Department of Education.

(5) Each institution or instructional program offering education for entry into a health care profession in which the provider has primary care responsibilities shall offer that education within a professional degree program which shall be subject to approval by the council pursuant to this section.

(e) If at any time the council determines that an institution has deviated from the standards for approval, the council may, after identifying for the institution the areas in which it has deviated from the standards, and after giving the institution due notice and an opportunity to be heard, place the institution on probation for a prescribed 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 probationary period, the institution has not taken steps to eliminate the cause or causes for its probation to the satisfaction of the council, the council may revoke the institution’s approval to award degrees and provide notice to the institution to cease its operations.

(f) An institution may not advertise itself as an approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section. The council shall review all operations of the institution, both within and outside of California. The council shall have the authority to conduct site visits outside of California when it deems these visits to be necessary. The council may authorize any institution approved to issue degrees under this section to issue diplomas for the completion of courses of study that are within the institution’s approved degree granting programs.

(g) (1) All institutions operating on December 31, 1990, pursuant to licensure received under subdivision (a) of Section 94310.1 or approval received under Section 94310.2, shall receive approval for a period not to exceed four years. On a specified date prior to January 1, 1995, to be determined by the council, each institution granted approval pursuant to this subdivision shall file a completed application for reapproval pursuant to this section.

(2) All institutions operating on December 31, 1990, pursuant to candidate for approval status received pursuant to Section 94310.2 shall receive candidate for approval status for a period not to exceed two years. On a specified date prior to January 1, 1993, as determined by the council, each institution granted candidate for approval status pursuant to this subdivision shall file a completed application for approval pursuant to this section.
(h) All institutions operating pursuant to authorization received under Section 94310.3 or 94310.4, as in effect on December 31, 1990, shall receive candidate for approval status for a period not to exceed three years. On a specified date prior to January 1, 1994, to be determined by the council, each institution granted candidate for approval status pursuant to this subdivision shall file a completed application for approval pursuant to this section.

(i) Any public or private postsecondary educational institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is approved by the council, may issue degrees, diplomas, or certificates. Accredited public or private postsecondary educational institutions incorporated in another state shall not offer degrees, diplomas, or certificates in California unless they comply with this subdivision.

1. The council shall not approve an institution to issue degrees, diplomas, or certificates pursuant to this subdivision until the council has conducted a qualitative review and assessment of, and has approved, the operations of the institution in California, and the council has determined that the institution meets all of the following standards:

   A. The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.

   B. The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.

   C. The education services and curriculum clearly relate to the objectives of the proposed program or programs.

   D. The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

   E. The institution has verifiable evidence of academic achievement comparable to that required of graduates of other institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.

2. The council shall grant approved status under this subdivision for a period consistent with the postsecondary educational institution’s regional accrediting association, but not to exceed five years.

3. Institutions approved under this subdivision shall offer in California only programs that the institution can document to have been acknowledged and favorably reviewed by the home regional accrediting association.

4. In reviewing the out-of-state accredited institutions, the council shall use as guidelines the standards and procedures developed by the special committee created pursuant to paragraph (5) of subdivision (b) of Section 94310.1, as in effect on December 31, 1990.
31, 1989, and adopted by the California Postsecondary Education Commission. These standards and procedures were based on all of the following principles:

(A) Following the initial state review, subsequent onsite reviews by the council may be conducted in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the council may initiate a special review of the California operations of the institution.

(B) Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not site-based.

(C) The council shall develop a procedural rationale to justify the number of sites to be visited by the state in the review of the institution’s operations in California.

(D) The purpose of the onsite review by the council shall be to determine that operations by the institution in California meet the minimum state standards identified in statute.

(E) The standards and procedures shall not unreasonably hinder educational innovation and competition.

(5) The regulations adopted by the council to implement this chapter shall provide for consideration of the accredited institutions’ stated educational goals, purposes, and objectives, in conducting the approval review of the California operations of out-of-state based institutions.

(A) These regulations shall include a formula to determine the institutional approval fee and the number of sites to be visited by the state.

(B) The regulations adopted by the council shall be based on the procedures and standards recommended by the special committee and acted upon by the commission. In conducting the approval review of the operation of out-of-state accredited institutions in California, the council shall interpret the regulations based upon each institution’s accredited educational purposes and objectives.

(6) All institutions operating under subdivision (b) of Section 94310.1, as it read on December 31, 1990, shall receive approval for a period not to exceed five years from the date of the institution’s last review by the state. On a date to be specified by the council on or before January 1, 1996, each institution granted approval under this subdivision shall file a completed application for reapproval under this section.

(j) An institution shall not offer any educational program or degree title that was not offered by the institution at the time the institution applied for approval to operate, and shall not offer any educational program or degree title at a campus that had not offered the program or degree title at the time the institution applied for approval to operate that campus, unless the council first approves the offering of the program or degree title after determining that it satisfies the minimum standards established by this section.
SEC. 8. Section 94312.2 of the Education Code is amended to read:

94312.2. Each institution approved to operate under this chapter shall be required to report to the council, by July 1 of each year, or another date designated by the council, the following information for educational programs offered in the prior calendar year:

(a) The total number of students enrolled, by level of degree or type of diploma program, and by gender, ethnicity, and race.

(b) The number of degrees and diplomas awarded, by level of degree, and by gender, ethnicity, and race.

(c) The degree levels offered.

(d) Program completion rates.

(e) Placement data for vocational training programs, unless that data already is required to be provided by the institution under other requirements of this chapter.

(f) The schedule of tuition and fees required for each term, program, course of instruction, or degree offered.

(g) If an institution submits an audited financial statement to the United States Department of Education, the institution shall submit a copy of that financial statement to the council.

(h) Financial information demonstrating compliance with subdivisions (b) and (c) of Section 94316.6.

(i) Institutions having a probationary or conditional status shall submit an annual report reviewing their progress in meeting the standards required for approval status.

(j) Any additional information that the council may prescribe.

(k) Colleges and universities operating under paragraph (5) of subdivision (w) of Section 94302 shall comply with the reporting requirements of subdivisions (a), (b), (c), and (f) of this section.

Program completion rates and placement data shall be reported in accordance with the standards and criteria prescribed by the council pursuant to subdivision (i) of Section 94312 or Section 94316.10, whichever is applicable. Based on the review of information submitted to fulfill the requirements of this section, the council may initiate a compliance review and may place the institution on probation pursuant to subdivision (e) of Section 94310 and subdivision (i) of Section 94311, and may require evidence of financial stability and responsibility pursuant to Section 94311.5 or 94316.6.

Except as provided in Article 2.5 (commencing with Section 94316), this section shall supersede any other law that conflicts with this section.

SEC. 9. Section 94330 of the Education Code is amended to read:

94330. (a) Each institution desiring to operate in this state shall make application to the council, upon forms to be provided by the council. The application shall include, as a minimum, at least all of the following:

(1) A catalog published or proposed to be published by the institution containing the information specified in the criteria
adopted by the council. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution’s placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness.

(5) Copies of participation agreements for state and federal financial aid programs.

(6) The name and California address of a designated agent upon whom any process, notice, or demand may be served.

(7) The information specified in Section 94312.2.

(8) The institutions most current profit and loss statement and current balance sheet, or an audit prepared by a licensed certified public accountant in accordance with generally accepted auditing standards.

(b) Each application shall be signed and certified under oath by the owners of the school or, if the school is incorporated, by the principal owners of the school (those who own at least 10 percent of the stock), or by the governing body of a nonprofit school.

(c) Following review of the application and any other further information submitted by the applicant, or required in conformity with Sections 94310 and 94311, and any investigation of the applicant as the council may deem necessary or appropriate, the council shall either grant or deny approval to operate to the applicant.

(d) The council shall review and investigate all institutions and courses of instruction approved under this chapter. Consideration in the scheduling of reviews and investigations shall be afforded to student complaints and information collected by the Attorney General, the Student Aid Commission, any board within the Department of Consumer Affairs, or any other federal, state, or local agency.

(e) The approval to operate shall be issued to the owner or the governing body of the applicant institution, and shall be nontransferable. Any person that makes a proper application and complies with this chapter and each standard, rule, and regulation pertaining to this chapter shall be qualified to receive an approval to operate or an approval of the transfer of ownership.

(f) In the event that a shift in control or change of ownership of an institution occurs, an application for a new approval to operate for the institution under the changed ownership or control shall be filed with the council at least 20 days prior to the shift in control or change in ownership. Whenever an institution is operated at different locations, an application for approval shall be filed for each location.

(g) No application for ownership or transfer of ownership shall be approved for any applicant that has been previously found in any judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

(h) No change in ownership of the institution shall be made until
the application is approved. If an application for a new approval to operate is not timely filed as required by this section, the institution’s approval to operate shall terminate. Upon approval of a change in ownership, the council shall give written notice to the Student Aid Commission.

(i) For the purposes of this section, a change in ownership occurs when there is a change of control of the institution, or where a person that did not previously own at least 25 percent of the stock or controlling interest of an institution or its parent corporation, acquires ownership of at least 25 percent of the stock of the institution or its parent corporation.

(j) At least 60 days prior to the expiration of an approval to operate, the institution shall complete and file with the council an application form for renewal of its approval to operate. The renewal application shall be reviewed and acted upon as provided in this section.

(k) The council may refuse to issue or renew any private postsecondary or vocational educational institution’s approval to operate, or may revoke any approval to operate for any one, or any combination, of the following causes:

(1) A violation of this chapter, or any standard, rule, or regulation established under this chapter.

(2) Furnishing false, misleading, or incomplete information to the council, or the failure to furnish information requested by the council or required by this chapter.

(3) A finding that an owner, person in control, director, or officer of an institution is not in compliance with Section 94311.5, 94316.6, or 94316.8, whichever is applicable.

(4) A finding that a signatory to an application for an approval to operate was responsible for the closure of any institution in which there were unpaid liabilities to the state or federal government, or uncompensated pecuniary losses suffered by students without restitution.

(5) The failure of the institution to maintain the minimum educational standards prescribed by this chapter, or to maintain standards that are the same as, or substantially equivalent to, those represented in the school’s applications and advertising.

(6) Presenting to prospective students information that is false or misleading relating to the school, to employment opportunities, or to enrollment opportunities in institutions of higher learning after entering into or completing courses offered by the school.

(7) The failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered as required by statute.

(8) The failure to provide timely and correct refunds to students.

(9) Paying a commission or valuable consideration to any persons for acts or services in violation of this chapter.

(10) Attempting to confer a degree, diploma, or certificate to any student in violation of this chapter.
(11) Misrepresenting to any students or prospective students that they are qualified, upon completion of any course, for admission to professional examination under any state occupational licensing provision.

(12) The failure to correct any deficiency or act of noncompliance under this chapter, or the standards, rules, regulations, and orders established and adopted under this chapter within reasonable time limits set by the council.

(13) The conducting of business or instructional services at any location not approved by the council.

(14) Failure on the part of an institution to comply with provisions of law or regulations governing sanitary conditions of that institution specified in Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000) of the Business and Professions Code.

If there is reasonable cause to believe that there has been a violation by a private postsecondary or vocational educational institution of the standards prescribed by this chapter, the council shall conduct an investigation of the institution.

(1) Proceedings in connection with the denial of an application to operate or the revocation of an approval to operate 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 council shall have all of the powers granted in that chapter. Any action by the council to place an institution on probation shall be subject to appeal to the full council, and the council shall establish procedures that provide the institution with adequate notice and an opportunity to be heard and to present evidence as to why the action recommended by staff or by a visiting committee shall not be taken.

(m) Upon taking any action to suspend or revoke an institution's approval to operate, the council shall provide written notice to the Student Aid Commission and to any appropriate accrediting association.

(n) A college or university operating under paragraph (5) of subdivision (w) of Section 94302 shall annually file with the council evidence to demonstrate its status as a nonprofit religious corporation under the Corporations Code.

SEC. 10. Section 94331 of the Education Code is amended to read:

94331. The council shall establish and maintain a Private Postsecondary and Vocational Education Administration Fund. The fund shall be divided into two special accounts, pursuant to the requirements of subdivision (g) of Section 94304. All fees collected pursuant to this section shall be credited to this fund, along with any interest on the money, for the administration of this chapter. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the council without regard to fiscal years. However, if the Legislature makes an appropriation for the support of the council in the Budget Act of any fiscal year, the amount for the support of the council expended from
the respective accounts of the Private Postsecondary and Vocational Education Administration Fund during that fiscal year shall not exceed the amount appropriated by the Budget Act.

For the approval of private institutions operating under this chapter, the council shall charge an amount not exceeding the actual costs of approving the private institutions. On or before January 1, 1993, the council shall adopt a fee schedule for all institutions approved under this chapter, including the maximum amounts to be charged for an institution's initial application and annual renewal. The fee schedule shall provide adequate resources for the council to implement this chapter effectively. It is the intent of the Legislature that the council shall adopt a fee schedule that reflects the size of the institution, with institutions enrolling a larger number of students being required to pay a larger annual fee than those with smaller student enrollments. The council shall annually present its proposed budget and fee schedule to the Department of Finance and the Joint Legislative Budget Committee for their review as part of the annual budget process. The council shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make this schedule generally available to the public. The fees may be increased up to the maximum allowable level by a majority vote of the council, without any additional review and approval by the Office of Administrative Law. Increases above the maximum level shall be changed through legislation enacted by the Legislature and signed by the Governor.

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 for the California Postsecondary Education Commission, the Student Aid Commission, and the Council for Private Postsecondary and Vocational Education to delegate certain powers to their directors, to provide for continuous appropriations from the State Guaranteed Loan Reserve Fund and the Federal Trust Fund, to permit Cal Grant Program awards to be used for expenses of undergraduate coursework, as specified, and to permit the council to adopt a required fee schedule, as soon as possible, it is necessary that this act take effect immediately.
An act to amend, repeal, and add Section 1190 of the Harbors and Navigation Code, relating to pilotage, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 1992. Filed with Secretary of State August 14, 1992]

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

SECTION 1. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) On and after August 1, 1992, every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel’s deepest draft and fractions of a foot pro rata, and an additional charge of 54.93 mills per high gross registered ton. This additional charge of 54.93 mills may be augmented in accordance with either or both of the following:

(A) There shall be an incremental rate of 0.68 additional mill for each pilot appointed by the board in excess of 56 pilots.

(B) There shall be an incremental rate of 0.46 additional mill for each one hundred thousand dollars ($100,000) authorized by the board specifically for the pilot’s cost of obtaining a new pilot boat.

(2) A minimum charge for bar pilotage shall be six hundred dollars ($600) for each vessel piloted.

(3) The vessel’s deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage which passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Southern Pacific Bridge to the north and Hunter’s Point to the south. The rate for pilotage to or from the high seas to or from a point past the Southern Pacific Bridge or Hunter’s Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.

(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. 2. Section 1190 is added to the Harbors and Navigation Code, to read:

1190. (a) Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel’s deepest draft and fractions of a foot pro rata, and an additional charge of 60.56 mills per high gross registered ton.

(A) This additional charge of 60.56 mills may be augmented by an incremental rate of 0.78 additional mill for each pilot appointed by the board in excess of 60 pilots.

(B) In addition to the rate augmentation specified in subparagraph (A), the additional charge of 60.56 mills per high gross registered ton shall be adjusted quarterly effective on April 1, July 1, October 1, and January 1 of each year based solely upon a quarterly recalculation of actual gross registered tonnage made during the quarter preceding the effective date of change, based upon the most recent four quarters’ traffic volume. This quarterly adjustment will commence on April 1, 1993, and shall be calculated by the fiduciary selected by the board pursuant to Section 1162. The fiduciary shall determine the quarterly adjusted rate by a calculation wherein the total revenue to be generated by the mill rate, as approved by the board at a public hearing on June 5, 1992, pursuant to Section 1201.6, is the dividend and the total of the actual gross registered tonnage from the four most recent quarters preceding the quarter ending immediately before the effective date of the adjustment is the divisor. The resultant quotient, calculated to the nearest one-hundredth of a mill, shall be the new mill rate effective on the first day of the succeeding quarter and will remain in effect for that quarter or until otherwise adjusted.

(2) A minimum charge for bar pilotage shall be six hundred dollars ($600) for each vessel piloted.

(3) The vessel’s deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage which passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Southern Pacific Bridge to the north and Hunter’s Point to the south. The rate for pilotage to or from the high seas to or from a point past the Southern Pacific Bridge or Hunter’s Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the
rates charged by inland pilots for their services.

(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.

(e) This section shall become operative on January 1, 1993.

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 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun has recommended, pursuant to a stipulation submitted by an administrative law judge and agreed to by the entities representing industry and pilots, that the existing rate for pilotage be increased effective August 1, 1992. The basis for the recommendation is that the findings of the 1991 rate recommendation incorrectly projected the anticipated vessel traffic on the waters under the jurisdiction of the board. In order for the board’s recommendation for an emergency rate increase to be implemented by August 1, 1992, it is necessary that this act take effect immediately.

CHAPTER 484

An act to add Section 19056.5 to the Government Code, relating to state employment.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 19056.5 is added to the Government Code, to read:

19056.5. Notwithstanding any other provision in this part, if the appointment is to be made from a general reemployment list, the names of the three persons with the highest standing on the list shall be certified to the appointing power.
CHAPTER 485

An act to amend Section 4047.6 of, and to repeal Section 4047.7 of, the Business and Professions Code, relating to prescription drugs.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 4047.6 of the Business and Professions Code is amended to read:

4047.6. (a) On and after May 1, 1976, a pharmacist filling a prescription order for a drug product prescribed by its trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug type, as defined in subdivision (f). 

(b) In no case shall a selection be made pursuant to this section if the prescriber personally indicates, either orally or in his own handwriting, “Do not substitute,” or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription marked “Do not substitute”; provided that the prescriber personally initials such box or checkmark.

(c) Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subdivision (b). The person who selects the drug product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug product as would be incurred in filling a prescription for a drug product prescribed by generic name. There shall be no liability on the prescriber for an act or omission by a pharmacist in selecting, preparing, or dispensing a drug product pursuant to this section. In no case shall the pharmacist select a drug product pursuant to this section unless the drug product selected costs the patient less than the prescribed drug product. Cost, as used in this subdivision, is defined to include any professional fee which may be charged by the pharmacist.

(d) This section shall apply to all prescriptions, including those presented by or on behalf of persons receiving assistance from the federal government or pursuant to the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) When a substitution is made pursuant to this section, the use of the cost-saving drug product dispensed shall be communicated to the patient and the name of the dispensed drug product shall be indicated on the prescription label, except where the prescriber orders otherwise.

(f) For the purposes of this section, the term “generic drug type” means the chemical or generic name, as determined by the United States Adopted Names (USAN) and accepted by the Federal Food
and Drug Administration (FDA), of those drug products having the
same active chemical ingredients.

SEC. 2. Section 4047.7 of the Business and Professions Code is
repealed.

CHAPTER 486

An act to amend Sections 668.1 and 730 of the Harbors and
Navigation Code, and to amend Section 1803 of the Vehicle Code,
relating to vessel offenses.

[Approved by Governor August 16, 1992 Filed with
Secretary of State August 17, 1992.]

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

SECTION 1. Section 668.1 of the Harbors and Navigation Code
is amended to read:

668.1. (a) Any person convicted of a violation of subdivision (a),
(b), (c), (d), (e), or (f) of Section 655 pertaining to a mechanically
propelled vessel but not to manipulating any water skis, an
aquaplane, or similar device, or any person convicted of a violation
of Section 655.2, 655.6, 658, or 658.5 of this code, or Section 191.5 of
the Penal Code, when the conviction resulted from the operation of
a vessel, may be ordered by the court to complete and pass a boating
safety course approved by the department.

(b) Any person convicted of a violation of subdivision (a), (b),
(c), (d), (e), or (f) of Section 655 pertaining to a mechanically
propelled vessel but not to manipulating any water skis, an
aquaplane, or similar device, or any person convicted of a violation
of Section 655.2, 655.6, 658, or 658.5 of this code, or Section 191.5 of
the Penal Code, when the conviction resulted from the operation of
a vessel within seven years of a previous conviction of any of those
violations, shall be ordered by the court to complete and pass a
boating safety course approved by the department.

(c) Any person who has been ordered by the court to complete
and pass a boating safety course pursuant to subdivision (a) or (b)
shall submit to the court proof of completion and passage of the
course within seven months of the time of his or her conviction. The
proof shall be in a form that has been approved by the department
and that provides for the ability to submit the form to the court
through the United States Postal Service. If the person who has been
required to complete and pass a boating safety course is under 18
years of age, the court may require that the person obtain parental
consent to enroll in the course. If the person does not complete and
pass the boating safety course, the court may extend the period for
completion or impose another penalty as prescribed by statute.

(d) The department shall adopt regulations to carry out this
section, including approval of boating safety education courses, prescribing the forms for proof of completion and passage, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

SEC. 2. Section 730 of the Harbors and Navigation Code is amended to read:

730. (a) Before any broker’s license shall be issued or renewed by the department for any applicant, the applicant shall procure, file, and maintain with the department a good and sufficient bond in the amount of ten thousand dollars ($10,000) with a corporate surety duly licensed to do business within the State of California, and conditioned that the applicant shall not practice any fraud or deceit or make any fraudulent or grossly negligent representations that will cause a monetary loss to any person for whom the broker acts under this article.

(b) If any person suffers any loss or damage by reason of any fraud or deceit practiced on that person or any fraudulent or grossly negligent representation made to that person by a licensed broker or the broker’s sales personnel acting for the broker on the broker’s behalf or within the scope of the employment of the sales personnel, which fraud, deceit, or fraudulent or grossly negligent representation is practiced or made with respect to any act of the broker or the sales personnel for which a license is required under this article, that person has a right of action against the broker, the sales personnel, the surety upon the broker’s bond, or the deposit held by the department in accordance with Section 731. If any action is commenced upon the bond, the surety thereunder and the licensed yacht broker with respect to whom the bond has been issued shall immediately notify the department of the action.

(c) If an action is commenced on the bond of a licensed broker, the department may require the filing of an additional bond, and immediately upon the recovery in any action on the bond, the broker described therein shall file a new bond. Failure to file an additional bond within 15 days after notification that an additional bond is required by reason of action against the bond or after recovery on a bond constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled or on whose bond recovery has been made may be suspended.

(d) If a broker’s bond is canceled for a reason other than an action being commenced upon it, a new bond shall be filed by the broker. Failure to file a new bond within 30 days after notification that a new bond is required because a previous bond has been canceled constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled may be suspended.

SEC. 3. Section 1803 of the Vehicle Code is amended to read:

1803. (a) Every clerk of a court in which a person was convicted of any violation of this code, was convicted of any violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 pertaining to
a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, was convicted of any violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, or any violation of Section 191.5 of the Penal Code when the conviction resulted from the operation of a vessel, was convicted of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of any felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or was convicted of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a):

(1) Division 3.5 (commencing with Section 9840).
(2) Section 21113, with respect to parking violations.
(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.
(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).
(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).
(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.
(7) Division 16.5 (commencing with Section 38000).
(8) Sections 23221, 23223, 23225, and 23226.

(c) If the court impounds a license or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23186, or subdivision (c) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the
court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23167, 23187, or 23207, the clerk of the court in which the order terminating or revoking probation was entered, shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

SEC. 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 487

An act to amend Section 66016 of the Government Code, and to amend Section 41901 of the Public Resources Code, relating to solid waste.

[Approved by Governor August 16, 1992 Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 66016 of the Government Code is amended to read:

66016. (a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed
notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

(b) Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution.

(c) Any costs incurred by a local agency in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the services which were the subject of the meeting.

(d) This section shall apply only to fees and charges as described in Sections 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code.

(e) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion levying a fee or service charge subject to this section shall be brought pursuant to Section 66022.

SEC. 2. Section 41901 of the Public Resources Code is amended to read:

41901. A city, county, or city and county may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a countywide integrated waste management plan prepared pursuant to this division. The fees shall be based on the types or amounts of the solid waste, and shall be used to pay the actual costs incurred by the city or county in preparing, adopting, and implementing the plan, as well as in setting and collecting the local fees. In determining the amounts of the fees, a city or county shall include only those costs directly related to the preparation, adoption, and implementation of the plan and the setting and collection of the local fees. A city, county, or city and county shall impose the fees pursuant to Section 66016 of the Government Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level

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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 488

An act to amend Section 1942.4 of the Civil Code, and to amend
Section 1174.2 of the Code of Civil Procedure, relating to real
property.

[Approved by Governor August 16, 1992. Filed with
Secretary of State August 17, 1992]

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

SECTION 1. Section 1942.4 of the Civil Code is amended to read:
1942.4. (a) Any landlord who demands or collects rent when all
of the following conditions exist is liable to the tenant or lessee for
the actual damages sustained by the tenant or lessee and special
damages in an amount not less than one hundred dollars ($100) nor
more than one thousand dollars ($1,000):
(1) The rental dwelling substantially lacks any of the affirmative
standard characteristics listed in Section 1941.1.
(2) A public officer or employee who is responsible for the
enforcement of any housing law has notified the landlord, or an agent
of the landlord, in a written notice issued after inspection of the
premises which informs the landlord of his or her obligations to abate
the nuisance or repair the substandard conditions.
(3) The conditions have existed and have not been abated 60 days
beyond the date of issuance of the notice specified in paragraph (2)
and the delay is without good cause.
(4) The conditions were not caused by an act or omission of the
tenant or lessee in violation of Section 1929 or 1941.2.
(b) In addition to recovery of allowable costs of suit, the
prevailing party shall be entitled to recovery of reasonable attorney’s
fees in an amount fixed by the court.
(c) Any court that awards damages under subdivision (a) may
also order the landlord to abate any nuisance at the rental dwelling
and to repair any substandard conditions of the rental dwelling, as
defined in Section 1941.1, which significantly or materially affect
the health or safety of the occupants of the rental dwelling and are
uncorrected. If the court orders repairs or corrections, or both, the
court’s jurisdiction continues over the matter for the purposes of
ensuring compliance.
(d) The tenant or lessee shall be under no obligation to undertake
any other remedy prior to exercising his or her rights under this
section.
(e) Any action under this section may be maintained in small claims court if the claim does not exceed the jurisdictional limit of that court.

(f) The remedy provided by this section applies only to rental agreements or leases entered into or renewed on or after January 1, 1986, and may be utilized in addition to any other remedy provided by this chapter, the rental agreement, lease, or other applicable statutory or common law. Nothing in this section shall require any landlord to comply with this section if he or she pursues his or her rights pursuant to Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code.

SEC. 1.5. Section 1942.4 of the Civil Code is amended to read:

1942.4. (a) Any landlord who demands or collects rent when all of the following conditions exist is liable to the tenant or lessee for the actual damages sustained by the tenant or lessee and special damages in an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000):

(1) The rental dwelling substantially lacks any of the affirmative standard characteristics listed in Section 1941.1.

(2) A public officer or employee who is responsible for the enforcement of any housing law has notified the landlord, or an agent of the landlord, in a written notice issued after inspection of the premises which informs the landlord of his or her obligations to abate the nuisance or repair the substandard conditions.

(3) The conditions have existed and have not been abated 60 days beyond the date of issuance of the notice specified in paragraph (2) and the delay is without good cause.

(4) The conditions were not caused by an act or omission of the tenant or lessee in violation of Section 1929 or 1941.2.

(b) In addition to recovery of allowable costs of suit in any action under this section, including actions for injunctive relief, the prevailing party shall be entitled to recovery of reasonable attorney’s fees in an amount fixed by the court, except that where the prevailing party is a defendant, fees shall only be awarded based on a finding that the action was frivolous or brought in bad faith.

(c) Any court that awards damages under subdivision (a) may also order the landlord to abate any nuisance at the rental dwelling and to repair any substandard conditions of the rental dwelling, as defined in Section 1941.1, which significantly or materially affect the health or safety of the occupants of the rental dwelling and are uncorrected. If the court orders repairs or corrections, or both, the court’s jurisdiction continues over the matter for the purposes of ensuring compliance. In any action under this section, the tenant or lessee may obtain preliminary or permanent injunctive relief, including a temporary restraining order, pursuant to common-law principles to require repair or correction of a substandard housing condition.

(d) The tenant or lessee shall be under no obligation to undertake any other remedy prior to exercising his or her rights under this
section.

(e) Any action under this section may be maintained in municipal court if the claim does not exceed the monetary jurisdictional limit of that court. However, any action under this section may be maintained in small claims court only if the claim does not exceed the monetary jurisdictional limit of that court and if no injunctive relief is sought.

(f) The remedy provided by this section applies only to rental agreements or leases entered into or renewed on or after January 1, 1986, and may be utilized in addition to any other remedy provided by this chapter, the rental agreement, lease, or other applicable statutory or common law. Nothing in this section shall require any landlord to comply with this section if he or she pursues his or her rights pursuant to Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code.

SEC. 2. Section 1174.2 of the Code of Civil Procedure is amended to read:

1174.2. (a) In an unlawful detainer proceeding involving residential premises after default in payment of rent and in which the tenant has raised as an affirmative defense a breach of the landlord’s obligations under Section 1941 of the Civil Code or of any warranty of habitability, the court shall determine whether a substantial breach of these obligations has occurred. If the court finds that a substantial breach has occurred, the court (1) shall determine the reasonable rental value of the premises in its untenable state to the date of trial, (2) shall deny possession to the landlord and adjudge the tenant to be the prevailing party, conditioned upon the payment by the tenant of the rent that has accrued to the date of the trial as adjusted pursuant to this subdivision within a reasonable period of time not exceeding five days, from the date of the court’s judgment or, if service of the court’s judgment is made by mail, the payment shall be made within the time set forth in Section 1013, (3) may order the landlord to make repairs and correct the conditions which constitute a breach of the landlord’s obligations, (4) shall order that the monthly rent be limited to the reasonable rental value of the premises as determined pursuant to this subdivision until repairs are completed, and (5) except as otherwise provided in subdivision (b), shall award the tenant costs and attorneys’ fees if provided by, and pursuant to, any statute or the contract of the parties. If the court orders repairs or corrections, or both, pursuant to paragraph (3) of subdivision (a), the court’s jurisdiction continues over the matter for the purpose of ensuring compliance. The court shall, however, award possession of the premises to the landlord if the tenant fails to pay all rent accrued to the date of trial, as determined due in the judgment, within the period prescribed by the court pursuant to this subdivision. The tenant shall, however, retain any rights conferred by Section 1174.

(b) If the court determines that there has been no substantial breach of Section 1941 of the Civil Code or of any warranty of
habitatibility by the landlord or if the tenant fails to pay all rent accrued to the date of trial, as required by the court pursuant to subdivision (a), then judgment shall be entered in favor of the landlord, and the landlord shall be the prevailing party for the purposes of awarding costs or attorneys' fees pursuant to any statute or the contract of the parties.

(c) As used in this section, "substantial breach" means the failure of the landlord to comply with applicable building and housing code standards which materially affect health and safety.

(d) Nothing in this section is intended to deny the tenant the right to a trial by jury. Nothing in this section shall limit or supersede any provision of Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 1942.4 of the Civil Code proposed by both this bill and AB 3283. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1993, (2) each bill amends Section 1942.4 of the Civil Code, and (3) this bill is enacted after AB 3283, in which case Section 1 of this bill shall not become operative.

CHAPTER 489

An act to amend Sections 93002, 93010, and 93011 of the Government Code, relating to railroads.

[Approved by Governor August 16, 1992 Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 93002 of the Government Code is amended to read:

93002. It is the intent of the Legislature that the authority be expanded to include the County of Del Norte if the extension of rail service to that county becomes feasible at a future date.

SEC. 2. Section 93010 of the Government Code is amended to read:

93010. (a) The authority is hereby created within the Counties of Humboldt and Mendocino to provide rail passenger and freight service within those counties.

(b) The County of Marin or the County of Sonoma, or both, may elect to join the authority and, if that election is made, the authority is expanded to include the county or counties so electing.

SEC. 3. Section 93011 of the Government Code is amended to read:

93011. The authority shall be governed by a board of five, seven, or nine directors, composed as follows:

(a) Two persons appointed by each of the boards of supervisors of
the Counties of Humboldt and Mendocino. If the County of Marin or the County of Sonoma elects to join the authority, the board of supervisors of the county so joining shall appoint two persons to the board of directors. These directors shall serve for terms of two years and until their successors have qualified.

(b) The District Director of Transportation for State Transportation District 1, ex officio.

CHAPTER 490

An act to amend Section 13201 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. 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.

(e) (1) Knowingly causing or participating in a vehicular collision, or any other vehicular accident, for the purpose of presenting or causing to be presented any false or fraudulent insurance claim.

(2) In lieu of suspending a person's driving privilege pursuant to paragraph (1), the court may order the privilege to operate a motor vehicle restricted to necessary travel to and from that person's place of employment for not more than six months. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may restrict the driving privilege to allow driving in that person's scope of employment. Whenever a person's driving privilege is restricted pursuant to this paragraph, the person shall be required to maintain proof of financial responsibility.
CHAPTER 491

An act to amend Sections 54901 and 57204 of, and to repeal Section 57205 of, the Government Code, relating to local agency reorganization.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 54901 of the Government Code is amended to read:

54901. (a) The statement shall be in the form required by the Board of Equalization and include a certified copy of the ordinance or resolution ordering the creation of or change in boundary of the city, district or zone thereof, a legal description of said boundaries and a map or plat indicating the boundaries.

(b) If the proceedings require the executive officer of a local agency formation commission to execute a certificate of completion of proceedings, the statement shall set forth the effective date of the proceeding. The statement shall also specify whether or not the affected property will be taxed for any existing bonded indebtedness or contractual obligations, and specify the change associated with each affected agency.

(c) For changes of organization or reorganizations which include the incorporation of, annexation to, or detachment from a city, the statement shall also include the estimated population of the affected territory and include a map or plat showing limiting addresses on streets within the affected territory.

SEC. 2. Section 57204 of the Government Code is amended to read:

57204. (a) The executive officer shall file the statement of boundary change or creation with the Board of Equalization, the county assessor, and the county auditor as may be provided for by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5.

(b) The Board of Equalization shall distribute relevant information from the statements of boundary changes or creations to the Department of Finance, the Controller, and to the Secretary of State, as appropriate.

SEC. 3. Section 57205 of the Government Code is repealed.
CHAPTER 492

An act to amend Section 54984.4 of the Government Code, relating to local agencies.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 54984.4 of the Government Code is amended to read:

54984.4. (a) The local agency shall cause notice of the date, time, and place of hearing on the charge to be published, pursuant to Section 6066, prior to the date set for hearing, in a newspaper of general circulation printed and published within the jurisdiction of the entity, if there is one, and if not, then in a newspaper of general circulation printed and published in the county.

(b) The local agency shall also cause a notice in writing of the date, time, and place of hearing on the charge to be mailed at least 21 days prior to the date set for hearing, to each owner of land described in the resolution initiating proceedings. The mailed notice shall include the name and address of the local agency, a description of the charge and method by which it is proposed to be imposed, the amount of the charge or a schedule of charges, the address or addresses of the place or places where the resolution adopted pursuant to Section 54984.3 may be reviewed, and a summary of the procedures for making a protest set forth in Section 54984.6. The notice shall be mailed to the address shown on the last equalized assessment roll, or known to the secretary or clerk of the local agency.

CHAPTER 493

An act to amend Section 23502 of the Elections Code, relating to elections.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 23502 of the Elections Code is amended to read:

23502. (a) This part shall apply to all districts and agencies whose principal acts so provide. However, the provisions of this part requiring the county clerk to conduct elections shall apply to all resident voting districts and agencies, and, at the discretion of the
county clerk, may apply to landowner voting districts, notwithstanding any other provision of law.

(b) Notwithstanding subdivision (a), the county clerk shall conduct an election on behalf of a landowner voting district if the governing body of the district, by resolution, requests that assistance and agrees to reimburse the county pursuant to Section 23524 and any county ordinances or resolutions consistent therewith. A district making that request shall supply information regarding qualified voters pursuant to Section 23527.5, and any other pertinent information requested by the county clerk. The election may be conducted by all-mailed ballots at the discretion of the county clerk. The election may not be held on the same date as a regularly scheduled election. The county clerk may rely upon the list of qualified voters and other information supplied by the district and shall not be required to determine the qualified voters. If the district does not supply the required information regarding qualified voters and other pertinent information requested by the county clerk, within the time specified in Section 23527.5, the county clerk shall have no further obligation with respect to the election, and the district shall be responsible for conducting all remaining election activities.

(c) Where the provisions of this part conflict with the provisions of the principal act, the provisions of this part shall apply and control.

(d) This part shall not apply to the election of elective officers of the district upon formation of the district, except as to the term of office of the officers.

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 494

An act to amend Sections 1265.7 and 1267.13 of the Health and Safety Code, relating to congregate living health facilities.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 1265.7 of the Health and Safety Code is amended to read:

1265.7. (a) (1) The state department shall adopt regulations for
the licensure of congregate living health facilities. The regulations shall include minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards for staffing with duly qualified personnel, and training of the staff, and minimum standards for providing the services offered.

(2) Regulations for facilities approved to provide services for persons who may be ventilator dependent shall ensure that residents of these facilities are assured appropriate supportive health services in the most normal, least restrictive physical and rehabilitative environment appropriate to individual resident needs.

(3) Regulations for facilities approved to provide services for persons who are terminally ill, who have a diagnosis of a life-threatening illness, who are catastrophically and severely disabled, or any combination of those persons, shall ensure that residents of these facilities receive supportive health services, based on individual resident acuity levels in the most normal, least restrictive physical environment for individual resident needs.

(b) Pending adoption of the regulations pursuant to paragraphs (2) and (3) of subdivision (a), an entity shall be licensed as a congregate living health facility serving persons who are terminally ill, persons who are catastrophically and severely disabled, persons who are mentally alert but physically disabled, or any combination of these persons, by the state department beginning July 1, 1988, if it meets the requirements identified in subdivision (i) of Section 1250 and in Section 1267.13.

SEC. 2. Section 1267.13 of the Health and Safety Code is amended to read:

1267.13. Pursuant to paragraph (3) of subdivision (a) and subdivision (b) of Section 1265.7, this section shall be effective until the adoption of permanent regulations. Notwithstanding, the state department has authority to make reasonable accommodation for exceptions to the standards in this section, providing the health, safety, and quality of patient care is not compromised. No exceptions shall be made for building standards. Prior written approval communicating the terms and conditions under which the exception is granted shall be required. Applicants shall request the exception in writing accompanied by detailed, supporting documentation.

Congregate living health facilities serving persons who are terminally ill, persons who are catastrophically and severely disabled, persons who are mentally alert but physically disabled, or any combination of these persons, shall conform to the following:

(a) Facilities shall obtain and maintain a valid fire clearance from the appropriate authority having jurisdiction over the facility, based on compliance with state regulations concerning fire and life safety, as adopted by the State Fire Marshal.

(b) The State Fire Marshal, with the advice of the State Board of Fire Services, shall adopt regulations on or before January 1, 1991, following a public hearing, establishing minimum requirements for the protection of life and property for congregate living health
facilities serving terminally ill persons, catastrophically and severely disabled persons, persons who are mentally alert but physically disabled, or any combination of these persons. These minimum requirements shall recognize the residential and noninstitutional setting of congregate living health facilities serving terminally ill persons, catastrophically and severely disabled persons, persons who are mentally alert but physically disabled, or any combination of these persons.

(c) Facilities shall be in a homelike residential setting. Living accommodations and grounds shall be related to the facility's function and clientele. Facilities shall provide sufficient space for comfortable living accommodations and privacy for residents, staff, and others who may reside in the facility.

(d) Common rooms, such as living rooms, dining rooms, and dens or other recreation or activity rooms, shall be provided and shall have sufficient space, separation, or both to promote and facilitate the program of activities and to prevent these activities from interfering with other functions. Accommodations shall ensure adequate space for residents to have visitors and for privacy during visits, if desired.

(e) Resident bedrooms shall have adequate space to allow easy passage throughout; permit comfortable usage of furnishings; promote ease of nursing care; and accommodate use of assistive devices, including, but not limited to, wheelchairs, walkers, and patient lifts, when needed.

(f) No room commonly used for other purposes, including, but not limited to, a hall, stairway, attic, garage, storage area, shed, or similar detached building, shall be used as a sleeping room for any resident.

(g) No resident bedroom shall be used as a passageway to another room, bath, or toilet.

(h) Not more than two residents shall share a bedroom.

(i) Equipment and supplies necessary for personal care and maintenance of adequate hygiene shall be readily available to all residents.

(j) Toilets and bathrooms shall be conveniently located. At least one toilet and washbasin shall be provided per six residents. At least one bathtub or shower shall be provided per 10 residents. Individual privacy shall be provided in all toilet, bath and shower areas. Separate toilet, washbasin, and bathtub or shower accommodations shall be provided for staff.

(k) Sufficient room shall be available throughout the facility to accommodate and serve all persons in comfort and safety. The premises shall be maintained in good repair and shall provide a safe, clean, and healthful environment.

(l) Facilities shall have equipment and supplies appropriate to meet the routine and specialized needs of all residents.

(m) All persons shall be protected from hazards throughout the premises:

(1) Stairways, inclines, ramps, open porches, and other areas of potential hazard to residents with poor balance or eyesight shall be
made inaccessible unless well lighted and equipped with sturdy hand railings.
(2) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.
(3) All indoor and outdoor passageways and stairways shall be kept free of obstructions.
(4) Fireplaces, woodstoves, and open-faced heaters shall be adequately screened.
(5) Facilities shall assure the inaccessibility of fishponds, wading pools, hot tubs, swimming pools, or similar bodies of water or other areas of potential hazard when not in active use.
(n) Facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, shall, in addition to the requirements of this chapter and until specific regulations governing their operation are filed, conform to regulations contained in Chapter 3 of Division 5 of Title 22 of the California Code of Regulations of April 1, 1988, with the exception of the following sections or portions of sections: 72007, 72053, 72073, subdivision (a) of Section 72077, 72097, 72099, 72103, 72203, subdivision (a) of Section 72205, 72301, 72305, subdivision (a) of Section 72325, 72327, 72329, 72331, 72337, subdivisions (b), (g), and (h) of Section 72351, 72353, subdivision (a) of Section 72367, 72373, subdivision (b) of Section 72375, 72401, 72403, 72405, 72407, 72409, 72411, 72413, 72415, 72417, 72419, 72421, 72423, 72425, 72427, 72429, 72431, 72433, 72435, 72437, 72439, 72441, 72443, 72445, 72447, 72449, 72451, 72453, 72455, 72457, 72459, 72461, 72463, 72465, 72467, 72469, 72471, 72473, 72475, 72503, paragraph (2) of subdivision (a) of Section 72513, 72520, 72535, 72555, 72557, subdivisions (a) and (b) of Section 72601, subdivision (d) of Section 72607, subdivisions (a) and (d) of Section 72609, 72611, 72615, 72617, 72629, 72631, 72633, 72635, subdivisions (b), (c), and (d) of Section 72639, 72641, and 72665.
(o) (1) Facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, shall have an administrator who is responsible for the day-to-day operation of the facility. The administrator may be either a licensed registered nurse, a nursing home administrator, or the licensee. The administrator shall be present at the facility a sufficient number of hours to ensure the smooth operation of the facility. If the administrator is also the registered nurse fulfilling the duties specified in paragraph (2), the administrator shall not be responsible for more than one facility. In all other circumstances, the administrator shall not be responsible for more than three facilities with an aggregate total of 75 beds and these facilities shall be within one hour's surface travel time of each other.
(2) (A) For each congregate living health facility of more than six beds serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, there shall be, at a minimum, a
registered nurse or licensed vocational nurse awake and on duty at all times. A registered nurse shall be awake and on duty eight hours a day, five days a week.

(B) For each congregate living health facility of six or fewer beds serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, a registered nurse shall visit each patient at least twice a week for approximately two hours, or more as patient care requires.

(C) For all congregate living health facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, a registered nurse shall be available for consultation and able to come into the facility within 30 minutes, if necessary, when no registered nurse is on duty. In addition, certified nurse assistants, or persons with similar training and experience as determined by the department, shall be awake and on duty in the facility in at least the following ratios: facilities with six beds or less, one per shift; facilities with 7 to 12 beds, two per shift; facilities with 13 to 25 beds, three per day and evening shifts and two per nocturnal shift. No nursing services personnel shall be assigned housekeeping or dietary duties.

(3) Notwithstanding the provisions of this subdivision, the facility shall provide appropriately qualified staff in sufficient numbers to meet patient care needs.

(4) Nursing service personnel shall be employed and on duty in at least the number and with the qualifications determined by the department to provide the necessary nursing services for patients admitted for care. The department may require a facility to provide additional professional, administrative, or supportive personnel whenever the state department determines through a written evaluation, that additional personnel are needed to provide for the health and safety of patients.

(5) All staff members shall receive orientation regarding care appropriate for the patients’ diagnoses and individual resident needs. Orientation shall include a minimum of 16 hours during the first 40 hours of employment.

(6) Nothing in this chapter shall prevent the use of volunteers; however, volunteers shall not be used as substitutes for the personnel required in the above sections. Volunteers providing patient care services shall:

(A) Be provided clearly defined roles and written job descriptions.

(B) Receive orientation and training equivalent to that provided paid staff.

(C) Possess education and experience equal to that required of paid staff performing similar functions.

(D) Conform to the facility’s policies and procedures.

(E) Receive periodic performance evaluations.

(p) The interim regulations prescribed by this section shall
become inoperative upon the filing of the permanent regulations with the Secretary of State, or on July 1, 1993, whichever occurs first.

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 495

An act to amend Section 361.3 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 361.3 of the Welfare and Institutions Code is amended to read:

361.3. (a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative. In determining whether placement with a relative is appropriate, the probation officer and court shall consider the ability of the relative to provide a secure and stable environment for the child. Factors to be considered in that assessment include, but are not limited to, the good moral character of the relative; the ability of the relative to exercise proper and effective care and control of the child; the ability of the relative to provide a home and the necessities of life for the child; which relative is most likely to protect the child from his or her parents; which relative is most likely to facilitate visitation with the child’s other relatives and to facilitate reunification efforts with the parents; and the best interests of the child. In this regard, the Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of children, and a probation officer’s determination as to the ability of a disabled relative to exercise care and control should center upon whether the relative’s disability prevents him or her from exercising care and control. The county social worker shall ask the parents if there are any relatives that should be considered for placement. This inquiry shall not be construed, however, to guarantee that the minor will be placed with
any person so identified.

(b) In any case in which more than one appropriate relative requests preferential consideration pursuant to this section, the probation officer and the court, in determining which relative should receive preferential consideration, shall consider the best interests of the child, and which of the relatives is most likely to protect the child from his or her parents, to facilitate visitation with the child's other relatives, and to facilitate reunification efforts with the parents. Consideration shall also be given to attempting to place siblings and stepsiblings in the same home if such a placement is found to be in their best interests.

(c) For purposes of this section:

(1) "Preferential consideration" means that the relative seeking placement shall be the first placement to be considered and investigated.

(2) "Relative" means an adult who is a grandparent, aunt, uncle, or sibling.

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 496

An act to amend Section 50736 of the Health and Safety Code, relating to housing.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 50736 of the Health and Safety Code is amended to read:

50736. (a) Not less than 30 percent of the units in each rental housing development consisting of 10 or more units which receives any funds pursuant to this chapter shall be available on a priority basis to or occupied by eligible households pursuant to the agreement required by Section 50739, and not less than 20 percent of all the units in each rental housing development shall be available

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on a priority basis to, or occupied by, very low income households.

(b) Every sponsor shall, with respect to assisted units, conduct an affirmative marketing program, on a continuous basis, which program has been approved by the department or by the agency in cases where the agency provides financing. For the purposes of this subdivision, “affirmative marketing program” means any program approved by the department that is designed to achieve greater access to housing opportunities created by this chapter for eligible households. Such program shall include educational, promotional, and other appropriate activity designed to secure greater housing opportunities for those households. Where a significant number of persons in a community have limited fluency in the English language, publications implementing an affirmative marketing program in that community shall be provided in the native language of those persons.

(c) Of all assisted units, under this chapter, not less than two-thirds shall be allocated to very low income households and the balance for lower income households.

(d) Elderly or handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the assisted units provided pursuant to this chapter. Other handicapped households shall be eligible for assisted units pursuant to this subdivision or subdivision (a), (b), (c), or (e) if they otherwise meet the requirements imposed by those provisions.

(e) Not less than 20 percent of the funds loaned pursuant to this chapter after November 1988 shall be allocated to rural areas.

For the purposes of this section “rural area” shall have the same meaning as defined in Section 50199.21.

CHAPTER 497

An act to add Sections 16516 and 16517 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 16516 is added to the Welfare and Institutions Code, to read:

16516. (a) No social worker or probation officer acting as an officer of the court for purposes of this chapter shall, directly or indirectly, lobby for, act as a consultant to, enter into a business transaction with, acquire ownership of, or obtain a pecuniary interest in, any business, whether organized for profit or as a nonprofit entity, which has received any funds or income from court-ordered child welfare services.
(b) (1) Any public law enforcement agency or any private entity shall have standing to bring an action seeking a civil remedy pursuant to this section in any court of competent jurisdiction.

(2) Any person who violates this section shall be subject to any or all of the following remedies, as ordered by the court, in its discretion:

(A) Restitution of funds received in violation of this section.
(B) Statutory damages of not less than one thousand dollars ($1,000), not to exceed treble the amount of the funds received in violation of this section.
(C) Actual damages resulting from a violation of this section.
(D) Termination of the grant or contract.
(E) Reasonable attorney's fees.
(F) Any other relief which the court deems proper.
(c) The following definitions contained in this subdivision shall govern the construction of this section, unless the context requires otherwise:

(1) "Court-ordered child welfare services" includes, those services ordered by the court pursuant to Sections 11450 and 16501 for a dependent or ward of the court.

SEC. 2. Section 16517 is added to the Welfare and Institutions Code, to read:

16517. (a) No social worker or probation officer acting as an officer of the court shall make an out-of-home placement of a dependent or ward of the court pursuant to this chapter with any of the following:

(1) Any relative of the social worker or probation officer responsible for the placement of the child.
(2) The spouse of any relative described in paragraph (1).
(b) No social worker or probation officer acting as an officer of the court shall receive compensation for the out-of-home placement of a dependent or ward of the court other than the compensation received as an employee of the county or the state.

CHAPTER 498

An act to amend Section 987.603 of the Military and Veterans Code, relating to veterans' farm and home purchases.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 987.603 of the Military and Veterans Code is amended to read:

987.603. The department may acquire an assignment of an Indian veteran's beneficial interest in trust land held by the United States
for that veteran or a leasehold interest in trust land acquired by the Indian veteran from an Indian beneficiary and contract with an Indian veteran as provided in Sections 987.601 and 987.602 upon the terms agreed if all of the following conditions are met:

(a) The department is satisfied of the desirability of the property submitted.

(b) The Indian veteran has agreed with the department that the veteran, or members of the veteran's immediate family, will actually reside on the property within 60 days from the date of acquisition by the department, or if the residence on the property is not complete on the date of acquisition, within 60 days after the residence is completed.

(c) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed the maximum loan amount established pursuant to subdivision (a) of Section 987.65. The sum to be expended by the department pursuant to a contract for the acquisition of a mobilehome on trust land or leasehold land does not exceed the maximum loan amount established pursuant to subdivision (b) of Section 987.65. The sum to be expended by the department pursuant to a contract for the acquisition of a farm on trust land or leasehold land does not exceed the maximum loan amount established pursuant to subdivision (e) of Section 987.65.

(d) The Indian veteran has paid a reasonable fee set by the department to cover the cost of preliminary service of the department that may be necessary to process the application.

(e) The Indian veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract executed by a contractor licensed by the State of California or by an Indian contractor approved by the department for the construction of the improvements, in accordance with the plans and specifications, within eight months after the assignment of the Indian veteran's beneficial interest or acquisition of the Indian veteran's leasehold interest in the real property by the department, and a bond executed by the contractor providing for compliance with the terms of the contract and for the payment of persons furnishing material or labor on the job, executed by a surety company, authorized to do business in the State of California.

(f) The plans, specifications, contract, and bond are approved by the department.

(g) The Indian veteran has placed in escrow all sums of money to be advanced by the veteran where the cost is in excess of the maximum that may be expended by the department.
An act to amend, add, and repeal Section 19997.6 of the Government Code, relating to civil service.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 19997.6 of the Government Code is amended to read:

19997.6. A veteran, except a veteran who was reinstated from military leave, shall in the event of layoff receive seniority credit for recognized military service only as follows:

(a) The veteran must have entered the state service within one year after date of discharge or the end of the national emergency or the end of the state military emergency, whichever of these dates is the earlier, or; if more than one year has elapsed, he or she shall have been in attendance at regular sessions at a college or vocational training school, for not more than five years, commencing within one year of his discharge.

(b) Seniority credit for recognized military service shall be computed as if it were service in the class to which the employee was first given permanent civil service or exempt appointment after his or her entry into the state service following recognized military service.

(c) Seniority credit shall not exceed one years' credit if the veteran had no state service prior to entering the military service.

(d) 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. Section 19997.6 is added to the Government Code, to read:

19997.6. (a) A veteran, except a veteran who was reinstated from military leave, shall in the event of layoff receive seniority credit for recognized military service if the veteran entered the state service after discharge, the end of the national emergency, or the end of the state military emergency.

(b) Seniority credit for recognized military service shall be computed as if it were service in the class to which the employee was first given permanent civil service or exempt appointment after his or her entry into the state service following recognized military service.

(c) Seniority credit for recognized military service shall not exceed one years' credit if the veteran had no state service prior to entering the military service.

(d) This section shall become operative on July 1, 1993.
CHAPTER 500

An act to amend Sections 8880.29, 8880.30, 8880.32, 8880.33, 8880.35, 8880.41, 8880.47, 8880.48, 8880.49, 8880.50, 8880.56, 8880.60, and 8880.63 of the Government Code, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 8880.29 of the Government Code is amended to read:

8880.29. (a) The commission shall promulgate regulations which specify the number and value of prizes for winning tickets or shares in each lottery game including, without limitation, cash prizes, merchandise prizes, prizes consisting of deferred payments or annuities, and prizes of tickets or shares in the same lottery game or other games conducted by the lottery, provided:

1. In lottery games utilizing tickets, the overall estimated odds of winning some prize or some cash prize as appropriate for the lottery game shall be printed on each ticket.

2. A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery game, or the estimated odds of winning the prizes, shall be available at each location at which tickets or shares in the lottery games are offered for sale to the public.

(b) Annuity contracts which are purchased for prizes shall be exempt from the requirements of Section 8880.57.

SEC. 2. Section 8880.30 of the Government Code is amended to read:

8880.30. The commission shall promulgate regulations which specify the method for determining winners in each lottery game, provided:

(a) No lottery game shall be based on the results of a horserace.

(b) If a lottery game utilizes a drawing of winning numbers, a drawing among entries, or a drawing among finalists, the drawings shall always be open to the public; any manual or physical selection by a person in the drawings shall not be conducted by any employee of the lottery; the drawings shall be witnessed by an independent certified public accountant; any equipment used in the drawings shall be inspected by the independent certified public accountant and an employee of the lottery both before and after the drawings; and the drawings and the inspections shall be recorded on both videotape and audiotape.

(c) It is the intent of this chapter that the commission may use any of a variety of existing or future methods or technologies in determining winners.
SEC. 3. Section 8880.32 of the Government Code is amended to read:

8880.32. The commission shall promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided:

(a) For convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to six hundred dollars ($600) after performing validation procedures on their premises appropriate to the lottery game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the lottery game involved, purchased by a minor, or not in compliance with additional specific rules and regulations and confidential validation and security tests appropriate to the particular lottery game. The lottery may pay a prize even though the actual winning ticket is not received by the lottery if the lottery validates the claim for the prize based upon substantial proof. "Substantial proof" means any evidence that would permit the lottery to use established validation procedures, as specified in lottery regulations, to validate the claim.

The commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. Any such declaration shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any lottery game shall be paid more than once.

(d) The commission may specify that winners of less than twenty-five dollars ($25) claim the prizes from either the same lottery game retailer from whom the ticket or share was purchased or from the lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the lottery game or play in which the prize was won. The commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the commission or for any on-line game prize within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this chapter.

(f) After the expiration of the claim period for prizes for each lottery game, the commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a lottery game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the commission.

(g) The right of any person to a prize shall not be assignable, except that payment of any prize may be paid to a trust established for the benefit of that person, to the estate of a deceased prize
winner, or to a person designated pursuant to an appropriate judicial order. In the event that there is no probate, the prize shall be paid to the survivors of the claimant in the following order:

1. The claimant's spouse.
2. The claimant's children.
3. The claimant's parents.
4. The claimant's brothers and sisters.

Payment shall be to the members of the group entitled, who are living on the date of death of the claimant, share and share alike. No payment shall be made to persons in any group if at the date of death there are living persons in any group preceding it. The director, the commission, and the state shall be discharged of all further liability upon the payment of a prize pursuant to this subdivision.

(h) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(i) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 4. Section 8880.33 of the Government Code is amended to read:

8880.33. (a) The commission shall promulgate regulations specifying the manner of distribution, dissemination, or sale of lottery tickets or shares to lottery game retailers or directly to the public, and the incentives, if any, for lottery employees engaged in the distribution or sales activities.

(b) The commission shall also make available upon request to lottery game retailers a model agreement to govern the division of prizes among multiple purchasers of a winning ticket or tickets purchased through a group purchase or pooling arrangement.

SEC. 5. Section 8880.35 of the Government Code is amended to read:

8880.35. The director shall, subject to the approval of the commission, perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities, and carry out and effect all purposes of this chapter. The director shall act as secretary of the commission and executive officer of the lottery. The director shall supervise and administer the operation of the lottery in accordance with this chapter and the regulations promulgated by the commission. In addition, the director shall have access to criminal
history information pursuant to Sections 11105 and 11105.01 of the Penal Code. In all decisions, the director shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of the lottery. In decisions relating to advertising and promotion of the lottery, the director shall ensure that the lottery complies with both the letter and spirit of the laws governing false and misleading advertising, including Section 17500 and following of the Business and Professions Code.

SEC. 6. Section 8880.41 of the Government Code is amended to read:

8880.41. The director shall make and keep books and records that accurately and fairly reflect each day's transactions, including, but not limited to, the distribution of tickets or shares to lottery game retailers, receipt of funds, prize claims, prize disbursements or prizes liable to be paid, expenses and other financial transactions of the lottery necessary so as to permit preparation of financial statements in conformity with generally accepted accounting principles and maintain daily accountability.

SEC. 7. Section 8880.47 of the Government Code is amended to read:

8880.47. The commission shall promulgate regulations specifying the terms and conditions for contracting with lottery game retailers so as to provide adequate and convenient availability of tickets or shares to prospective buyers of lottery games.

SEC. 8. Section 8880.48 of the Government Code is amended to read:

8880.48. (a) The director shall, pursuant to this chapter and the regulations of the commission, select as lottery game retailers those persons and organizations as the director deems shall best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 years shall be a lottery game retailer. In the selection of lottery game retailers, the director shall consider factors such as financial responsibility, integrity, reputation, accessibility of the place of business or activity to the public, security of the premises, the sufficiency of existing lottery game retailers to serve the public convenience, and the projected volume of the sales for the lottery game involved.

(b) In order to allow an evaluation of the competence, integrity, and character of potential lottery game retailers, the commission may require information it deems necessary of any person, corporation, trust, association, partnership, or joint venture applying for authority to act as a lottery game retailer.

No person shall be a lottery game retailer if the person is engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state property, an owner or lessee of an establishment which sells alcoholic beverages, and a civic and fraternal organization may be selected as a lottery game retailer. The director may contract with lottery game retailers...
on a seasonal or temporary basis.

(c) The commission shall establish a formal written appeal process concerning the denial of an application for, or revocation of, a contract to be a lottery game retailer.

SEC. 9. Section 8880.49 of the Government Code is amended to read:

8880.49. A contract with a lottery game retailer shall not be assignable or transferable.

SEC. 10. Section 8880.50 of the Government Code is amended to read:

8880.50. (a) The commission shall promulgate regulations that prescribe the procedure by which a contract with a lottery game retailer may be terminated and the reasons for the termination, including, but not limited to, instances where a lottery game retailer knowingly sells a ticket or share to any person under the age of 18 years.

(b) Any lottery game retailer who employs or uses the services of any person under the age of 18 years for the sale of lottery tickets or shares shall be subject to suspension or revocation of his or her contract. However, a person under the age of 18 years may be employed or used to sell lottery tickets or shares, if that person is under the continuous supervision of a person 21 years of age or older.

SEC. 11. Section 8880.56 of the Government Code is amended to read:

8880.56. (a) Notwithstanding other provisions of law, the director may purchase or lease goods and services as are necessary for effectuating the purposes of this chapter. The director may not contract with any private party for the operation and administration of the California State Lottery, created by this chapter. However, this section does not preclude procurements which integrate functions such as game design, supply, advertising, and public relations. In all procurement decisions, the director shall, subject to the approval of the commission, award contracts to the responsible supplier submitting the lowest and best proposal that maximizes the benefits to the state in relation to the areas of security, competence, experience, and timely performance, shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of raising net revenues for the benefit of the public purpose described in this chapter.

(b) Notwithstanding any other provision of this chapter, the following shall apply to contracts or procurement by the lottery:

(1) To ensure the fullest competition, the commission shall adopt and publish competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than one hundred thousand dollars ($100,000). The competitive bidding procedures shall include, but not be limited to, requirements for submission of bids and accompanying documentation, guidelines for
the use of requests for proposals, invitations to bid, or other methods of bidding, and a bid protest procedure. The director shall determine whether the goods or services subject to this paragraph are available through existing contracts or price schedules of the Department of General Services.

(2) The provisions of Article 1 (commencing with Section 11250) of Chapter 3 of Part 1 of Division 3 apply to the commission.

(3) The commission is subject to the Small Business Procurement and Contract Act, as provided in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3.

(4) In advertising or awarding any contract for the procurement of goods and services exceeding five hundred thousand dollars ($500,000), the commission and the director shall require all bidders or contractors, or both, to include specific plans or arrangements to utilize subcontracts with socially and economically disadvantaged small business concerns. The subcontracting plans shall delineate the nature and extent of the services to be utilized, and those concerns or individuals identified for subcontracting if known.

It is the intention of the Legislature in enacting this section to establish as an objective of the utmost importance the advancement of business opportunities for these small business concerns in the private business activities created by the California State Lottery. In that regard, the commission and the director shall have an affirmative duty to achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs.

By July 1, 1986, the commission shall adopt proposal evaluation procedures, criteria, and contract terms which are consistent with the advancement of business opportunities for small business concerns in the private business activities created by the California State Lottery and which will achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs. The proposal evaluation procedures, criteria, and contract terms adopted shall be reported in writing to both houses of the Legislature on or before July 1, 1986.

For the purposes of this section, socially and economically disadvantaged persons include women, Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities or any other natural persons found by the commission to be disadvantaged.

The commission shall report to the Legislature by July 1, 1987, and by each July 1 thereafter, on the level of participation of small businesses, socially and economically disadvantaged businesses, and California businesses in all contracts awarded by the commission.
(5) The commission shall prepare and submit to the Legislature by October 1 of each year a report detailing the lottery’s purchase of goods and services through the Department of General Services. The report shall also include a listing of contracts awarded for more than one hundred thousand dollars ($100,000), the name of the contractor, amount and term of the contract, and the basis upon which the contract was awarded.

The lottery shall fully comply with the requirements of paragraphs (2) to (4), inclusive, except that any function or role which is otherwise the responsibility of the Department of Finance or the Department of General Services shall instead, for purposes of this subdivision, be the sole responsibility of the lottery, which shall have the sole authority to perform that function or role.

SEC. 12. Section 8880.60 of the Government Code is amended to read:

8880.60. No member of the commission shall, for a two-year period after the end of the member’s term, accept any consideration from, whether directly or indirectly, and shall not accept any employment with, whether as an employee, independent contractor, or consultant, any lottery contractor successful in a major procurement whose contract award was subject to formal approval by the commission. No director shall accept any consideration from, whether directly or indirectly, and shall not accept any employment with, whether as an employee, independent contractor, or consultant, any lottery contractor successful in a major procurement for a period of two years commencing on the last day that the director is employed by the lottery. No other lottery employee involved in the evaluation of or recommendation to award a major procurement shall accept any consideration from, or employment with, any lottery contractor successful in that procurement for a period of one year commencing on the last day that the person is employed by the lottery. In the event that the director, any member of the commission, or other lottery employee violates this subdivision, the commission may terminate the contract between the lottery and the lottery contractor for the major procurement. The Attorney General shall investigate the facts surrounding the violation and shall recommend to the commission any appropriate civil remedies which the lottery has against the lottery contractor, member of the commission, director, or other lottery employee due to the violation, including, but not limited to, action to terminate the lottery contractor’s contract where appropriate.

For purposes of this subdivision, “major procurement” means any procurement of materials, supplies, services, or equipment other than those common to the ordinary operations of state agencies.

The prohibitions imposed by this section shall not apply to any person who left government service prior to September 28, 1987, except that a person who returns to government service on or after that date shall thereafter be covered thereby.

SEC. 13. Section 8880.63 of the Government Code is amended to
read:

8880.63. As nearly as practical, 50 percent of the total projected revenue, computed on a year-round basis accruing from the sales of all lottery tickets or shares shall be apportioned for payment of prizes.

SEC. 14. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984.

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

In order to provide additional revenues for the support of public education through improved marketing strategies, it is necessary for this act to take effect immediately.

CHAPTER 501

An act to amend Sections 20001 and 23199 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 20001 of the Vehicle Code is amended to read:

20001. (a) The driver of any vehicle involved in an accident resulting in injury to any person, other than himself or herself, or in death of any person shall immediately stop the vehicle at the scene of the accident and shall fulfill the requirements of Sections 20003 and 20004.

(b) (1) Except as provided in paragraph (2), any violation of subdivision (a) shall be punished by imprisonment in the state prison, or 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 fine and imprisonment.

(2) Any violation of subdivision (a) which results in death or permanent, serious injury shall be punished by imprisonment in the state prison for two, three, or four years, or in the county jail for not less than 90 days nor 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 fine and imprisonment. However, the court may, in the interests of justice and for reasons stated in the record, reduce or eliminate the minimum imprisonment required by this paragraph.

As used in this paragraph, “permanent, serious injury” means loss or permanent impairment of function of any bodily member or
organ.
(3) In imposing the minimum fine required by this subdivision, the court shall take into consideration the defendant’s ability to pay the fine and may, in the interests of justice and for reasons stated in the record, reduce the amount of that minimum fine to less than the amount otherwise required by this subdivision.

SEC. 2. Section 23199 of the Vehicle Code is amended to read: 23199. If any person is convicted of a violation of Section 20001, or of Section 23152 or 23153 and is sentenced to one year in the county jail or more than one year in state prison under Section 23165, 23166, 23170, 23171, 23175, 23176, 23180, 23181, 23182, 23185, 23186, 23190, or 23191, the court may postpone the revocation or suspension of the person’s driving privilege until the term of imprisonment is served.

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 502

An act to add Sections 293 and 293.5 to the Penal Code, relating to victims of crimes.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 293 is added to the Penal Code, to read: 293. (a) Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.
(b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize his or her response.
(c) No law enforcement agency shall disclose to any person, except the prosecutor, the address of a person who alleges to be the victim of a sex offense.
(d) No law enforcement agency shall disclose to any person, except the prosecutor, the name of a person who alleges to be the victim of a sex offense, if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.

(e) For purposes of this section, sex offense means any crime listed in paragraph (2) of subdivision (f) of Section 6254 of the Government Code which is also defined in Chapter 1 (commencing with Section 261) or Chapter 5 (commencing with Section 281) of Part 1 of Title 9.

SEC. 2. Section 293.5 is added to the Penal Code, to read:

293.5. (a) Except as provided in Chapter 10 (commencing with Section 1054) of Part 2 of Title 7, or for cases in which the alleged victim of a sex offense, as specified in subdivision (e) of Section 293, has not elected to exercise his or her right pursuant to Section 6254 of the Government Code, the court, at the request of the alleged victim, may order the identity of the alleged victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that such an order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the prosecution or the defense.

(b) If the court orders the alleged victim to be identified as Jane Doe or John Doe pursuant to subdivision (a) and if there is a jury trial, the court shall instruct the jury, at the beginning and at the end of the trial, that the alleged victim is being so identified only for the purpose of protecting his or her privacy pursuant to this section.

CHAPTER 503

An act to add Section 11370.9 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 11370.9 is added to the Health and Safety Code, to read:

11370.9. (a) It is unlawful for any person knowingly to receive or acquire proceeds, or engage in a transaction involving proceeds, known to be derived from any violation of this division or Division 10.1 with the intent to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds or to avoid a transaction reporting requirement under state or federal law.

(b) It is unlawful for any person knowingly to give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in, or
otherwise make available, anything of value which that person knows is intended to be used for the purpose of committing, or
furthering the commission of, any violation of this division or
Division 10.1 with the intent to conceal or disguise or aid in
concealing or disguising the nature, location, ownership, control, or
source of the proceeds or to avoid a transaction reporting
requirement under state or federal law.

c) It is unlawful for any person knowingly to direct, plan,
organize, initiate, finance, manage, supervise, or facilitate the
transportation or transfer of proceeds known to be derived from any
violation of this division or Division 10.1 with the intent to conceal
or disguise or aid in concealing or disguising the nature, location,
ownership, control, or source of the proceeds or to avoid a
transaction reporting requirement under state or federal law.

d) It is unlawful for any person knowingly to conduct a
transaction involving proceeds derived from a violation of this
division or Division 10.1 when the transaction is designed in whole
or in part to conceal or disguise the nature, location, source,
ownership, or control of the proceeds known to be derived from a
violation of this division or Division 10.1 with the intent to conceal
or disguise or aid in concealing or disguising the nature, location,
ownership, control, or source of the proceeds or to avoid a
transaction reporting requirement under state or federal law.

e) A violation of this section shall be punished by imprisonment
in a county jail for not more than one year or in the state prison for
a period of two, three, or four years, by a fine of not more than two
hundred fifty thousand dollars ($250,000) or twice the value of the
proceeds or property involved in the violation, whichever is greater,
or by both that imprisonment and fine. Notwithstanding any other
provision of law, each violation of this section shall constitute a
separate, punishable offense without limitation.

f) This section shall apply only to a transaction, or series of
related transactions within a 30-day period, involving over
twenty-five thousand dollars ($25,000) or to proceeds of a value
exceeding twenty-five thousand dollars ($25,000).

g) In consideration of the constitutional right to counsel afforded
by the Sixth Amendment to the United States Constitution and
Section 15 of Article 1 of the California Constitution, this section is
not intended to apply to the receipt of, or a related transaction
involving, a fee by an attorney for the purpose of providing advice
or representing a person in a criminal investigation or prosecution.

h) For the purposes of this section, the following terms have the
following meanings:

1) "Proceeds" means property acquired or derived directly or
indirectly from, produced through, or realized through any violation
of this division or Division 10.1.

2) "Transaction" includes a purchase, sale, trade, loan pledge,
investment, gift, transfer, transmission, delivery, deposit,
withdrawal, payment, electronic, magnetic, or manual transfer
between accounts, exchange of currency, extension of credit, purchase or sale of any monetary instrument, or any other acquisition or disposition of property by whatever means effected.

(3) "Represented by a law enforcement officer" means any representation of fact made by a peace officer as defined in Section 7 of the Penal Code, or a federal officer described in subsection (c) of Sections 1956 and 1957 of Title 18 of the United States Code, or by another person at the direction of, or with the approval of, that peace officer or federal officer.

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 25503.5 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 25503.5 of the Health and Safety Code is amended to read:

25503.5. (a) Any business, except as provided in subdivisions (b) and (c), which handles a hazardous material or a mixture containing a hazardous material which has a quantity at any one time during the reporting year equal to, or greater than, a total weight of 500 pounds, or a total volume of 55 gallons, or 200 cubic feet at standard temperature and pressure for compressed gas, or, if the substance is a radioactive material which is handled in quantities for which an emergency plan is required to be adopted pursuant to Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1) of Chapter 10 of Title 10 of the Code of Federal Regulations (54 Federal Register 14051), or pursuant to any regulations adopted by the state in accordance with those regulations, shall establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards in the regulations adopted pursuant to Section 25503.
(b) (1) Oxygen and nitrous oxide, ordinarily maintained by a physician, dentist, podiatrist, veterinarian, or pharmacist, at his or her office or place of business, stored at each office or place of business in quantities of not more than 1,000 cubic feet of each material at any one time, are exempt from this section and from Section 25505. The administering agency may require a one-time inventory of these materials for a fee not to exceed fifty dollars ($50) to pay for the costs incurred by the agency in processing the inventory forms.

(2) (A) Lubricating oil is exempt from the requirements of this section and Sections 25505 and 25509, for a single business facility, if the total volume of each type of lubricating oil handled at that facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

(B) For purposes of this paragraph, “lubricating oil” means any oil intended for use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, plane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. “Lubricating oil” does not include used oil, as defined in subdivision (a) of Section 25250.1.

(c) (1) Hazardous material contained solely in a consumer product for direct distribution to, and use by, the general public is exempt from the business plan requirements of this chapter unless the administering agency has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

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

(3) The administering agency, upon application by a handler, may, exempt a handler under the conditions it deems proper from any portion of the business plan upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment or affect the ability of the administering agency and emergency rescue personnel to effectively respond to the release of a hazardous material, and that
there are unusual circumstances justifying this exemption. The administering agency shall specify in writing the basis for any exemption under this paragraph.

(4) The administering agency upon application by a handler may exempt a hazardous material from the inventory provisions of this chapter upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The administering agency shall specify in writing the basis for any exemption under this paragraph.

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

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

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

(i) Pesticides.
(ii) Petroleum fuels and oil.
(iii) Types of fertilizers.

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

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

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

CHAPTER 505

An act relating to school facility organization.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. The Legislature finds and declares as follows:
(a) In 1987, a community facilities district, designated Community Facilities District No. 87-1, was established within the Perris Union High School District pursuant to Chapter 2.5
(commencing with Section 53311) of Division 2 of Title 5 of the Government Code. Community Facilities District No. 87-1 operates under the authority of the governing board of the Perris Union High School District.

(b) As of July 1, 1991, the Val Verde Elementary School District, a feeder district of the Perris Union High School District, was reorganized to become the Val Verde Unified School District.

(c) Community Facilities District No. 87-1 is situated entirely within the territorial jurisdiction of the new Val Verde Unified School District. However, no provision was made, pursuant to the school district reorganization action described in subdivision (b), to transfer the governance of the community facilities district to the governing board of the Val Verde Unified School District.

(d) It is necessary and desirable that a process be authorized under which the governance of Community Facilities District No. 87-1 may be transferred from the governing board of the Perris Union High School District to the governing board of the Val Verde Unified School District.

SEC. 2. Notwithstanding any other provision of law, Community Facilities District No. 87-1, as described in Section 1, may be transferred from the jurisdiction of the Perris Union High School District to the jurisdiction of the Val Verde Unified School District upon written agreement entered into between the governing boards of those districts. Except as otherwise may be provided by that agreement, all of the following shall apply as of the effective date of the transfer of jurisdiction pursuant to the agreement:

(a) The "legislative body" empowered, pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code, to exercise authority over Community Facilities District No. 87-1 shall be the governing board of the Val Verde Unified School District.

(b) The Perris Union High School District shall bear no liability for any action taken with regard to Community Facilities District No. 87-1 on or after the effective date of the transfer of jurisdiction.

(c) The Val Verde Unified School District shall bear liability for any action taken with regard to Community Facilities District No. 87-1 on or after the effective date of the transfer of jurisdiction.

SEC. 3. Due to the unique circumstances specified in Section 1 of this act concerning the Perris Union High School District and the Val Verde Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.
CHAPTER 506

An act to amend Sections 2621.6, 2621.8, and 2621.9 of the Public Resources Code, relating to seismic safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Due to the numerous structures which were destroyed in the East Bay Fire of October 1991, the hardships experienced by fire victims, and the need to process the extraordinary number of rebuilding authorizations by the Cities of Oakland and Berkeley, it is the intent of the Legislature to exempt structures which were damaged or destroyed in the East Bay Fire from the Alquist-Priolo Special Studies Zone Act (Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code) if it can be determined that the structures are not situated on a fault trace.

SEC. 2. Section 2621.6 of the Public Resources Code is amended to read:

2621.6. (a) As used in this chapter, "project" means either of the following:

(1) Any subdivision of land which is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), and which contemplates the eventual construction of structures for human occupancy.

(2) Structures for human occupancy, with the exception of either of the following:

(A) Single-family wood-frame or steel-frame dwellings to be built on parcels of land for which geologic reports have been approved pursuant to paragraph (1).

(B) A single-family wood-frame or steel-frame dwelling not exceeding two stories when that dwelling is not part of a development of four or more dwellings.

(b) For the purposes of this chapter, a mobilehome whose body width exceeds eight feet shall be considered to be a single-family wood-frame dwelling not exceeding two stories.

SEC. 3. Section 2621.8 of the Public Resources Code is amended to read:

2621.8. (a) This chapter shall not apply to alterations or additions to any structure within a special studies zone, the value of which does not exceed 50 percent of the value of the structure.

(b) (1) The State Geologist may, pursuant to this section, grant an exemption from this chapter to any structure located within the jurisdiction of the City of Berkeley or the City of Oakland which was damaged by fire between October 20, 1991, and October 23, 1991.
The city may apply to the State Geologist for an exemption and the exemption shall be granted only if a structure located within the special studies zone is not situated upon a trace of an active fault line, as delineated in an official special studies zone map, or more recent geologic data as determined by the State Geologist.

(2) When requesting an exemption pursuant to this subdivision, the city shall supply the State Geologist with all of the following:

(A) Maps noting parcel numbers of proposed building sites that are at least 50 feet from an identified fault and a statement that there is no more recent information to suggest a geologic hazard.

(B) Identification of any sites within 50 feet of an identified fault.

(C) Proof that the property owner has been notified that an exemption does not guarantee that a geologic hazard does not exist.

(3) The granting of an exemption pursuant to this subdivision does not relieve a seller of real property or agent for the seller of the obligation to disclose to a prospective purchaser that the property is located within a delineated special studies zone, as required by Section 2621.9.

SEC. 4. Section 2621.9 of the Public Resources Code is amended to read:

2621.9. (a) A person who is acting as an agent for a seller of real property which is located within a delineated special studies zone, or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a delineated special studies zone, if the maps prepared pursuant to this chapter, or the information contained in the maps, are reasonably available.

(b) For the purposes of this section, in all transactions subject to Section 1102 of the Civil Code, disclosure shall be provided by one of the following means:

(1) The real estate transfer disclosure statement set out in Section 1102.6 of the Civil Code.

(2) The local option real estate transfer disclosure statement set out in subdivision (a) of Section 1102.6 of the Civil Code.

(3) The real estate contract and receipt for deposit.

(c) For the purposes of this section:

(1) "Reasonably available" means that for any county that includes areas covered by a delineated special studies zone map, a notice has been posted at the offices of the county recorder, county assessor, and county planning commission that identifies the location of the map and the effective date of the notice, which shall not exceed 10 days beyond the date the county received the map from the State Geologist.

(2) "Real estate contract and receipt for deposit" means the document containing the offer to sell or purchase real property, that when accepted becomes a binding contract, and that serves as an acknowledgment of a deposit if one is received.

(d) For purposes of the disclosures required by this section, the following persons shall not be deemed agents of the transferor:
(1) Persons specified in Section 1102.11 of the Civil Code.
(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.
(e) For purposes of this section, Section 1102.13 of the Civil Code shall apply.

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 expedite the reconstruction of structures damaged or destroyed in the East Bay Fire of 1991, it is necessary that this act take effect immediately.

CHAPTER 507

An act to amend Sections 8092, 48204, 52306, and 52309 of, to add Sections 10608 and 39015.2 to, and to repeal Sections 48204.1, 51219, 52088, 52332, and 52335.8 of, the Education Code, relating to education.

[Approved by Governor August 16, 1992 Filed with Secretary of State August 17, 1992]

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

SECTION 1. It is the intent of the Legislature, pursuant to this act, to reduce the burden of paperwork on school districts and the State Department of Education by eliminating certain reporting requirements, thereby saving staff time and reducing administrative costs. Although this act eliminates certain reporting requirements, the Legislature encourages the State Department of Education to make available to the Legislature, upon request, the information previously required to be provided in those reports.

SEC. 2. Section 8092 of the Education Code is amended to read:

8092. (a) Any school district or districts, any county superintendent or superintendents, or the governing body of any agency maintaining a regional occupational center or program may contract with a private postsecondary school that is authorized or approved pursuant to Chapter 3 (commencing with Section 94300) of Part 59 and has been in operation not less than two full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this code. Any school district, community college district, or county superintendent of schools may contract with an activity center, work activity center, or sheltered workshop to provide vocational skill training authorized by this code in any adult education program for substantially handicapped persons operated pursuant to subdivision (e) of Section 41976.

(b) All contracts between a public entity and a private
postsecondary school entered into pursuant to this section, or an activity center, work activity center, or sheltered workshop shall do all of the following:

(1) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the public schools or the tuition the private postsecondary school charges its private students, whichever is lower.

(2) Provide that the public school receiving training in a private postsecondary school, or an activity center, work activity center, or sheltered workshop pursuant to that contract may not be charged additional tuition for any training included in the contract. The attendance of those students pursuant to a contract authorized by this section shall be credited to the public entity for the purposes of apportionments from the State School Fund.

(3) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education, or is a course of study for adult schools approved by the State Department of Education under Section 51056.

(c) The students who attend a private postsecondary school or an activity center, work activity center, or sheltered workshop pursuant to a contract under this section shall be enrollees of the public entity and the vocational instruction provided pursuant to that contract shall be under the exclusive control and management of the governing body of the contracting public entity.

(d) The State Department of Finance and the State Department of Education may audit the accounts of both the public entity and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

SEC. 3. Section 10608 is added to the Education Code, to read:

10608. Notwithstanding any other provision of law, a school district or county office of education shall not be required to comply with a requirement in any other section of this code that information be reported to the State Department of Education with regard to information that is reported to the department under the CBEDS report. For purposes of this section, "CBEDS report" means the report that is transmitted by public educational agencies to the State Department of Education for purposes of the California Basic Education Data System and includes the information reported under this chapter, and other information relating to school staff and pupil enrollment. However, the Legislature recognizes that there are circumstances when more timely information is necessary prior to the annual CBEDS collection. Under this condition, the State Department of Education may require the districts and county offices of education to provide the necessary information.

SEC. 4. Section 39015.2 is added to the Education Code, to read:

39015.2. If the State Allocation Board determines a school district to be exempt from the requirement to make nonuse payments for any year as to any schoolsite on any basis authorized under
subdivision (e) or (f) of Section 39015, that exemption shall continue to apply to that schoolsite for each subsequent year for which the superintendent of the school district certifies to the State Allocation Board, on a timely basis, that the basis of exemption continues to exist.

SEC. 5. Section 48204 of the Education Code is amended to read:

48204. Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children’s institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in a home or institution described in this subdivision shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26 of Division 3 of this title.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil whose parent or legal guardian has established the residence of the pupil in a home located within the boundaries of that school district, provided that home is properly licensed as required by law. The person maintaining the home shall provide evidence to the school that a current license is in effect or that a license is not required under the law.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) An elementary school pupil, one or both of whose parents, or whose legal guardian, is employed within the boundaries of that school district.

(1) Nothing in this subdivision requires the school district within which the pupil’s parents or guardians are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the pupil’s parents or guardians is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the district’s court-ordered or voluntary desegregation plan.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the
district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) Any district governing board prohibiting a transfer pursuant to paragraph (1), (2), or (3) shall identify, and communicate in writing to the pupil's parent or guardian, the specific reasons for that determination and shall ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision shall be calculated pursuant to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2501, 3 percent of the average daily attendance of the district or 25 pupils, whichever is greater.

(C) For any district with an average daily attendance of 2501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever is greater.

Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, or where a pupil's legal guardian is employed, the pupil shall not have to reapply in the next school year to attend a school within that school district.

(g) This section shall remain in effect only until June 30, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1995, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1995, pursuant to Section 9611 of the Government Code, Section 48204 of the Education Code, as amended by Section 3 of Chapter 1191 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 6. Section 48204.1 of the Education Code is repealed.

SEC. 7. Section 51219 of the Education Code is repealed.

SEC. 8. Section 52088 of the Education Code is repealed.

SEC. 9. Section 52306 of the Education Code is amended to read:

52306. (a) Any business, commercial, trade, manufacturing, or construction activity referred to in subdivision (c) of Section 52305 may be undertaken as part of a regional occupational center or program provided all the following conditions have been complied with:

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(1) Any facility or program operated pursuant to this section shall be only for the education or training of students enrolled in a regional occupational center or program.

(2) The facility or program shall be operated on a nonprofit basis, with all revenues restricted in their use to cover instructional and operating costs.

(3) Notwithstanding any other provision of law, the facility or program initially shall obtain the approval of the appropriate trade associations concerned with the activity proposed and the approval of the county labor council in the county in which the facility or program is located.

(b) An activity conducted by a regional occupational center or program, as described in subdivision (a), may be conducted without the need to apply for or obtain local business licenses or permits, nor shall the activity be subject to payment of local business taxes.

Notwithstanding any other provision of law, proceeds from business activities authorized in this section may, subject to the approval of the governing board, be deposited in a checking account or accounts by each regional occupational center or program and disbursed for the necessary expenses of those business activities. The account shall be established by the regional occupational center or program and be in the custody of the principal or other administrative official designated by the governing board or the county superintendent of schools, as the case may be. The principal or administrative official shall be responsible for all expenditures therefrom, subject to regulations prescribed for this purpose by the governing board or the county superintendent of schools, as the case may be. An exact accounting of receipts and disbursements shall be made to the district or county accounting office within a reasonable period of time. The governing board or the county superintendent of schools, as the case may be, shall provide for an audit of these accounts on a regular basis.

(c) Attendance of students in any business, commercial, trade, manufacturing, or construction activity referred to in subdivision (c) of Section 52305, at any regional occupational center or regional occupational program, shall be credited to that facility or program for the purposes of apportionments from the State School Fund.

SEC. 10. Section 52309 of the Education Code is amended to read:

52309. (a) The curriculum initially provided by a regional occupational center or regional occupational program upon commencing operation shall be subject to the approval of the department and shall comply with all requirements and standards set forth in the State Plan for Vocational Education. The department shall approve regional occupational centers only after giving due consideration to vocational education opportunities offered by community colleges serving the same geographical area. The State Board of Education shall adopt rules and regulations establishing guidelines and criteria for differentiating between courses appropriate for regional occupational centers or regional
occupational programs and those appropriate for high schools.

(b) The Superintendent of Public Instruction shall prepare and distribute by April 1, 1977, and thereafter maintain, a detailed handbook for use by the local educational agencies and regional councils established pursuant to Section 8020. The handbook shall contain course approval criteria, job market study criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(c) Notwithstanding subdivision (a), the curriculum provided by a regional occupational center or program shall not be subject to the approval of the department as to any curriculum that is certified, by resolution of the governing body of the regional occupational center or program, to comply with the course approval criteria set forth in the handbook described in subdivision (b).

SEC. 11. Section 52332 of the Education Code is repealed.
SEC. 12. Section 52335.8 of the Education Code is repealed.

CHAPTER 508

An act to amend Sections 4356 and 4359 of the Welfare and Institutions Code, relating to traumatic brain injury demonstration projects.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. 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.

(e) The department shall take all steps necessary to maximize the availability of federal funding for this program, including, but not limited to, funds available under the federal Rehabilitation Act of 1973, as amended. To the extent necessary in order to maximize funding for the demonstration projects and clients served, the department may enter into an interagency agreement with any state department it deems necessary in order to achieve this goal, including, but not limited to, the State Department of Rehabilitation.

SEC. 2. Section 4359 of the Welfare and Institutions Code is amended to read:

4359. This chapter shall remain in effect until January 1, 1997, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

CHAPTER 509

An act to amend Sections 17875 and 94125 of the Education Code, to amend Sections 13889, 15436, 16501, 16505, 16705, and 91553 of, and to repeal Sections 16671 and 16675 of, the Government Code, to amend Sections 25392.4, 44519, and 50185 of the Health and Safety Code, and to amend Sections 26008 and 32054 of the Public Resources Code, relating to public finance.

[Approved by Governor August 16, 1992 Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 17875 of the Education Code is amended to read:

17875. (a) Upon the first appointment of its members, and thereafter on or after March 31 of each year, the authority shall elect from its members a vice chairperson and a secretary-treasurer, who shall hold office until the following March 31, and shall continue to serve until their successors have been elected.

(b) On behalf of the authority, the chairperson shall appoint an executive director, who shall not be a member of the authority, and who shall serve at the pleasure of the authority. The executive director shall receive the compensation fixed for that purpose by the authority.

The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

SEC. 2. Section 94125 of the Education Code is amended to read:

94125. The authority may employ an executive director and such other persons as are necessary to enable it properly to perform the
duties imposed upon it by this chapter. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

SEC. 3. Section 13889 of the Government Code is amended to read:

13889. In carrying out its duties and responsibilities, the commission shall have the following powers:

(a) To examine any document, report, or data, including computer programs and data files, held by any state agency, as defined by Section 11000, which agencies are hereby required to cooperate with the commission and its employees in any such examination.

(b) To meet at such times and places as it may deem proper.

(c) As a body, or, on the authorization of the commission, as a committee composed of two or more members, at least one of which shall be a legislative member, to hold hearings at such times and places as it may deem proper.

(d) Upon a vote of the commission, to issue subpoenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents.

(e) To administer oaths.

(f) To employ an executive director, who shall be exempt from civil service, and such staff as may be necessary. The commission may delegate to the executive director the authority to enter contracts on behalf of the commission.

(g) To contract with such other agencies or individuals, public or private, as it deems necessary, to provide or prepare such services, facilities, studies, and reports to the commission as will assist it in carrying out its duties and responsibilities.

(h) To authorize its agents and employees to absent themselves from the state where necessary for the performance of their duties.

(i) To do any and all other things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted to it.

SEC. 4. Section 15436 of the Government Code is amended to read:

15436. Five members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of Article 11 (commencing with Section 11120) of Chapter 1. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.
SEC. 5. Section 16501 of the Government Code is amended to read:

16501. Under the conditions as the Treasurer with the approval of the Director of Finance may establish, the Treasurer may deposit money in banks outside this state when the banks are fiscal agents of the state or custodians of securities owned by the state.

SEC. 6. Section 16505 of the Government Code is amended to read:

16505. Deposits in any bank shall not exceed the total of its net worth.

SEC. 7. Section 16671 of the Government Code is repealed.
SEC. 8. Section 16675 of the Government Code is repealed.
SEC. 9. Section 16705 of the Government Code is amended to read:

16705. Before the Treasurer may issue a new instrument or pay the indebtedness represented by a lost or destroyed instrument, the owner shall give security in (a) double the amount of the lost or destroyed bearer instrument, or (b) equal to the face amount of the lost or destroyed registered instrument, to indemnify the state against loss or damage that may be incurred on account of the lost or destroyed instrument. The security may be specified by, is subject to the approval of, and, after approval is endorsed thereon, shall be filed with, the Treasurer.

SEC. 10. Section 91553 of the Government Code is amended to read:

91553. The chairperson of the commission on its behalf shall appoint an executive director who shall serve at the pleasure of the commission and shall receive an annual salary which shall be established by the chairperson of the commission. The commission may delegate to the executive director the authority to enter contracts on behalf of the commission. The commission may employ such additional staff as it deems necessary and appropriate to carry out the provisions of this title. The commission shall charge fees commensurate with its direct expenses and those of the office of the State Treasurer in performing its duties pursuant to this title. Amounts received under this section shall be deposited in the Industrial Development Fund which is hereby created and shall be available, when appropriated, for the expenses of the commission. Until such time as fees are received by the commission and appropriated pursuant to this section for the expenses of the commission, the commission may borrow such moneys as may be required for the purpose of meeting necessary expenses of initial organization and operation of the commission.

SEC. 11. Section 25392.4 of the Health and Safety Code is amended to read:

25392.4. (a) The authority shall administer this article and may exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it pursuant to this article.
(b) The authority shall maintain an office in the City of Sacramento.

(c) The authority may employ an executive director and any other persons necessary for the authority to properly perform the duties imposed upon the authority pursuant to this article. The executive director shall serve at the pleasure of the authority and shall receive the compensation which is fixed by the authority. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

(d) The authority may adopt bylaws to carry out this article and may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively promote the removal of, and remedial actions to, releases of hazardous substances.

SEC. 12. Section 44519 of the Health and Safety Code is amended to read:

44519. The authority may employ an executive director and any other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

SEC. 13. Section 50185 of the Health and Safety Code is amended to read:

50185. The Mortgage Bond Allocation Committee is hereby renamed the Mortgage Bond and Tax Credit Allocation Committee. The committee is composed of the Governor, or in the Governor's absence, the Director of Finance, the Controller, and the Treasurer. The Director of Housing and Community Development, the Executive Director of the California Housing Finance Agency, and two representatives of local government, one representative of the counties appointed by the Senate Rules Committee, and one representative of the cities appointed by the Speaker of the Assembly shall serve as ex officio, nonvoting members. The Treasurer shall be the chairperson of the committee. The members of the committee shall serve without compensation. A majority of voting members shall be empowered to act for the committee. The committee may employ an executive director to carry out its duties under this chapter. The committee may delegate to the executive director the authority to enter contracts on behalf of the committee.

SEC. 14. Section 26008 of the Public Resources Code is amended to read:

26008. The authority may employ an executive director and any other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The executive director shall serve at the pleasure of the authority and shall receive such compensation as shall be fixed by the authority. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.
SEC. 15. Section 32054 of the Public Resources Code is amended to read:
32054. The chairman shall appoint an executive director who shall not be a member of the authority and who shall serve at the pleasure of the authority and shall employ the staff of the conservancy and other necessary persons to enable the authority to properly perform the duties imposed upon it by this division. The executive director shall receive compensation as fixed by the authority. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

CHAPTER 510

An act to amend Section 12022.9 of the Penal Code, relating to sentencing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1992 Filed with Secretary of State August 17, 1992]

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

SECTION 1. It is the intent of the Legislature to increase the penalty for drive-by shootings that cause a victim to suffer permanent paralysis or paraparesis. By increasing the penalties for these types of crimes, gang members who in recent years have accounted for a dramatic increase in drive-by shootings may be more effectively removed from the streets of our communities for a longer period of time.

SEC. 2. Section 12022.9 of the Penal Code is amended to read:
12022.9. (a) Any person who, during the commission or attempted commission of a felony, who knows or reasonably should know that the victim is pregnant, with intent to inflict injury, and without the consent of the woman, personally inflicts injury upon a pregnant woman that results in the termination of the pregnancy shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of five years in the state prison. The additional term provided in this subdivision shall not be imposed unless the fact of that injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

Nothing in this subdivision shall be construed as affecting the applicability of subdivision (a) of Section 187 of the Penal Code.

(b) (1) Any person convicted of a violation of subdivision (c) of Section 12034 shall, in addition and consecutive to the punishment for that violation, be punished by an additional term of four years, if as a result of the defendant personally and willfully and maliciously discharging the firearm, the victim suffers paralysis or paraparesis of
a major body part, including, but not limited to, the entire hand or foot.

(2) Any person convicted of a violation of Section 246 shall, in addition and consecutive to the punishment for that violation, be punished by an additional term of four years, if as a result of the defendant personally and willfully and maliciously discharging the firearm at an occupied motor vehicle from another motor vehicle, the victim suffers paralysis of paraparesis of a major body part, including, but not limited to, the entire hand or foot.

(3) For purposes of this subdivision:

(A) "Paralysis" means a major or complete loss of motor function resulting from injury to the nervous system or to a muscular mechanism.

(B) "Paraparesis" means a significant weakness of a major body part, including, but not limited to, the entire hand or foot, causing the extremity to be functionally impaired and rendered useless to assist with one of the basic skills in life such as eating or walking.

(C) The additional term provided in this section shall not be imposed unless the fact of the injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

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 more effectively remove gang members involved in drive-by shootings that cause a victim to suffer permanent paralysis or paraparesis from the streets of our communities for a longer period of time and as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 511

An act to add Section 17510.85 to the Business and Professions Code, and to amend Section 12599 of the Government Code, relating to charitable solicitations.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 17510.85 is added to the Business and Professions Code, to read:

17510.85. Any individual, corporation, or other legal entity who for compensation solicits funds or other property in this state for charitable purposes shall disclose prior to an oral solicitation or sales solicitation made by direct personal contact, radio, television, or telephone, or at the same time as a written solicitation or sales
solicitation: (a) that the solicitation or sales solicitation is being conducted by a commercial fundraiser for charitable purposes, and (b) the name of the commercial fundraiser for charitable purposes as registered with the Attorney General pursuant to Section 12599 of the Government Code.

SEC. 2. Section 12599 of the Government Code is amended to read:

12599. (a) "Commercial fundraiser for charitable purposes" is defined as any individual, corporation, or other legal entity who for compensation does either of the following:

(1) Solicits funds, assets or property in this state for charitable purposes.

(2) As a result of a solicitation of funds, assets or property in this state for charitable purposes, receives or controls the funds, assets or property solicited for charitable purposes.

A commercial fundraiser for charitable purposes shall include any person, association of persons, corporation, or other entity that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code.

A commercial fundraiser for charitable purposes shall not include a "trustee" as defined in Section 12582 or 12583, a "charitable corporation" as defined in Section 12582.1, or any employee thereof. A commercial fundraiser for charitable purposes shall not include an individual who is employed by or under the control of a commercial fundraiser for charitable purposes registered with the Attorney General. A commercial fundraiser for charitable purposes shall not include any federally insured financial institution which holds as a depository funds received as a result of a solicitation for charitable purposes.

(b) A commercial fundraiser for charitable purposes shall, prior to soliciting any funds in California for charitable purposes, or prior to receiving and controlling any funds or assets as a result of a solicitation in this state for charitable purposes, register with the Attorney General's Registry of Charitable Trusts on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Registry of Charitable Trusts by January 15 of each calendar year in which the commercial fundraiser for charitable purposes does business and shall be effective for one year. For 1990, a registration or renewal fee of two hundred dollars ($200) shall be required for registration of a commercial fundraiser for charitable purposes, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charitable Trusts at the time of registration or renewal. The Attorney General may adjust the annual registration or renewal fee as needed to ensure that revenues will fully offset, but not exceed, the actual costs incurred by the Department of Justice pursuant to this section. The Attorney General's Registry of Charitable Trusts may grant extensions of time...
to file annual registration as required, pursuant to subdivision (b) of Section 12586.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff's designee, an annual financial report on a form provided by the Attorney General, accounting for all funds collected pursuant to any solicitation for charitable purposes during the preceding calendar year. The annual financial report shall be filed with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff's designee, no later than 30 days after the close of the preceding calendar year. Nothing in this section shall be construed as requiring the sheriff of any county, or the sheriff's designee, to maintain on file any annual financial report filed pursuant to this subdivision.

(d) The contents of the forms for annual registration and annual financial reporting by commercial fundraisers for charitable purposes shall be established by the Attorney General in a manner consistent with the procedures set forth in subdivisions (a) and (b) of Section 12586. The annual financial report shall require a detailed, itemized accounting of funds solicited for charitable purposes on behalf of each charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code or for each charitable purpose during the accounting period, and shall include, among other data, the following information for funds solicited by the commercial fundraiser for charitable purposes:

1. Total revenue.
2. The fee or commission charged by the commercial fundraiser for charitable purposes.
3. Salaries paid by the commercial fundraiser for charitable purposes to its officers and employees.
4. Fundraising expenses.
5. Distributions to the identified charitable organization or purpose.
6. The names and addresses of any director, officer, or employee of the commercial fundraiser for charitable purposes who is a director, officer, or employee of any charitable organization listed in the annual financial report.

(e) A commercial fundraiser for charitable purposes that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code shall file with the Attorney General's Registry of Charitable Trusts, and not with the sheriff of any county, an annual financial report on a form provided by the Attorney General that is separate and distinct from forms filed by other commercial fundraisers for charitable purposes pursuant to subdivisions (c) and (d).
(f) It shall be unlawful for any commercial fundraiser for charitable purposes to solicit funds in this state for charitable purposes unless the commercial fundraiser for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article. Failure to comply with these registration or annual renewal and financial reporting requirements shall be grounds for injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(g) A commercial fundraiser for charitable purposes is a constructive trustee for charitable purposes as to all funds collected pursuant to solicitation for charitable purposes and shall account to the Attorney General for all funds. A commercial fundraiser for charitable purposes is subject to the Attorney General's supervision and enforcement over charitable funds and assets to the same extent as a trustee for charitable purposes under this article.

(h) 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 application 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.

(i) If the Attorney General issues a report to the public containing information obtained from registration forms or financial report forms filed by commercial fundraisers for charitable purposes, there shall be a separate section concerning commercial fundraisers for charitable purposes that obtain a majority of their inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code. The report shall include an explanation of the distinctions between such thrift store operations and other types of commercial fundraising.

SEC. 2.5. Section 12599 of the Government Code is amended to read:

12599. (a) "Commercial fundraiser for charitable purposes" is defined as any individual, corporation, or other legal entity who for compensation does either of the following:

(1) Solicits funds, assets, or property in this state for charitable purposes.

(2) As a result of a solicitation of funds, assets, or property in this state for charitable purposes, receives or controls the funds, assets, or property solicited for charitable purposes.

A commercial fundraiser for charitable purposes shall include any person, association of persons, corporation, or other entity that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code.

A commercial fundraiser for charitable purposes shall not include a "trustee" as defined in Section 12582 or 12583, a "charitable
corporation” as defined in Section 12582.1, or any employee thereof. A commercial fundraiser for charitable purposes shall not include an individual who is employed by or under the control of a commercial fundraiser for charitable purposes registered with the Attorney General. A commercial fundraiser for charitable purposes shall not include any federally insured financial institution which holds as a depository funds received as a result of a solicitation for charitable purposes.

(b) A commercial fundraiser for charitable purposes shall, prior to soliciting any funds in California for charitable purposes, or prior to receiving and controlling any funds or assets as a result of a solicitation in this state for charitable purposes, register with the Attorney General's Registry of Charitable Trusts on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Registry of Charitable Trusts by January 15 of each calendar year in which the commercial fundraiser for charitable purposes does business and shall be effective for one year. For 1990, a registration or renewal fee of two hundred dollars ($200) shall be required for registration of a commercial fundraiser for charitable purposes, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charitable Trusts at the time of registration or renewal. The Attorney General may adjust the annual registration or renewal fee as needed to ensure that revenues will fully offset, but not exceed, the actual costs incurred by the Department of Justice pursuant to this section. The Attorney General's Registry of Charitable Trusts may grant extensions of time to file annual registration as required, pursuant to subdivision (b) of Section 12586.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff's designee, an annual financial report on a form provided by the Attorney General, accounting for all funds collected pursuant to any solicitation for charitable purposes during the preceding calendar year. The annual financial report shall be filed with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff's designee, no later than 30 days after the close of the preceding calendar year. Nothing in this section shall be construed as requiring the sheriff of any county, or the sheriff's designee, to maintain on file any annual financial report filed pursuant to this subdivision.

(d) The contents of the forms for annual registration and annual financial reporting by commercial fundraisers for charitable purposes shall be established by the Attorney General in a manner consistent with the procedures set forth in subdivisions (a) and (b) of Section 12586. The annual financial report shall require a detailed, itemized accounting of funds solicited for charitable purposes on behalf of each charitable organization exempt from taxation under
Section 501(c)(3) of the Internal Revenue Code or for each charitable purpose during the accounting period, and shall include, among other data, the following information for funds solicited by the commercial fundraiser for charitable purposes:

(1) Total revenue.
(2) The fee or commission charged by the commercial fundraiser for charitable purposes.
(3) Salaries paid by the commercial fundraiser for charitable purposes to its officers and employees.
(4) Fundraising expenses.
(5) Distributions to the identified charitable organization or purpose.
(6) The names and addresses of any director, officer, or employee of the commercial fundraiser for charitable purposes who is a director, officer, or employee of any charitable organization listed in the annual financial report.

(e) A commercial fundraiser for charitable purposes that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code shall file with the Attorney General’s Registry of Charitable Trusts, and not with the sheriff of any county, an annual financial report on a form provided by the Attorney General that is separate and distinct from forms filed by other commercial fundraisers for charitable purposes pursuant to subdivisions (c) and (d).

(f) It shall be unlawful for any commercial fundraiser for charitable purposes to solicit funds in this state for charitable purposes unless the commercial fundraiser for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article. Failure to comply with these registration or annual renewal and financial reporting requirements shall be grounds for injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(g) A commercial fundraiser for charitable purposes is a constructive trustee for charitable purposes as to all funds collected pursuant to solicitation for charitable purposes and shall account to the Attorney General for all funds. A commercial fundraiser for charitable purposes is subject to the Attorney General’s supervision and enforcement over charitable funds and assets to the same extent as a trustee for charitable purposes under this article.

(h) It shall be unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses of the fundraiser upon receiving a written or oral request from a person solicited for a contribution for a charitable purpose. “Percentage of total fundraising expenses,” as used in this section, means the ratio of the total expenses of the fundraiser to the total revenue received by the fundraiser for the charitable purpose for which funds are being solicited, as reported on the most recent
financial report filed with the Attorney General’s Registry of Charitable Trusts. A commercial fundraiser shall disclose this information in writing within five working days from receipt of a request by mail or fax. A commercial fundraiser shall orally disclose this information immediately upon a request made in person or in a telephone conversation and shall follow this response with a written disclosure within five working days. Failure to comply with the requirements of this subdivision shall be grounds for an injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(i) If the Attorney General issues a report to the public containing information obtained from registration forms or financial report forms filed by commercial fundraisers for charitable purposes, there shall be a separate section concerning commercial fundraisers for charitable purposes that obtain a majority of their inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code. The report shall include an explanation of the distinctions between such thrift store operations and other types of commercial fundraising.

(j) 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 application 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. 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. Section 2.5 of this bill incorporates amendments to Section 12599 of the Government Code proposed by both this bill and AB 3066. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1993, (2) each bill amends Section 12599 of the Government Code, and (3) this bill is enacted after AB 3066, in which case Section 2 of this bill shall not become operative.
CHAPTER 512

An act to amend Section 3505 of the Public Utilities Code, relating to vehicles.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 3505 of the Public Utilities Code is amended to read:

3505. This chapter does not apply to any of the following:
(a) The transportation of baggage and express which is incidental to the transportation of passengers by a passenger stage corporation, as defined in Section 226.
(b) The transportation by towing of a disabled vehicle.
(c) The transportation other than by towing of not more than three vehicles, or not more than two vehicles in addition to one towed vehicle, when those vehicles are in transit to be repaired or dismantled.
(d) The transportation by towing of a vehicle which was illegally parked.
(e) Providing pickup and delivery services for express packages, newspapers, or mail in a commercial zone, as defined in paragraph (1) of subsection (b) of Section 10526 of Title 49 of the United States Code, if the shipment has had or will have a prior or subsequent movement by a passenger stage corporation.
(f) The transportation by towing of a vehicle which has been stolen or abandoned, or is otherwise unattended by any person with authority to move or authorize the movement of the vehicle, when directed by a peace officer having authority or jurisdiction.
(g) The transportation by towing of a vehicle for purposes of replacement of or substitution for a vehicle which has been wrecked or disabled.

CHAPTER 513

An act to amend Section 104.12 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 104.12 of the Streets and Highways Code is amended to read:
104.12. (a) The department may lease to public agencies or private entities for any term not to exceed 99 years the use of areas above or below state highways, subject to any reservations, restrictions, and conditions that it deems necessary to ensure adequate protection to the safety and the adequacy of highway facilities and to abutting or adjacent land uses. Authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, which are on active duty and are not merely being stored, shall be given preference in the use of these areas, and no payment of consideration shall be required for this use of the areas by these vehicles. Prior to entering into any lease, the department shall determine that the proposed use is not in conflict with the zoning regulations of the local government concerned. The leases shall be made in accordance with procedures to be prescribed by the commission, except that, in the case of leases with private entities, the leases shall only be made after competitive bidding unless the commission finds, by unanimous vote, that in certain cases competitive bidding would not be in the best interests of the state. The possibilities of entering into the leases, and the consequent benefits to be derived therefrom, may be considered by the department in designing and constructing the highways.

Revenues from the leases shall be deposited in the State Highway Account. If leased property was provided to the department for state highway purposes through donation or at less than fair market value, the lease revenues shall be shared with the donor or seller if so provided by contract when the property was acquired. If the donor or seller was a local agency which no longer exists at the time the department enters into the lease, the local agency's share of lease revenues shall be paid to the county or counties within which the local agency was situated.

(b) Notwithstanding subdivision (a), in any case where sufficient land or airspace exists within the right-of-way of any highway, constructed in whole or in part with federal-aid highway funds, to accommodate needed passenger, commuter, or high-speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the department may make the land or airspace available, with or without charge, to a public entity for those purposes, subject to any reservations, restrictions, or conditions that it determines necessary to ensure adequate protection to the safety and adequacy of highway facilities and to abutting or adjacent land uses.

(c) The department shall consider future lease potential of areas above or below state highway projects when planning new state highway projects. This consideration shall be accomplished by intradepartment consultation between offices concerned with project development and airspace lease development.

(d) The department shall submit to the Legislature an annual report on the income and the inventory status of airspace leased above and below state highways.
(e) The department shall report to the Governor and the Legislature on January 1, 1991, and thereafter biennially, on the number and nature of contractual agreements entered into pursuant to Section 104.2 and pursuant to this section.

CHAPTER 514

An act to add Section 1728.7 to the Health and Safety Code, relating to home health agencies.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 1728.7 is added to the Health and Safety Code, to read:

1728.7. (a) Notwithstanding any other provision of this chapter, the state department shall issue a license to a home health agency that applies to the state department for a home health agency license and meets all of the following requirements:

1. Is accredited as a home health agency by either the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Community Health Accreditation Program (CHAP), and the accrediting organization forwards to the state department copies of all initial and subsequent survey and other accreditation reports or findings.

2. Files an application with fees pursuant to this chapter.

3. Meets any other additional licensure requirements of, or regulations adopted pursuant to, this chapter that the state department identifies, after consulting with either the JCAHO or the CHAP, as more stringent than the accreditation requirements of either JCAHO or CHAP.

(b) The state department may require a survey of an accredited home health agency to ensure the accreditation requirements are met. These surveys shall be conducted using a selective sample basis.

(c) The state department may require a survey of an accredited home health agency to investigate complaints against an accredited home health agency for substantial noncompliance, as determined by the state department, with these accreditation standards.

(d) Notwithstanding subdivisions (a), (b), and (c), the state department shall retain its full range of authority over accredited home health agencies to ensure the licensure and accreditation requirements are met. This authority shall include the entire scope of enforcement sanctions and options available for unaccredited home health agencies.
An act to add Section 10085.5 to the Business and Professions Code, relating to mortgages.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. The Legislature finds and declares that the payment of advance fees to unlicensed persons who solicit lenders or perform services for borrowers in connection with loans to be secured directly or collaterally by a lien on real property, greatly harms the general public and the business of licensed mortgage loan brokers and is a growing source of consumer complaints in this state.

SEC. 2. Section 10085.5 is added to the Business and Professions Code, to read:

10085.5. (a) It shall be unlawful for any person to claim, demand, charge, receive, collect, or contract for an advance fee (1) for soliciting lenders on behalf of borrowers or performing services for borrowers in connection with loans to be secured directly or collaterally by a lien on real property, before the borrower becomes obligated to complete the loan or, (2) for performing any other activities for which a license is required, unless the person is a licensed real estate broker and has complied with the provisions of this part.

(b) This section shall not prohibit the acceptance or receipt of an advance fee by any bank, savings association, credit union, industrial loan company, or person acting within the scope of a license issued to that person pursuant to Division 9 (commencing with Section 22000), Division 10 (commencing with Section 24000), or Division 11 (commencing with Section 26000), of the Financial Code, in connection with loans to be secured directly or collaterally by a lien on real property. This section shall not apply to charges made by title insurers and controlled escrow companies pursuant to Chapter 1 (commencing with Section 12340) of Part 6 of Division 2 of the Insurance Code.

(c) A violation of this section is a public offense punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment, or if by a corporation, punishable by a fine not exceeding fifty thousand dollars ($50,000).

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 516

An act to amend Section 32102 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Section 32102 of the Vehicle Code is amended to read:

32102. (a) The department may adopt any regulations that are necessary to administer this division. It is a misdemeanor for any person to violate this division or regulations adopted pursuant to this division.

(b) The department shall, by regulation, designate through routes in this state which are to be used for the transportation of inhalation hazards. The department may also designate separate through routes for the transportation of inhalation hazards composed of any chemical rocket propellant specified in Section 32050. The Department of Transportation shall assist the department in developing the recommended routes. The department shall hold public hearings in each field operation division of the department in which are located proposed routes. In recommending the through routes, the department shall do both of the following:

1. Perform a risk assessment which shall include, but not be limited to, consideration of the population density, capabilities of the emergency response personnel near the proposed routes, and the safety of the roadways.

2. Consult with officials having the responsibility for the prevention and suppression of fire in communities in which are located the proposed routes, the representatives of persons engaged in the transportation of inhalation hazards, manufacturers of inhalation hazards, and the State Fire Marshal.

(c) The department shall prepare for distribution to persons engaged in the transportation of inhalation hazards maps which clearly indicate the routes which are to be used for the transportation of inhalation hazards.

(d) The department shall prepare for distribution to persons engaged in the transportation of inhalation hazards a list of locations of required inspection stops and safe stopping places and shall revise the list to keep it current.
(e) Until other routes are designated by the department for the transportation of chemical rocket propellants pursuant to subdivision (b), the designated through routes for the transportation of chemical rocket propellants to Vandenberg Air Force Base shall be those routes designated in the letter of agreement between the department and the United States Department of the Air Force executed in 1992.

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.

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CHAPTER 517

An act to add Chapter 2.5 (commencing with Section 18170) to Division 7 of the Financial Code, relating to industrial loan companies.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992.]

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

SECTION 1. Chapter 2.5 (commencing with Section 18170) is added to Division 7 of the Financial Code, to read:

CHAPTER 2.5. CONVERSION OF STATE OR FEDERAL DEPOSITORY CORPORATIONS

18170. As used in this chapter, "state or federal depository corporation" refers to any of the following:

(a) A national banking association headquartered in California or a state bank organized under the laws of this state.

(b) A federally chartered savings and loan association or federal savings bank headquartered in this state.

(c) A state savings and loan association or state savings bank organized under the laws of this state.

18171. When authorized by the commissioner as provided in this chapter and Chapter 2 (commencing with Section 18100) of this division, a state or federal depository corporation may amend its articles of incorporation or articles of association to engage in the industrial loan business.
18172. (a) An application form filed under Section 18115 by a state or federal depository corporation for the purpose of converting to an industrial loan company shall contain any information the commissioner may require and shall include the following with respect to that corporation:

(1) Copies of any and all financial statements or reports of the corporation filed with any state or federal regulatory agency for 36 months prior to the date of application.

(2) Copies of any and all examination reports of any state or federal regulatory agency for 36 months prior to the date of application.

(3) A description of any administrative actions of any state or federal regulatory agency in connection with the corporation.

(b) In addition to the filing fee required under Section 18115, an additional filing fee of two thousand dollars ($2,000) shall accompany the application. The application shall also contain a written statement certifying compliance with all applicable requirements of state and federal law in connection with the conversion from a state or federal depository corporation to an industrial loan company. That written statement shall be signed by all directors of the applicant.

18173. (a) Upon the filing of an application by a state or federal depository corporation, the commissioner shall conduct an investigation and examination of the information specified in Section 18116. In addition, the commissioner shall investigate and examine the following relating to that corporation:

(1) The capital, quality of assets, liquidity, and earnings of the corporation for 36 months prior to the date of application.

(2) The history of any administrative actions of any state or federal regulatory agency in connection with the corporation.

(b) The applicant shall pay to the commissioner the cost of any investigation and examination including the salary or other compensation paid to the persons making the investigation and examination, and overhead costs in connection therewith as fixed by the commissioner which shall not exceed the estimated hourly cost for all persons performing investigations and examinations for industrial loan companies for the fiscal year.

(c) For the purpose of securing any information required under this section including, but not limited to, information maintained by any state or federal regulatory agency, the commissioner may at any time investigate the affairs and examine any books, accounts, papers, records, and files of the corporation. For purposes of investigation and examination, the commissioner's duly designated representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of that corporation.

18174. The commissioner, upon reasonable notice and opportunity to be heard, may deny the application filed by a state or federal depository corporation for any of the reasons specified in Section 18117. In addition, an application may be denied for any of
the following reasons:

(a) The applicant is the subject of any order or agreement with any state or federal regulatory agency restricting the applicant's operations.

(b) The capital, quality of assets, liquidity, and earning history and potential are inadequate to afford reasonable promise of successful operation.

(c) The assets of the applicant are not authorized by this division. In lieu of denying an application for the reasons specified in this subdivision, the commissioner may, by order, impose any limitations and requirements as, in the opinion of the commissioner, are necessary for the assets to comply with the requirements of this division. The assets shall be modified in accordance with the commissioner's order within one year from the date of that order or within a shorter period as required by the commissioner.

18175. Any state or federal depository corporation that has been in operation in excess of 36 months prior to the date of application under Section 18172 may at the time of that application or thereafter file an application with the commissioner under subdivision (d) of Section 18320 for authorization to comply with the capital adequacy requirements of the Federal Deposit Insurance Corporation.

CHAPTER 518

An act to amend Sections 27521, 27630, and 27821 of, to add Sections 27542, 27543, and 27545 to, and to add Article 14.5 (commencing with Section 27825) to Chapter 4 of Division 22 of, the Health and Safety Code, relating to food facilities.

[Approved by Governor August 16, 1992. Filed with Secretary of State August 17, 1992]

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

SECTION 1. Section 27521 of the Health and Safety Code is amended to read:

27521. (a) "Food facility" means all of the following:

(1) Food establishment, vehicle, vending machine, produce stand, swap meet prepackaged food stand, temporary food facility, satellite food distribution facility, stationary mobile food preparation unit, and mobile food preparation unit.

(2) Any place used in conjunction with the operations described in paragraph (1), including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(3) A certified farmers' market for purposes of permitting and enforcement.

(b) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities
are used for storing or handling food, or a private home, church, private club, or other nonprofit association which gives or sells food to its members and guests at occasional events, as defined in Section
27528.

(2) Premises set aside for winetasting, as that term is used in
Section 23356.1 of the Business and Professions Code and in the
regulations adopted pursuant to that section, if no food or beverage
is offered for sale for onsite consumption.

SEC. 2. Section 27542 is added to the Health and Safety Code, to
read:

27542. "Swap meet prepackaged food stand" means a food
facility, other than a vehicle, operated at a swap meet, by a swap
meet operator or its lessee, that offers for sale, or gives away, only
prepackaged foods.

SEC. 3. Section 27543 is added to the Health and Safety Code, to
read:

27543. "Prepackaged food" means any properly labeled
processed food, prepackaged to prevent any direct human contact
with the food product upon distribution from the manufacturer, and
prepared at a facility approved by the enforcement agency.

SEC. 4. Section 27545 is added to the Health and Safety Code, to
read:

27545. As used in this chapter, "swap meet" and "swap meet
operator" shall have the meanings set forth in Section 21661 of the
Business and Professions Code.

SEC. 5. Section 27630 of the Health and Safety Code is amended
to read:

27630. Each food establishment, except produce stands and swap
meet prepackaged food stands, shall be fully enclosed in a building
consisting of floors, walls, and overhead structure which meet the
minimum standards prescribed by this chapter. Food establishments
that are not fully enclosed on all sides and that are in operation on
January 1, 1985, shall not be required to meet the requirement for a
fully enclosed structure pursuant to this section. This section shall not
be construed to require the enclosure of dining areas or open-air
barbecue facilities.

SEC. 6. Section 27821 of the Health and Safety Code is amended
to read:

27821. (a) Produce stands operated by a producer selling or
offering for sale produce or shell eggs, or both, are exempt from this
chapter, provided the produce stand is operated on premises
controlled by the producer.

(b) For purposes of this section, "producer" means a person or
entity who produces shell eggs, fruits, nuts, or vegetables by practice
of the agricultural arts upon land that the person or entity controls.

(c) Except as otherwise provided in this chapter, all other
produce stands shall meet the requirements of Article 6
(commencing with Section 27590), Article 7 (commencing with
Section 27600), and Article 8 (commencing with Section 27620).
(d) Notwithstanding subdivision (c), all other produce stands shall also meet all of the following requirements:

1. All food shall be stored at least 46 centimeters (18 inches) off the floor, except that food stored in a walk-in refrigeration unit shall be stored at least 13 centimeters (5 inches) off the floor.
2. Food preparation is prohibited.
3. Foods, other than trimmed produce and shell eggs, shall not be kept at these food establishments. This shall not apply to retail dairy processing rooms.
4. A produce stand shall have no more than one side open to the outside air during business hours.

SEC. 7. Article 14.5 (commencing with Section 27825) is added to Chapter 4 of Division 22 of the Health and Safety Code, to read:

Article 14.5. Swap Meet Prepackaged Food Stands

27825. (a) Swap meet prepackaged food stands operated by a swap meet operator offering prepackaged food for sale at a swap meet shall meet the requirements of Article 6 (commencing with Section 27590), Article 7 (commencing with Section 27600), and Article 8 (commencing with Section 27620).

(b) Notwithstanding subdivision (a), swap meet prepackaged food stands shall also meet the following requirements:

1. Food preparation is prohibited.
2. Foods, other than prepackaged foods, shall not be kept at these food facilities.
3. Foods that are potentially hazardous as defined in Section 27531 may not be sold.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution as a result of costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other 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 related to those 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.
An act to amend Section 8686 of the Government Code, relating to natural disaster assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1992. Filed with Secretary of State August 18, 1992]

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

SECTION 1. Section 8686 of the Government Code is amended to read:

\[\text{8686. (a) For any eligible project, the state share shall amount to no more than 75 percent of total state eligible costs. The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars ($2,500).} \]

\[\text{(b) Notwithstanding subdivision (a), the state share shall be up to 100 percent of total state eligible costs connected with the October 17, 1989, Loma Prieta earthquake and the October 20, 1991, East Bay fire. The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars ($2,500) under this subdivision.} \]

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 increased financial assistance to local agencies for eligible projects in connection with the October 20, 1991, East Bay fire as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 520

An act to amend Section 7901 of the Labor Code, relating to bungee jumping.

[Approved by Governor August 17, 1992. Filed with Secretary of State August 18, 1992]

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

SECTION 1. Section 7901 of the Labor Code is amended to read:

\[\text{7901. As used in this part:} \]

\[\text{(a) "Amusement ride" means a mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" includes the} \]

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business of operating bungee jumping services or providing services to facilitate bungee jumping, but does not include slides, playground equipment, coin-operated devices or conveyances which operate directly on the ground or on the surface or pavement directly on the ground or the operation of amusement devices of a permanent nature. The division shall determine the specific devices which are amusement rides for the purposes of this part. This determination shall be made to apply equally to all operators of similar or identical rides and shall be made pursuant to a procedure promulgated by the standards board.

(b) "Operator" or "owner" means a person who owns or controls or has the duty to control the operation of an amusement ride. It includes the state and every state agency, and each county, city, district, and all public and quasi-public corporations and public agencies therein.

(c) "Permit" means a document issued by the division which indicates that an inspection of the ride has been performed pursuant to rules and regulations adopted by the division.

CHAPTER 521

An act to add Sections 73367 and 73368 to the Government Code, relating to courts.

[Approved by Governor August 17, 1992. Filed with Secretary of State August 18, 1992 ]

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

SECTION 1. Section 73367 is added to the Government Code, to read:

73367. (a) In conjunction with the study required pursuant to Section 75 of Chapter 90 of the Statutes of 1991, provided that the Board of Supervisors of Contra Costa County finds that there are sufficient funds for the project and adopts a resolution to that effect, the Judicial Council may establish a five-year pilot project for administrative adjudication of small claims actions and traffic and other infractions in Contra Costa County, utilizing the temporary court commissioners authorized pursuant to Section 73363 as administrative hearing officers.

(b) The Judicial Council may adopt appropriate rules governing the implementation of the pilot project.

(c) If the pilot project is instituted, Contra Costa County shall provide, as a matching contribution, the facilities and the technological support service necessary to carry out the pilot project.

(d) If the pilot project is instituted, the administrative hearing officers shall adjudicate small claims actions and traffic and other infractions.
(e) If the pilot project is instituted, Contra Costa County shall implement the project commencing on January 1, 1993, and the Judicial Council shall report its preliminary findings and recommendations to the Legislature on or before October 1, 1994. This report shall include data to document the extent to which the pilot project has accomplished the objectives set forth in Section 73368.

SEC. 2. Section 73368 is added to the Government Code, to read:

73368. The pilot project undertaken pursuant to Section 73367 shall be considered successful if all of the following occur:

(a) There is a reduction of at least one hundred thousand dollars ($100,000) in the cost of assigned judges in the county through the use of the equivalent of 2.5 municipal court judges, made available as a result of the program, who are utilized to fill in for absent superior court judges rather than bringing in assigned judges, comparing calendar year 1993 with calendar year 1992.

(b) In those judicial districts which implement the program on January 1, 1993, there is a reduction in the use of bailiffs in administrative adjudication hearings compared with the use of bailiffs in municipal court commissioner courtrooms through the promotion of shared security with law enforcement agencies, comparing calendar year 1993 with calendar year 1992.

(c) In those judicial districts which implement the program on January 1, 1993, there is an elimination in the use of courtroom clerks in administrative adjudication hearings compared with the use of courtroom clerks in municipal court commissioner courtrooms for a savings of forty-five thousand dollars ($45,000) per judicial district, comparing calendar year 1993 with calendar year 1992.

(d) All traffic matters in those judicial districts which implement the program on January 1, 1993, are adjudicated by temporary court commissioners in calendar year 1993, resulting in a salary savings of at least twenty-five thousand dollars ($25,000) per judicial district, when the cost of court commissioners for calendar year 1992 is compared with the cost of temporary hearing officers for calendar year 1993.

(e) In those judicial districts which implement the program on January 1, 1993, the clerical effort required in the clerk's office is reduced through enhanced automation development, thus allowing the phasing out of unnecessary staff for a savings of at least thirty thousand dollars ($30,000) per judicial district, comparing calendar year 1993 costs with calendar year 1992 costs.
CHAPTER 522

An act to amend Section 12728 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor August 17, 1992. Filed with Secretary of State August 18, 1992 ]

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

SECTION 1. Section 12728 of the Business and Professions Code is amended to read:

12728. (a) No weighmaster shall weigh a vehicle, or combination of vehicles, for certification, when part of the vehicle, or connected combination, is not resting on the scale.

(b) When weighing a combination of vehicles that will not rest on the scale platform at one time, the combination shall be disconnected and weighed separately. The weights so taken may be combined for the purpose of issuing a single certificate.

(c) This section does not prohibit weighing of vehicles to determine compliance with the Vehicle Code.

(d) This section does not apply to the weighing of seed cotton for purposes of ginning when the weights are obtained by weighing trailers not equipped with braking systems and are not used for the sale of the seed cotton.

(e) This section does not apply to a combination of multiple railcars that contain grain or grain products if the consignor and the consignee to the transaction agree in writing to a multiple draft weighing operation.

CHAPTER 523

An act to amend Section 1747.02 of the Civil Code, to amend Sections 6159, 29823, 53645, and 66412 of, to add Sections 29828 and 29845 to, and to repeal Section 12463.2 of, the Government Code, and to amend Sections 61, 275, 408, 441, 867, 1604, 1605, 2502, 2514, 2611.4, 2616, 2823, 2921.5, 3436, 3437, 3446, 3448, 3692, 3804, 3804.2, 4102, 4103, 4108, 4656.4, 4674, 4703, 4710, 4803, 5151, and 5832 of, to amend and renumber Section 2512.5 of, to add Sections 760 and 2511.1 to, to add and repeal Section 4703.1 of, to repeal Sections 2512, 2906, 2907, 2908, and 2908.3 of, and to repeal Chapter 7 (commencing with Section 100.2) of Part 0.5 of Division 1 of, the Revenue and Taxation Code, relating to property taxation.
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. "Retailer" shall not mean the state, a county, city, city and county, or any other public agency.
(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 that 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 that 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 that does all of the following:

(1) Sets forth sufficient information to enable the card issuer to identify the cardholder and the account.

(2) Sufficiently identifies the billing error.

(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 6159 of the Government Code is amended to read:

6159. (a) As used in this section:

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(1) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(2) "Card issuer" means any person who issues a credit card and purchases credit card drafts or the agent of such person for such purposes with respect to such card.

(3) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(4) "Draft purchaser" means any person who purchases credit card drafts.

(b) Subject to the provisions of subdivision (c), a court, city, or other public agency may authorize the acceptance of a credit card for payment for the deposit of bail or for any fine for any offense not declared to be a felony, for payment of a filing fee or other court fee, for payment of any towage or storage costs for a vehicle which has been removed from a highway, or from public or private property, as a result of parking violations, for payment for services rendered by any city, county, or city and county, or for the payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(c) A court desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of its county board of supervisors. A city desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of the governing body that has fiscal responsibility for that agency. After approval is obtained, a contract may be executed with one or more credit card issuers or draft purchasers. The contract shall provide for:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer or draft purchaser regarding the presentment, acceptability and payment of credit card drafts.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer or draft purchaser of a reasonable fee or discount.

(4) Such other matters appropriately included in contracts with respect to the purchase of credit card drafts as may be agreed upon by the parties to the contract.

(d) The honoring of a credit card pursuant to subdivision (b) hereof constitutes payment of the amount owing to the court, city, county, city and county, or other public agency as of the date the credit card is honored provided the credit card draft is paid following its due presentment to a card issuer or draft purchaser.
(e) If any credit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the court, city, county, city and county, or other public agency for any reason, any record of payment made by the court, city, or other public agency honoring the credit card shall be void. Any receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder shall continue as an outstanding obligation as though no payment had been attempted.

(f) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, a court, city, county, city and county, or any other public agency may impose a fee for the use of a credit card, not to exceed the costs incurred in providing for payment by credit. Those costs include, but are not limited to, the payment of fees or discounts, as described in paragraph (3) of subdivision (c). Any fee imposed pursuant to this subdivision for the use of a credit card shall be approved by the governing body responsible for the fiscal decisions of the imposing public agency.

(g) Fees or discounts provided for under paragraph (3) of subdivision (c) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer or draft purchaser to the extent not recovered from the cardholder pursuant to subdivision (f).

SEC. 3. Section 12463.2 of the Government Code is repealed.

SEC. 3.5. Section 29823 of the Government Code is amended to read:

29823. When there is sufficient money in the treasury to pay the warrants drawing interest, the treasurer shall give notice by mail to the registered warrantholder, or by published notice in a newspaper of general circulation published in the county, or if none is published therein, by written notice posted in an appropriate public notice location in the courthouse. From the date of mailing, or first publication or posting of the notice, the warrants cease to draw interest.

SEC. 4. Section 29828 is added to the Government Code, to read:

29828. Actual costs incurred for warrant registration, record maintenance, notification, interest calculation, and payment processing may be recovered from the issuing entity as administrative costs by the county treasurer.

SEC. 5. Section 29845 is added to the Government Code, to read:

29845. Actual costs incurred for claim or order registration, record maintenance, notification, interest calculation, and payment processing may be recovered from the issuing entity as administrative costs by the county auditor-controller.

SEC. 5.3. Section 53645 of the Government Code is amended to read:

53645. Interest shall be computed and paid by the depository, as follows:

(a) For active deposits upon which interest is payable, interest shall be computed on the average daily balance for the calendar
quarter, and shall be paid quarterly.

(b) For inactive deposits, interest shall be computed on a 360-day basis, and shall be paid quarterly.

SEC. 5.5. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 11004 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.
(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is “individually owned” if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation, as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

SEC. 5.7. Section 61 of the Revenue and Taxation Code is amended to read:

61. Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals regardless of the period during which the right may be exercised. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, extension, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term. For purposes of this subdivision, “renewal” and “extension” do not include the granting of an option to renew or extend an existing
agreement pursuant to which the term of possession of the existing agreement would, upon exercise of the option, be lengthened, whether the option is granted in the original agreement or subsequent thereto.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(d) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62, Section 63 and Section 65.

(e) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62.

(f) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(g) Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his or her spouse) when a revocable trust becomes irrevocable.

(h) The transfer of stock of a cooperative housing corporation, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or a portion thereof. A "cooperative housing corporation" is a real estate development in which membership in the corporation, by stock ownership, is coupled with the exclusive right to possess a portion of the real property.

(i) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

SEC. 6. Chapter 7 (commencing with Section 100.2) of Part 0.5 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 6.5. Section 275 of the Revenue and Taxation Code is
amended to read:

275. (a) If a claimant for the homeowners' property tax exemption fails to file the required affidavit with the assessor by 5 p.m. on April 15 of the calendar year in which the fiscal year begins, but files that affidavit on or before the following December 10, an exemption of the lesser of five thousand six hundred dollars ($5,600) or 80 percent of the full value of the dwelling shall be granted by the assessor.

(b) On claims filed pursuant to subdivision (a) after November 15, this partial homeowners' exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10 and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this partial homeowners' exemption is applied to the second installment and if both installments are paid on or before December 10 or if the reduction in taxes from this partial exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 7. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b), (c), and (d), any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their
duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Savings and Loan, the Department of Transportation, and the Department of General Services, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Savings and Loan, the Department of Transportation, or the Department of General Services pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(d) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the assessor's tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(e) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

SEC. 7.5. Section 441 of the Revenue and Taxation Code is amended to read:

441. Every person owning taxable personal property, other than a mobilehome subject to Part 13 (commencing with Section 5800), having an aggregate cost of thirty thousand dollars ($30,000) or more shall file a signed property statement with the assessor. Every person owning personal property which does not require the filing of a property statement or real property shall upon request of the assessor file a signed property statement. Failure of the assessor to
request or secure the property statement does not render any assessment invalid.

(a) The property statement shall be declared to be true under the penalty of perjury and filed with the assessor between the lien date and 5 p.m. on the last Friday in May, annually, or between the lien date and any earlier time as the assessor may appoint.

(b) If the assessor appoints a time other than the last Friday in May, it shall be no earlier than April 1. In this event the penalty provided by Section 463 shall apply if the property statement is not filed with the assessor by 5 p.m. on the last Friday in May or if all of the following apply:

(1) The property statement is not filed within the time appointed by the assessor.

(2) The assessor has given notice by certified or registered mail, or by first-class mail, properly addressed with postage prepaid, no earlier than 15 days after the time appointed by the assessor of nonreceipt of the property statement within the appointed time. If the notice is given by first-class mail, the assessor shall obtain a certificate of mailing issued by the United States Postal Service verifying the fact and date of mailing of the notice.

(3) The property statement has not been filed with the assessor within 15 days following the date of receipt of the notice, if the notice is given by certified or registered mail, or within 20 days following the date shown on the certificate of mailing, if the notice is given by first-class mail.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. This subdivision shall be applicable to every taxing agency, including but not limited to, a chartered city and county, or chartered city.

(d) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

(f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other financial institution, the property statement shall be submitted by the owner bank or other financial institution.

(g) The assessor may refuse to accept any property statement he
or she determines to be in error.

SEC. 8. Section 760 is added to the Revenue and Taxation Code, to read:

760. If an amount assessed by the board on fixtures and personal property only becomes delinquent on the secured roll, the tax collector may utilize those procedures for the collection of taxes on the unsecured roll to collect the amount assessed by the board.

SEC. 9. Section 867 of the Revenue and Taxation Code is amended to read:

867. An assessment made pursuant to this article against real property for the year or years in which such real property escaped assessment shall not create or impose a lien or charge on such real property for taxes, interest, or penalty if (1) such real property has been transferred or conveyed to a bona fide purchaser for value prior to the date of such assessment and the showing thereof on the secured roll with the date of entry specified thereon; or (2) such real property is subject to a lien of a bona fide encumbrance for value created and attaching prior to the date of such assessment and the showing thereof on the secured roll with the date of entry specified thereon. In such cases, the tax collector may record with the county recorder of any county a certificate which shall set forth the name of the person who would have been the assessee in the year in which such real property escaped assessment and the amount or amounts of any such assessments and penalties. From the date of the recording of such certificate, a lien shall be created and shall attach against any real property owned by such person in the county or counties in which any such certificates may have been recorded, which lien shall have the force, effect and priority of a judgment lien.

The tax collector, with the approval of the board of supervisors, may at any time release all or any portion of real property subject to any lien created or attaching by the recording of such a certificate from such lien or subordinate such lien to other liens and encumbrances if he or she determines that the assessment or taxes are sufficiently secured by a lien on other property belonging to the person named in such a certificate or that the release or subordination will not endanger or jeopardize the collection of such assessment or taxes.

A written certification by the tax collector to the effect that real property subject to any lien imposed by the recording of the certificate as hereinafter provided has been released from such lien or that such lien has been subordinated to other liens shall be conclusive evidence as to any bona fide purchaser, encumbrancer, or lessee that such lien has been released or has been subordinated as set forth in such written certification. Such written certification may be recorded with the county recorder of any county.

SEC. 9.3. 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, or on the record, 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. 9.5. Section 1605 of the Revenue and Taxation Code is amended to read:

1605. (a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at the assessee’s address as contained in the official records of the county assessor. Receipt by the assessee of a tax bill based on that assessment shall suffice as the notice.

(b) Upon application for reduction pursuant to subdivision (a) of Section 1603, the assessment shall be subject to review, equalization and adjustment by the county board. The application shall be filed with the clerk no later than 60 days after the date on which the assessee was notified. For counties of the first class, the application shall be filed within 60 days of the date of the mailing of the tax bill. However, an application for reduction in a supplemental assessment may be filed within 12 months following the month in which the assessee is notified of that assessment, if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor’s judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value of the property is filed in accordance with Section 1607.

(c) The board of supervisors of any county may by resolution require that the application for reduction pursuant to subdivision (a) of Section 1603 be filed with the clerk no later than 60 days after the date of the mailing of the tax bill.

(d) In counties where assessment appeals boards have not been created and are not in existence, at any regular meeting, the board of supervisors, on the request of the assessor or any taxpayer, shall sit as the county board to equalize any assessments made by the assessor outside the regular assessment period for those assessments. Notwithstanding any other provision of law to the contrary, in any county in which assessment appeals boards have been created and are in existence, the time for equalization of assessments made outside the regular assessment period for those assessments, including assessments made pursuant to Sections 501, 503, 504, 531, and 531.1, shall be prescribed by rules adopted by the board of supervisors.

(e) If an audit of the books and records of any profession, trade, or business pursuant to Section 469 discloses property subject to an escaped assessment for any year, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to this chapter, except in those instances when that property had previously been equalized for the year in question by the county board of equalization or assessment appeals board. The application shall be filed with the clerk no later than 60
days after the date on which the assessees were notified. Receipt by the assessees of a tax bill based upon that assessment shall suffice as that notice.

(f) For purposes of subdivision (a), "regular assessment period" means March 1 to and including July 1 of the calendar year in which the assessment, other than escape assessments, should have been enrolled if it had been timely made.

SEC. 10. Section 2502 of the Revenue and Taxation Code is amended to read:

2502. Taxes may be paid in legal tender or in money receivable in payment of taxes by the United States. The tax collector shall have the right to refuse the payment in coins of property taxes, penalties and interest, and any other charges associated with the payment of property taxes.

SEC. 11. Section 2511.1 is added to the Revenue and Taxation Code, to read:

2511.1. (a) As used in this section:

(1) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(2) "Card issuer" means any person who issues a credit card and purchases credit card drafts, or the agent for those purposes with respect to a credit card.

(3) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(4) "Draft purchaser" means any person who purchases credit card drafts.

(b) The board of supervisors may authorize the acceptance of a credit card for payment of property taxes. Following an authorization pursuant to the preceding sentence, the county shall, upon approval of the board of supervisors, execute a contract with one or more credit card issuers or draft purchasers. The contract shall provide for all of the following:

(1) The respective rights and duties of the county, and card issuers and draft purchasers regarding the presentment, acceptability, and payment of credit card drafts.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer or draft purchaser of a reasonable fee or discount.

(4) Other matters appropriately included in contracts with respect to the purchase of credit card drafts as may be agreed upon by the parties to the contract.

(c) The honoring of a credit card pursuant to subdivision (b) shall constitute payment of the tax as of the date the credit card is honored, provided the credit card draft is paid following its due
presentment to a card issuer or draft purchaser.

(d) The county shall impose a fee for the use of a credit card sufficient in amount to provide for the recovery of fees or discounts paid by the county under paragraph (3) of subdivision (b) and all other costs incurred by the county in providing for payment by credit. Fees imposed under this subdivision shall be approved by the board of supervisors.

(e) If any credit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the county for any reason, any record of payment made shall be null and void. Any receipt issued in acknowledgement of payment shall also be null and void. The obligation of the cardholder shall continue as an outstanding obligation as though no payment had been attempted.

(f) Upon notice of nonpayment of the credit card draft, the tax collector may charge the person who attempted the payment a fee not to exceed the costs of processing the draft, providing notice of nonpayment 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. Fees imposed under this subdivision shall be approved by the board of supervisors.

SEC. 12. Section 2512 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 2512.5 of the Revenue and Taxation Code is amended and renumbered to read:

2512. If a remittance to cover a payment required by law to be made to a taxing agency prior to a specified date and hour before being delinquent is deposited in the United States mail in a sealed envelope, properly addressed with the required postage prepaid, on the date the same becomes delinquent, the remittance shall be deemed received before delinquency on the date shown by the post office cancellation mark stamped upon the envelope containing the remittance or on the date it was mailed if proof satisfactory to the tax collector establishes that the mailing occurred on an earlier date. The taxing agency is not required to accept such a payment actually received in the mail if it is received more than 30 days after the date and time set by law for the payment.

SEC. 14. Section 2514 of the Revenue and Taxation Code is amended to read:

2514. (a) Upon receipt of a certificate of eligibility described in Section 20602, Section 20639.6, or Section 20640.6 signed by the claimant, the claimant’s spouse, or authorized agent appointed under regulations adopted by the Controller pursuant to Section 20603 or Section 20640.7, the tax collector shall ascertain whether the amount of money entered on the certificate by such claimant or agent, when added to other amounts available for such purpose, are sufficient to pay the amount due and owing.

If such is the case, the tax collector or his or her designee shall
countersign the certificate and mark the tax paid. Once signed and
countersigned, a certificate of eligibility shall be deemed a
negotiable instrument for purposes of all laws of this state, as
specified in subdivision (d) of Section 20602. Upon acceptance of
such a certificate:

(1) The tax collector shall enter the fact that taxes on the property
have been postponed in appropriate columns on the roll. In the case
of the secured roll, this information may be entered in that portion
of the roll which has been designated for tax default information
required by Section 3439.

(2) In the case of a certificate of eligibility issued pursuant to
Section 20602, the tax collector shall determine if the property
described in the certificate of eligibility is subject to a lien recorded
pursuant to Section 16182 of the Government Code. If the property
is not subject to such a lien, the tax collector shall enter the amount
paid by use of the certificate, the date of such payment, the
Controller's identification number shown on the certificate of
eligibility, the address of the property covered by the certificate, and
the name of the claimant as shown on the certificate on a "notice of
lien for postponed property taxes" form which shall be provided by
the Controller. The tax collector shall thereafter forward such notice
of lien form to the assessor.

(3) With respect to a claimant whose property taxes are paid by
a lender from an impound, trust, or other type of account described
in Section 2954 of the Civil Code, the tax collector shall notify the
auditor of the claimant's name and address, and the amount of
money entered on the certificate.

The auditor, treasurer, or disbursing officer shall send a check in
the amount of money entered on the certificate to said claimant
within 30 days following the date on which the installment is paid by
the lender or the certificate of eligibility is received from the
claimant, whichever is later.

(b) The procedures established by this chapter shall not be
construed to require a lender to alter the manner in which a lender
makes payment of the property taxes of such claimant.

SEC. 15. Section 2611.4 of the Revenue and Taxation Code is
amended to read:

2611.4. Any county department, officer or employee may refrain
from collecting any tax, assessment, penalty or cost, license fees or
money owing to the county where the amount to be collected is
twenty dollars ($20) or less. Nothing in this section shall be construed
as releasing any person from the payment of any tax, assessment,
penalty or cost, license fee or any other money which is due and
owing to the county.

SEC. 16. Section 2616 of the Revenue and Taxation Code is
amended to read:

2616. Not less than once every 12 months and on dates approved
by the auditor, the tax collector shall account to the auditor for all
moneys collected during the preceding reporting period. On the
same day he or she shall file with the auditor a statement under oath, showing that all money collected by him or her has been paid as required by law.

Not less than once every 12 months and on dates approved by the auditor, the tax collector shall file with the auditor a statement under oath, showing an itemized account of all his or her transactions and receipts since his or her last settlement.

In counties using a mechanized management reporting system in reporting information for a uniform four-week period, the board of supervisors, by ordinance, may provide for the duties required by this section to be performed on a corresponding uniform four-week period.

SEC. 17. Section 2823 of the Revenue and Taxation Code is amended to read:

2823. The county assessor shall determine a separate valuation on the parcel, and shall determine the valuation of the remaining parcel. The sum of the valuations of the parcels shall equal their total valuation before separation.

A separate valuation shall not be made of any parcel covered by a subdivision map filed for record after the lien date immediately preceding the current fiscal year. In connection with the recording of a final subdivision map a segregation may nevertheless be made so as to include all of the land within the subdivision in a single parcel.

A separate valuation shall not be made dividing any piece of property separately assessed in the original assessment into more than four parcels. However, this prohibition shall not apply in any county in which the board of supervisors so provides in an ordinance adopted by a majority vote of the board.

With respect to nonresidential subdivisions, without regard to the number of parcels involved, which are covered by special assessment liens the bonds for which are owned by a county, the board of supervisors of that county may authorize the county assessor, auditor, and tax collector to prorate the amounts for past due property taxes and assessment liens, plus any interest and penalties that may have accrued thereon, among the various parcels in the subdivision. Notwithstanding any other provision of law, the tax collector may then enter into an installment payment agreement with respect to the pending subdivision map and thereupon the agreement shall be deemed the equivalent of a certificate pursuant to Section 66492 of the Government Code for purposes of permitting the filing of the final map and shall be recorded together with the final map, provided that the past due property taxes, assessment liens, and the special assessment lien shall not be discharged of record by the agreement, but shall be prorated among the parcels created by the final map.

If the application requested that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests be allowed to remain as a lien on the parcel sought to be separately valued, and the assessor determines that the value of the
parcel is sufficient to secure the payment of the tax, the assessor shall set forth the value of such personal property, or leasehold improvements, or possessory interests opposite the assessor’s determination of the value of the parcel.

SEC. 18. Section 2906 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 2907 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 2908 of the Revenue and Taxation Code is repealed.

SEC. 21. Section 2908.3 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 2921.5 of the Revenue and Taxation Code is amended to read:

2921.5. (a) Except as provided in subdivision (b), taxes, penalties, and costs on unsecured property as defined in subdivision (b) of Section 134, shall be transferred from the “secured roll” to the “unsecured roll” of the corresponding year by the county auditor on order of the board of supervisors with the written consent of the county legal advisor pursuant to Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 at the same time the taxes are canceled on the property, and shall be collected in the same manner as other delinquent taxes on the “unsecured roll.” Amounts transferred pursuant to this subdivision shall continue to be subject to delinquent penalties until the amounts are paid, and are collectible from either the person from whom the property was acquired or the public entity that acquired the property.

(b) No delinquent penalty shall attach to taxes transferred pursuant to subdivision (a), except to those taxes which carried delinquent penalty on the secured roll at the time the property involved was acquired by a public entity.

SEC. 23. Section 3436 of the Revenue and Taxation Code is amended to read:

3436. At 12:01 a.m. on July 1, the taxes, assessments, penalties, and costs on real property except tax-defaulted property and possessory interests, which have not been paid shall be declared in default.

SEC. 24. Section 3437 of the Revenue and Taxation Code is amended to read:

3437. The amount due on any property may be paid until the close of business on June 30 if it was separately valued on the secured roll. If June 30 falls on a Saturday, or legal holiday, and payment is received by the close of business on the next business day, redemption penalties shall not attach.

SEC. 25. Section 3446 of the Revenue and Taxation Code is amended to read:

3446. (a) Where the abstract list or other system of control in a county obviates the need for the detailed statement required under Section 3440 and the transmittal of redemption certificates and
notices to the Controller with respect to tax-defaulted property under Sections 4106 and 4803, the Controller may:

(1) Authorize the tax collector to transmit to the Controller in lieu of the detailed statement required under Section 3440, a summary statement following the declaration of default setting forth the time, the date, number of tax-defaulted parcels, dates of publication of delinquent list and notice of impending default, and other appropriate information.

(2) Authorize the tax collector to transmit to the Controller prior to the notice to the Controller of power to sell a detailed list of the tax-defaulted properties which remain unredeemed, the dates and forms of which the Controller shall prescribe.

(b) Where the abstract list or other system of control obviates the need for transmittal of redemption certificates to the Controller, the Controller may authorize the tax collector to discontinue the transmittal of redemption certificates and notices to the Controller under Sections 4106 and 4803.

SEC. 26. Section 3448 of the Revenue and Taxation Code is amended to read:

3448. Where the system of control in the county no longer is operative or is found by the Controller to be inadequate, or where the tax collector fails to comply with the requirements of Section 3446, the authorizations may be rescinded by the Controller 30 days after notice is mailed to the tax collector. Upon rescission of the authorization, the tax collector shall furnish the Controller, in the same form as prescribed under Section 3440, a complete list of all tax-defaulted properties which remained unredeemed on the effective date of such rescission, and the tax collector shall, from and after the effective date of the rescission, transmit to the Controller all the redemption certificates provided for under Section 4106.

SEC. 27. Section 3692 of the Revenue and Taxation Code is amended to read:

3692. (a) The tax collector shall attempt to sell tax-defaulted property as provided in this chapter within four years of the time that the property becomes subject to sale for nonpayment of taxes unless by other provisions of law the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall with the approval of the Controller attempt to sell the property at intervals of no more than six years until the property is sold.

(b) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(c) When parcels which are rendered unusable by their size, location or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel at a minimum bid to
owners of contiguous parcels.

(d) Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (b) or (c), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later.

SEC. 28. Section 3804 of the Revenue and Taxation Code is amended to read:

3804. (a) If any portion of the property is not so redeemed, the tax collector shall, without charge, execute to the purchaser a deed of the property as to which either:

(1) The agreement provides that no payment is to be made by the purchaser, or

(2) There has been paid the purchase price in compliance with the terms of the agreement.

(b) The tax collector shall promptly deliver the deed described in subdivision (a) to the county recorder for recordation and shall send a conformed copy of that deed to the Controller. The recorder shall record the deed and prepare necessary conformed copies without charge.

SEC. 29. Section 3804.2 of the Revenue and Taxation Code is amended to read:

3804.2. If a deed to the purchaser contains a clerical error or misstatement of fact, a corrected deed shall be issued by the tax collector and recorded with the county recorder without charge. The new deed shall contain a statement of reasons for its issuance and, as far as practical, shall be the same as the original except where corrected. The tax collector shall send a conformed copy of the new deed to the Controller.

SEC. 30. Section 4102 of the Revenue and Taxation Code is amended to read:

4102. The amount necessary to redeem shall be paid in lawful money of the United States and is the sum of the following:

(a) The total amount of all prior year defaulted taxes.

(b) Delinquent penalties and costs.

(c) Redemption penalties.

(d) A redemption fee of one dollar and fifty cents ($1.50) on each separately valued parcel tax defaulted after June 13, 1947, and prior to June 13, 1969. A redemption fee of two dollars ($2) on each separately valued parcel tax defaulted after June 12, 1969, and prior to January 1, 1979. A redemption fee of five dollars ($5) on each separately valued parcel tax defaulted after January 1, 1979, and prior to January 1, 1984, and a redemption fee of fifteen dollars ($15) on and after that date. On property tax defaulted prior to June 13, 1947, there shall be no redemption fee collected.

SEC. 31. Section 4103 of the Revenue and Taxation Code is amended to read:

4103. Redemption penalties are the sum of the following:

(a) Beginning July 1st of the year of the declaration of tax default,
on the declared amount of defaulted taxes at the rate of 1¼ percent a month to the time of redemption. If the last day of any month falls on a Saturday, Sunday, or legal holiday, the additional penalty of 1¼ percent shall attach after the close of business on the next business day.

(b) Beginning July 1st of each subsequent year, on the unpaid taxes for which the property would have been declared in default if there had not been a previous declaration, 1¼ percent a month to the time of redemption. If the last day of any month falls on Saturday, Sunday, or a legal holiday, the additional penalty of 1¼ percent shall attach after 5 p.m. on the next business day.

SEC. 32. Section 4108 of the Revenue and Taxation Code is amended to read:

4108. (a) Not less than once every 12 months and on dates approved by the auditor the tax collector shall account to the auditor for all moneys collected during the preceding month under this part. On the same day he or she shall file with the auditor a statement under oath showing that all money collected by him or her has been paid as required by law.

(b) Not less than once every 12 months and on dates approved by the auditor, the tax collector shall file with the auditor a statement under oath within six months after the close of each month’s business showing an itemized account of all his or her transactions and receipts under this part including the amount collected for each fund or district extended on the roll for such month.

The amounts charged to the tax collector shall be reduced accordingly.

SEC. 33. Section 4656.4 of the Revenue and Taxation Code is amended to read:

4656.4. Amounts collected as the cost for preparing the delinquent list shall be distributed to the county general fund. When authorized by the board of supervisors, those amounts shall be distributed to a restricted county fund to be allocated only for the following purposes:

(a) Updating and improving information with respect to delinquent taxes.

(b) Redemption systems.

(c) Monthly settlements with the auditor pursuant to Section 4108.

(d) The collection of taxes by the tax collector.

SEC. 33.3. Section 4674 of the Revenue and Taxation Code is amended to read:

4674. Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of one year following the recordation of the tax deed to the purchaser, any excess proceeds not claimed under Section 4675 shall be distributed
as provided in paragraph (2) of subdivision (a) of Section 4673.1, except prior to the distribution, the county may deduct those costs of maintaining the redemption and tax-defaulted property files, and those costs of administering and processing the claims for excess proceeds, that have not been recovered under any other provision of law.

SEC. 33.5. Section 4703 of the Revenue and Taxation Code is amended to read:

4703. In each county which elects to adopt the procedure authorized by this chapter there is hereby created a tax losses reserve fund.

(a) The tax losses reserve fund shall be used exclusively, as hereinafter provided, to cover losses which may occur in the amount of tax liens as a result of special sales of tax-defaulted property. Except as provided in subdivision (b), whenever in any year the amount of the tax losses reserve fund has reached an amount equivalent to 4 percent of the total of all taxes and assessments levied on the secured roll for that year, the amounts hereinafter authorized to be credited to that fund shall, for the remainder of that year, be credited to the county general fund.

(b) If any county for which the rate of secured tax delinquency has been 3 percent or less for the preceding three consecutive fiscal years, whenever in any year the amount of the tax losses reserve fund has reached the amount equivalent to 3 percent of the total of all taxes and assessments levied on the secured rolls for that year, the amounts hereinafter authorized to be credited to that fund shall, for the remainder of that year, be credited to the county general fund.

(c) Except as provided in Section 4703.1, if any county utilizing the procedure set forth in subdivision (b) incurs a rate of secured tax delinquency for one fiscal year that exceeds 3 percent of the total of all taxes and assessments levied on the secured rolls, the provisions of subdivision (a) shall apply, including the 4-percent limit, until the time that the rate of secured tax delinquency has been 3 percent or less for three consecutive years, at which time the provisions of subdivision (b) shall again apply.

(d) The auditor and treasurer shall keep apportioned tax resources accounts in such a manner that the balance of amounts apportioned to funds on an accrual basis shall be known by both officers. In addition, the auditor shall keep secured taxes receivable accounts in such a manner as to establish accountability for the amounts receivable on the secured tax rolls. Secured tax rolls, as used in this chapter, include delinquent rolls prescribed by Section 2627.

SEC. 33.7. Section 4703.1 is added to the Revenue and Taxation Code, to read:

4703.1. (a) Notwithstanding subdivision (c) of Section 4703, a county utilizing the procedure set forth in subdivision (b) of Section 4703 shall not be penalized or required to comply with subdivision (a) of Section 4703, provided that the secured tax delinquency for that county for the 1991-92 fiscal year did not exceed 4 percent on
(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute that becomes effective on or before January 1, 1994, deletes or extends those dates.

SEC. 34. Section 4710 of the Revenue and Taxation Code is amended to read:

4710. After apportionment to the state of the amounts prescribed by Section 4656.5, amounts received for the redemption of tax-defaulted property shall be distributed as follows:
(a) Any amounts levied but not apportioned to funds at the time of levy in the manner authorized by this chapter and any redemption penalties collected on those amounts shall be distributed to funds as prescribed in Chapter 1c (commencing with Section 4656), except that assessments not apportioned previously shall be distributed to the funds for which levied.
(b) Any amounts which were apportioned to funds at the time of the levy in the manner authorized by this chapter shall be distributed to the apportioned tax resources accounts. The pro rata of redemption penalties or interest collected on any amounts levied but not apportioned to funds at the time of levy shall be distributed to the respective funds and the balance of redemption penalties or interest together with delinquency penalties shall be apportioned to the tax losses reserve fund.
(c) Amounts collected as costs shall be distributed to a restricted county fund to be allocated only for the following purposes:
(1) Updating and improving information with respect to delinquent taxes.
(2) Redemption systems.
(3) Monthly settlements with the auditor pursuant to Section 4108.
(4) The collection of taxes by the tax collector.
(d) Amounts collected as redemption fees shall be distributed to the state.

The total amount collected on the secured tax roll shall be entered on the secured taxes receivable accounts.

SEC. 35. Section 4803 of the Revenue and Taxation Code is amended to read:

4803. When any declaration of default, redemption certificate, notice of power to sell tax-defaulted property, or recission of notice of power to sell tax-defaulted property, is canceled or corrected under this part, the tax collector shall immediately notify the Controller of the fact.

SEC. 36. Section 5151 of the Revenue and Taxation Code is amended to read:

5151. Interest at the county pool apportioned rate shall be paid, when that interest is ten dollars ($10) or more, on any amount refunded under Section 5096.7, or refunded as a result of the reduction of assessed value following an application for equalization
by a board of equalization or by a court action to recover taxes, or as a consequence of an assessor's error, or as the result of an incorrect assessment not occasioned by the act or omission of the assesseee. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of that notice. For purposes of this section, "county pooled apportioned rate" means the annualized rate of interest earned on the total amount of pooled idle funds from all accounts held by the county treasurer, in excess of the county treasurer's administrative costs with respect to that amount, as of June 30 of the preceding fiscal year for which the refund was calculated.

Interest allowed under this section shall be computed using whichever of the following periods provides the longest period:

(a) The date of the recording of the deed to the public agency acquiring the property in eminent domain to the date of the filing of the claim for refund.

(b) The date of the payment of the tax on property subject to an application for equalization of the assessed value thereof to the date of the determination of the equalized value of the property.

(c) The date of the payment of the tax on property subject to a refund as a result of an assessor error in assessing the property to a date 15 days after the date of approval of the correction to the tax roll that was not the result of court action or an assessment appeal decision.

(d) Forty-five days following the filing of a claim for refund until the refund is paid.

The interest charged shall be apportioned to the appropriate funds, as determined by the county auditor.

SEC. 36.5. Section 5832 of the Revenue and Taxation Code is amended to read:

5832. (a) (1) Upon application and the payment of any applicable fee, the county tax collector shall issue a tax clearance certificate or a conditional tax clearance certificate. The tax collector shall not charge a fee for the first issuance of a certificate with respect to a manufactured home, but shall charge a fee for the issuance of any subsequent certificate with respect to that manufactured home in an amount equal to the actual costs of preparing and processing that certificate.

(2) 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.

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

However, 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.
An act to amend Sections 20208, 21330.1, 21333, 21334, 21339, 21360.1, and 21365.7 of the Government Code, relating to the Public Employees’ Retirement System.

[Approved by Governor August 18, 1992. Filed with Secretary of State August 18, 1992]

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

SECTION 1. Section 20208 of the Government Code is amended to read:

20208. (a) Whenever a person entitled to payment of a member’s accumulated contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070 of this code, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) Whenever the amount of a benefit payable by this system cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the accumulated contributions of the member on whose account the benefit is payable shall be administered in accordance with subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the retirement fund and held for the claimant without further accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of redeposit, they shall revert to and become a part of the reserve established pursuant to Section 20203. Transfer to this reserve shall be made as of the June 30th next following the expiration of the four-year period.

The board may at any time after transfer of proceeds to the described reserve upon receipt of proper information satisfactory to it, return such proceeds so held in reserve to the credit of the claimant, to be administered in the manner provided under this system.

(d) For lump-sum death benefits administered in accordance with subdivision (c), where this system has made a diligent effort to identify or locate the person entitled to payment and that person cannot be found, payment may be made to the next entitled beneficiary or beneficiaries, upon receipt of valid claims, if two years have passed since the date of death. Payment made by this system in good faith and in reliance on those claims, notwithstanding that
it may fail to discover a person otherwise entitled to share in the benefits, shall constitute a complete discharge and release of the system for further liability for the benefits.

SEC. 2. Section 21330.1 of the Government Code is amended to read:

21330.1. The board may select an optional settlement under this article on behalf of the surviving spouse of a member who applied for retirement but who died prior to the mailing of a retirement allowance warrant and prior to an election in accordance with this article, if all of the following conditions are met:

(a) The application for retirement was received by the system, prior to the date of death.

(b) The document containing the application for retirement received by the system did not provide for a temporary election of the optional settlement 2.

(c) The deceased member had separated from state service at least one day prior to the effective date of retirement.

(d) The deceased member was alive on the effective date of retirement.

(e) The beneficiary designated on the application for retirement is the surviving spouse who requests in writing that the board make such a selection. Upon formal action by the board approving such a request, the request shall become irrevocable.

A retirement allowance provided in accordance with this section shall be calculated as if the member had elected Section 21336.

SEC. 3. Section 21333 of the Government Code is amended to read:

21333. Optional settlement 2 consists of the right to have a retirement allowance paid a member until his or her death and thereafter to his or her beneficiary for life.

If the beneficiary predeceases the member and the member elected this section to be effective on or after January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary, to reflect the benefit which would have been paid had the member not selected an optional settlement.

If a nonspouse beneficiary waives entitlement to this allowance and the member elected this section to be effective on or after January 1, 1993, the member's allowance shall be adjusted effective the first of the month following the receipt of the waiver of the allowance entitlement from the nonspouse beneficiary to reflect the benefit which would have been paid had the member not selected an optional settlement.

If the beneficiary spouse predeceases the member on or after January 1, 1990, and the member elected this section to be effective prior to January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary spouse to reflect a new allowance as calculated below.

If the nonspouse beneficiary waives entitlement to this allowance
on or after January 1, 1993, and the member elected this section to be effective prior to January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following receipt by the board of the waiver of entitlement from the nonspouse beneficiary, to reflect a new allowance as calculated below.

A percentage factor shall be applied to the difference between the member's unmodified allowance and optional settlement 2 allowance, both of which shall include applicable cost-of-living increases. The product of this equation shall then be added to the member's optional settlement 2 allowance and the total amount shall become the member's base allowance. The percentage factor applicable to each member shall be determined by the time between the member's retirement effective date and the date of death of the beneficiary spouse or by the time between the member's effective date and the date of the receipt of the waiver of the allowance entitlement according to the following table:

<table>
<thead>
<tr>
<th>Period between the member's retirement effective date and the date of the qualifying event</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 12 months</td>
<td>95%</td>
</tr>
<tr>
<td>12 months through 23 months</td>
<td>85%</td>
</tr>
<tr>
<td>24 months through 35 months</td>
<td>75%</td>
</tr>
<tr>
<td>36 months through 47 months</td>
<td>65%</td>
</tr>
<tr>
<td>48 months through 59 months</td>
<td>55%</td>
</tr>
<tr>
<td>60 months through 71 months</td>
<td>45%</td>
</tr>
<tr>
<td>72 months through 83 months</td>
<td>35%</td>
</tr>
<tr>
<td>84 months through 95 months</td>
<td>25%</td>
</tr>
<tr>
<td>96 months through 107 months</td>
<td>15%</td>
</tr>
<tr>
<td>108 months through 119 months</td>
<td>5%</td>
</tr>
<tr>
<td>120 months or more</td>
<td>0%</td>
</tr>
</tbody>
</table>

Nothing in this section shall result in additional cost to the employer.

SEC. 4. Section 21334 of the Government Code is amended to read:

21334. Optional settlement 3 consists of the right to have a retirement allowance paid a member until his or her death, and thereafter to have one-half of his or her retirement allowance paid to his or her beneficiary for life.

If the beneficiary predeceases the member and the member elected this section to be effective on or after January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary, to reflect the benefit which would have been paid had the member not selected an optional settlement.

If a nonspouse beneficiary waives entitlement to this allowance and the member elected this section to be effective on or after
January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following the receipt of the waiver of the allowance entitlement from the nonspouse beneficiary, to reflect the benefit which would have been paid had the member not selected an optional settlement.

If the beneficiary spouse predeceases the member on or after January 1, 1990, and the member elected this section to be effective prior to January 1, 1990, the member's allowance shall be adjusted effective the first of the month following the death of the beneficiary spouse to reflect a new allowance as calculated below.

If the nonspouse beneficiary waives entitlement to this allowance on or after January 1, 1993, and the member elected this section to be effective prior to January 1, 1993, the member's allowance shall be adjusted, effective the first of the month following receipt by the board of the waiver of entitlement from the nonspouse beneficiary, to reflect a new allowance as calculated below.

A percentage factor shall be applied to the difference between the member's unmodified allowance and optional settlement 3 allowance, both of which shall include applicable cost-of-living increases. The product of this equation shall then be added to the member's optional settlement 3 allowance and the total amount shall become the member's base allowance. The percentage factor applicable to each member shall be determined by the time between the member's retirement effective date and the date of death of the beneficiary spouse or by the time between the member's effective date and the date of the receipt of the waiver of the allowance entitlement according to the following table:

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<td>5%</td>
</tr>
<tr>
<td>120 months or more</td>
<td>0%</td>
</tr>
</tbody>
</table>

Nothing in this section shall result in additional cost to the employer.

SEC. 5. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a
member who elected to receive optional settlement 2, 3, or 4, involving a life contingency of the beneficiary, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary. The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months of the date of entry of the judgment dividing the community property of the parties, or within 12 months following marriage if the spouse is named as beneficiary, or, in the case of a member who experienced one of these qualifying events prior to January 1, 1988, the election shall be made by January 1, 1989. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in the system pursuant to this section.

A member who has a qualifying event prior to January 1, 1988, and who fails to elect by January 1, 1989, or a member who has a qualifying event on or after January 1, 1988, and who fails to elect within 12 months, shall retain the right to make an election under this section. However, this election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

SEC. 6. Section 21360.1 of the Government Code is amended to read:

21360.1. If a member dies on or after the effective date of retirement and prior to the mailing of a retirement allowance warrant and if the member has elected an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary, or the member elected the unmodified allowance or optional settlement 1 and if a partially continued retirement allowance under Sections 21263 to 21263.6, inclusive, is payable, the death shall be considered to be death after retirement and the applicable benefits shall be payable.

However, if the beneficiary designated on the election for retirement is either (1) the surviving unmarried minor child or children of the member and there is no surviving spouse eligible for
a partially continued retirement allowance under Sections 21263 to
21263.6, inclusive, or (2) the surviving spouse of the member, the
surviving spouse so named or the legal representative of the minor
child or children so named may elect to receive benefits which would
have been payable had the death occurred under the conditions of
Section 21360. Except as provided in Section 21330.1, nothing in this
part permits a surviving spouse, surviving children, or any person
other than a member to elect an optional settlement.

SEC. 7. Section 21365.7 of the Government Code is amended to
read:

21365.7. When a member, who is eligible to retire and who has
attained the minimum age for voluntary service retirement
applicable to him or her in his or her last employment preceding
death, dies in circumstances in which the basic death benefit is
payable other than solely upon the basis of membership in a county
retirement system or a retirement system maintained by the
university, and when the member has made a preretirement
election of the benefits provided by Section 21365.5 for his or her
surviving spouse and, if none, for any eligible surviving children or
Section 21365.6, if payable, for his or her surviving spouse, and the
designated spouse or children survive the member, a monthly
allowance equal to the amount provided by the elected benefit shall
be payable to the designated spouse or children.

No benefit is payable under this section if the special death benefit
is payable.

The allowance provided by this section shall be paid in lieu of the
basic death benefit, but a person or the guardian of a person,
designated for the allowance may elect, before the first payment on
account of it, to receive the basic death benefit in lieu of the
allowance.

If the accrued allowance paid under this section is less than the
basic death benefit payable, any such balance shall be paid as a lump
sum to the remarried spouse; if there is no remarried spouse, then
to the surviving children of the member, share and share alike; if
there is no remarried spouse and no surviving children, then to the
estate of the person last entitled.

This section shall apply only to a member whose death occurs on
or after January 1, 1990.

As used in this section, “a surviving spouse” means a husband or
wife who was married to the member for a continuous period
beginning at least one year prior to his or her death. “Children”
means unmarried children under age 18, until they reach age 18 or
marry prior to age 18.

Nothing in this section is intended to, or shall be construed to,
diminish any rights conferred by Section 21365.5 or 21365.6 or by any
other provision of this part.
An act to amend Sections 23145.5, 23145.6, and 23145.8 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 17, 1992. Filed with Secretary of State August 18, 1992]

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

SECTION 1. Section 23145.5 of the Vehicle Code is amended to read:

23145.5. (a) If a person is found to be in violation of Section 23140, or is convicted of, or is adjudged a ward of the juvenile court for, a violation of Section 23152 punishable under Section 23160 and is granted probation, the court may order, with the consent of the defendant or ward, as a term and condition of probation in addition to any other term and condition required or authorized by law, that the defendant or ward, participate in the program.

(b) The court shall give preference for participation in the program to defendants or wards who were less than 21 years of age at the time of the offense if the facilities of the program in the jurisdiction are limited to fewer than the number of defendants or wards eligible and consenting to participate.

(c) The court shall require that the defendant or ward not drink any alcoholic beverage at all before reaching the age of 21 years and not use illegal drugs.

SEC. 1.5. Section 23145.5 of the Vehicle Code is amended to read:

23145.5. (a) If a person is found to be in violation of Section 23140, is convicted of, or is adjudged a ward of the juvenile court for, a violation of Section 21200.5, 23140, or 23152 punishable under Section 23160, or Section 23220, 23221, or 23222, subdivision (a) or (b) of Section 23224, or Section 23225 or 23226, and is granted probation, the court may order, with the consent of the defendant or ward, as a term and condition of probation in addition to any other term and condition required or authorized by law, that the defendant or ward participate in the program.

(b) The court shall give preference for participation in the program to defendants or wards who were less than 21 years of age at the time of the offense if the facilities of the program in the jurisdiction are limited to fewer than the number of defendants or wards eligible and consenting to participate.

(c) The court shall require that the defendant or ward not drink any alcoholic beverage at all before reaching the age of 21 years and not use illegal drugs.

SEC. 2. Section 23145.6 of the Vehicle Code is amended to read:

23145.6. The court shall investigate and consult with the defendant or ward, defendant's or ward's counsel, if any, and any proposed supervisor of a visitation under the program, and the court
may consult with any other person whom the court finds may be of value, including, but not limited to, the defendant’s or ward’s parents or other family members, in order to ascertain that the defendant or ward is suitable for the program, that the visitation will be educational and meaningful to the defendant or ward, and that there are no physical, emotional, or mental reasons to believe the program would not be appropriate or would cause any injury to the defendant or ward.

SEC. 3. Section 23145.8 of the Vehicle Code is amended to read:

23145.8. (a) To the extent that personnel and facilities are made available to the court, the court may include a requirement for supervised visitation by the defendant or ward to all, or any, of the following:

(1) A trauma facility, as defined in Section 1798.160 of the Health and Safety Code, a base hospital designated pursuant to Section 1798.100 or 1798.101 of the Health and Safety Code, or a general acute care hospital having a basic emergency medical services special permit issued pursuant to subdivision (c) of Section 1277 of the Health and Safety Code which regularly receives victims of vehicle accidents, between the hours of 10 p.m. and 2 a.m. on a Friday or Saturday night to observe appropriate victims of vehicle accidents involving drinking drivers, under the supervision of any of the following:

(A) A registered nurse trained in providing emergency trauma care or prehospital advanced life support.

(B) An emergency room physician.

(C) An emergency medical technician-paramedic or an emergency medical technician II.

(2) A facility which cares for advanced alcoholics, such as a chemical dependency recovery hospital, as defined in Section 1250.3 of the Health and Safety Code, to observe persons in the terminal stages of alcoholism or drug abuse, under the supervision of appropriately licensed medical personnel.

(3) If approved by the county coroner, the county coroner’s office or the county morgue to observe appropriate victims of vehicle accidents involving drinking drivers, under the supervision of the coroner or a deputy coroner.

(b) As used in this section, “appropriate victims” means victims whose condition is determined by the visit supervisor to demonstrate the results of accidents involving drinking drivers without being excessively gruesome or traumatic to the probationer.

(c) If persons trained in counseling or substance abuse are made available to the court, the court may coordinate the visitation program or the visitations at any facility designated in subdivision (a) through those persons.

(d) Any visitation shall include, before any observation of victims or disabled persons by the probationer, a comprehensive counseling session with the visitation supervisor at which the supervisor shall explain and discuss the experiences which may be encountered
during the visitation in order to ascertain whether the visitation is appropriate for the probationer.

(e) If at any time, whether before or during a visitation, the supervisor of the probationer determines that the visitation may be or is traumatic or otherwise inappropriate for the probationer, or is uncertain whether the visitation may be traumatic or inappropriate, the visitation shall be terminated without prejudice to the probationer.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 23145.5 of the Vehicle Code proposed by both this bill and AB 2361. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1993, (2) each bill amends Section 23145.5 of the Vehicle Code, and (3) this bill is enacted after AB 2361, in which case Section 1 of this bill shall not become operative.

CHAPTER 526

An act to amend Section 987.73 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 987.73 of the Military and Veterans Code is amended to read:

987.73. (a) Except as provided in subdivision (b), the department in each individual case may specify the terms of the contract entered into with the purchaser, but no property sold under this article shall, voluntarily or involuntarily, by operation of law or otherwise, be transferred, assigned, encumbered, leased, let or sublet, in whole or in part, nor shall any mobilehome be removed from its original site, except in case of emergency where temporary removal is necessary to avoid potential damage, without the written consent of the department, until the purchaser has paid therefor in full and has complied with all the terms and conditions of this contract of purchase. The department may give its written consent to such transfers, assignments, encumbrances, leasing, lettings or sublettings, or removals, for good cause shown, subject to the interest of the department and consistent with the purposes of this article.

(b) The consent of the department shall not be required where a veteran, alone or jointly with his spouse, transfers his interest in property which is the subject of a loan agreement with the department into a revocable trust established for the benefit of the veteran or of the veteran and his spouse.

(c) The department may consent to an assignment in favor of a
nonveteran spouse if a veteran purchaser qualifies as "a person in long-term care" as defined in Section 14050.3 of the Welfare and Institutions Code if the department is satisfied that the interest of the veteran is adequately protected. If consent is given to the assignment, the contract shall continue at the same rate of interest and upon the same terms and conditions as are provided to veteran purchasers. Consent by the department to the assignment shall be deemed given if the assignment is pursuant to a court order, and if notice of the hearing was provided to the department at least 30 days prior to the hearing at which the court order was issued.

CHAPTER 527

An act to amend Sections 1005, 1405, 23512.6, and 25304 of, to add Section 1340.5 to, to repeal Section 23512.4 of, and to repeal and add Section 23512.2 of, the Elections Code, relating to elections.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992]

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

SECTION 1. Section 1005 of the Elections Code is amended to read:

1005. Whenever, on the 88th day before the election, there are 250 or less persons registered to vote in any precinct, the elections official may furnish each voter with an absentee ballot along with a statement that there will be no polling place for the election. The elections official shall also notify each voter of the location of the two nearest polling places in the event the voter chooses to return the ballot on election day. The voter shall not be required to file an application for the absentee ballot and the ballot shall be sent as soon as the ballots are available.

No precinct shall be divided in order to conform to this section.

SEC. 2. Section 1340.5 is added to the Elections Code, to read:

1340.5. (a) Notwithstanding the provisions of Section 1340, any election in Placer County or Stanislaus County may be conducted as an all-mail ballot election, subject to the following conditions:

1. The governing body of the city, county, or district may, by resolution, authorize the all-mail ballot election and shall notify the Secretary of State of its intent to conduct an all-mail ballot election at least 88 days prior to the date of the election.

2. The election shall not occur on the same date as a statewide primary or general election.

3. The election is not a special election to fill a vacancy in a state office, the State Legislature, or Congress.

4. At least one polling place is provided in each city, with one additional polling place for each 30,000 registered voters.
(5) By December 15, 1994, the elections official shall report to the Legislature and the Governor on the cost, rate of participation, and incidence of fraud involved in implementing this section.

(6) The return of voted mail ballots are subject to Section 1013.

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

SEC. 3. Section 1405 of the Elections Code is amended to read:

1405. Prior to opening the identification envelopes of absent voters, the elections official shall make available a list of absent voters for public inspection, from which challenges may be presented. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identification envelope of the challenged absent voter.

SEC. 4. Section 23512.2 of the Elections Code is repealed.

SEC. 5. Section 23512.2 is added to the Elections Code, to read:

23512.2. The declaration of candidacy shall be in substantially the following form:

I, ____________________________________________, do hereby declare myself as a candidate for election to the office of ______________________________. I am a registered voter. If elected, I will qualify and accept the office of ______________________________ and serve to the best of my ability. I request my name be placed on the official ballot of the district for the election to be held on the _____ day of _____, 19___, and that my name appear on the ballot as follows:

__________________________________________

(Print name above)
My current residence address is
__________________________________________ and my telephone number is ______________________________. I desire the following occupational designation to appear on the ballot under my name.

__________________________________________

(Print desired designation, if any, above)
This occupational designation is true and in conformance with the requirements of Section 10211 of the Elections Code.

I am aware that any person who files or submits for filing a declaration of candidacy knowing that it or any part of it has been made falsely is punishable by a fine or imprisonment, or both, as set forth in Section 29303 of the Elections Code.
I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

Executed on ______________________ , 19____, at ____________________________ (Place).

(Signature of Candidate)

SEC. 6. Section 23512.4 of the Elections Code is repealed.

SEC. 7. Section 23512.6 of the Elections Code is amended to read:

23512.6. Each candidate shall set forth in full the oath or affirmation set forth in Section 3 of Article XX of the California Constitution which shall be filed with the declaration of candidacy and which shall satisfy the provisions of Section 3 of Article XX of the California Constitution with respect to any district office. The county clerk or district secretary, or a person designated by the county clerk or district secretary, shall administer the oath.

SEC. 8. Section 25304 of the Elections Code is amended to read:

25304. In any county or any judicial district in which only the incumbent has filed nomination papers for the office of superior court judge, municipal court judge, justice court judge, or constable of a justice court, his or her name shall not appear on the ballot unless there is filed with the elections official, within 10 days after the final date for filing nomination papers for the office, a petition indicating that a write-in campaign will be conducted for the office and signed by 100 registered voters qualified to vote with respect to the office.

If a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by 100 registered voters qualified to vote with respect to the office, is filed with the elections official not less than 83 days before the general election, the name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot.

If, in conformity with this section, the name of the incumbent does not appear either on the primary ballot or general election ballot, the elections official, on the day of the general election, shall declare the incumbent reelected.

SEC. 9. 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 528

An act to amend Section 62000.8 of the Education Code, relating to special education.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 62000.8 of the Education Code is amended to read:

62000.8. The special education program shall sunset on June 30, 1998.

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, including county offices of education 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 529

An act to amend Section 12525 of the Government Code, relating to prisoner death records.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 12525 of the Government Code is amended to read:

12525. In any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the
agency in charge of the correctional facility shall report in writing to
the Attorney General, within 10 days after the death, all facts in the
possession of the law enforcement agency or agency in charge of the
correctional facility concerning the death. These writings are public
records within the meaning of subdivision (d) of Section 6252 of the
California Public Records Act (Chapter 3.5 (commencing with
Section 6250) of Division 7 of Title 1), are open to public inspection
pursuant to Sections 6253, 6256, 6257, and 6258. Nothing in this section
shall permit the disclosure of confidential medical information that
may have been submitted to the Attorney General's office in
conjunction with the report except as provided in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

CHAPTER 530

An act to amend Section 17538.3 of the Business and Professions
Code, to amend Section 1717.5 of the Civil Code, to amend Sections
22465.5, 22472, 22508, 22510, 22517, 24007.5, 24465.5, 24472, 24508,
24510, 24517, and 26007.5 of, to amend and renumber Section 26053
of, and to add Sections 22455.5 and 22455.5 to, the Financial Code,
relating to financial institutions.

[Approved by Governor August 20, 1992. Filed with
Secretary of State August 21, 1992.]

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

SECTION 1. Section 17538.3 of the Business and Professions
Code is amended to read:

17538.3. The provisions of Section 17538 do not apply to any of the
following:

(a) To instances in which all advertising for goods or services
contains a notice as to each item or service offered, which, in the case
of printed advertising, shall be in a type size at least as large as that
indicating the price, that a delay may be expected of a specified
period. In such cases, one of the events described in Section 17538
must occur no later than the expiration of the period specified in the
advertisement.

(b) To goods or services, such as quarterly magazines, which by
their nature are not ready for use or consumption until a future date
and for that reason cannot be stocked at the time of order.

(c) To installments other than the first of goods, such as magazine
subscriptions, ordered for serial delivery.

(d) To any telecommunications goods and services sold by a
telecommunications company, except those telecommunications
goods and services purchased for use primarily for personal, family,
or household purposes.

(e) To financial services offered in the ordinary course of business
by a supervised bank, national banking association, bank holding company, a state or federal savings and loan association, a state or federal credit union, or a subsidiary or affiliate thereof, or an authorized industrial loan company, a licensed personal property broker, a licensed consumer finance lender, a licensed commercial finance lender, or a person licensed pursuant to Division 4 (commencing with Section 10000).

(f) To any delay in delivery of goods or services caused by the United States Post Office, an act of God, or a labor strike by the vendor’s employees.

SEC. 2. 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, a state or federal credit union, or a subsidiary, affiliate, or holding company of any of those entities, or an authorized industrial loan company, a licensed consumer finance lender, or a licensed commercial finance lender, is a party.

SEC. 3. Section 22455.5 is added to the Financial Code, to read:

22455.5. (a) Except for a rebate or refund pursuant to any administrative, civil, or criminal action, or any act of the commissioner, a rebate or refund required to be made upon payment in full of a loan pursuant to this division need not be made if the aggregate of all rebates or refunds required in connection with a loan is less than one dollar ($1).
(b) No licensee shall contract for or receive any payment required in connection with a loan for the purpose of avoiding a rebate or refund of less than one dollar ($1).

SEC. 4. Section 22465.5 of the Financial Code is amended to read:

22465.5. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.

(b) In the absence of default in the performance of any of the borrower's obligations under the loan, the licensee may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(c) If, after default by the borrower, the licensee repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the loan shall have a right to reinstate the loan and the licensee shall not accelerate the maturity of any part or all of the loan prior to the expiration of the right to reinstate, unless the licensee reasonably and in good faith determines that:

(1) The borrower or any other person liable on the loan by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.

(2) The borrower or any other person liable on the loan in order to avoid repossession has concealed the motor vehicle or removed it from the state.

(3) The borrower or any other person liable on the loan has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.

(d) Exercise of the right to reinstate the loan shall be limited to once in any 12-month period and twice during the term of the loan.

(e) The provisions of this subdivision shall govern the method by which a loan shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.

(1) Where the default is the result of the borrower’s failure to make any payment due under the loan, the borrower or any other person liable on the loan shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the borrower’s failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the borrower or any other person liable on the loan shall either satisfy all the encumbrances and liens or, in the event the licensee satisfies the encumbrances and liens, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the borrower’s failure to keep and maintain insurance on the motor vehicle, the borrower or any other person liable on the loan shall either obtain the insurance or, in the event the licensee has obtained the insurance, the borrower or any other person liable on the loan shall reimburse the licensee
for premiums paid and all reasonable costs and expenses incurred therefor.

(4) Where the default is the result of the borrower's failure to perform any other obligation under the loan, unless the licensee has made a good faith determination that the default is so substantial as to be incurable, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(5) Additionally, the borrower or any other person liable on the loan shall reimburse the licensee for actual fees in an amount not exceeding the amount specified in subdivision (f) of Section 22005 paid in connection with the repossession of a motor vehicle to a repossession agency licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.

(f) If the licensee denies the right to reinstatement under subdivision (c) or paragraph (4) of subdivision (e), the licensee shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the licensee fails to sustain the burden of proof, the licensee shall not be entitled to a deficiency.

SEC. 5. Section 22472 of the Financial Code is amended to read:

22472. This article does not prohibit any licensee from contracting for, collecting, or receiving the following:

(a) The statutory fee paid by the licensee to any public officer for acknowledging, filing, recording, or releasing in any public office any instrument securing the loan or executed in connection with the loan.

(b) Premiums paid by the licensee of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226).

These amounts are not included in determining the maximum charges which may be made under this article.

SEC. 6. Section 22508 of the Financial Code is amended to read:

22508. In lieu of subdivision (a) of Section 22473, with respect to open end loans, except in the case of an account which the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226), the balance on which the finance charge was computed, the closing date
of the billing cycle, the outstanding balance on that date, and the
minimum monthly payment required in the absence of any
additional advance. If there has been any change in the nature of the
security for the loan since the next preceding advance, the statement
shall contain or be accompanied by a statement of the nature of the
security for the loan after that change.

This section does not apply to any open end loan of a bona fide
principal amount of ten thousand dollars ($10,000) or more as
determined in accordance with Section 22517.

SEC. 7. Section 22510 of the Financial Code is amended to read:
22510. Section 22469 shall not apply to a change in terms of an
open end loan if notice is given to the borrower in accordance with
subsection (c) of Section 226.9 of Regulation Z promulgated by the
Board of Governors of the Federal Reserve System (12 C.F.R. 226).

This section does not apply to any open end loan of a bona fide
principal amount of ten thousand dollars ($10,000) or more as
determined in accordance with Section 22517.

SEC. 8. Section 22517 of the Financial Code is amended to read:
22517. (a) Any section which refers to this section or which is
subject to Section 22054 does not apply to any open end loan of the
bona fide principal amount specified in the regulatory ceiling
provision of that section or more or to a duly licensed personal
property broker in connection with any such loan if that provision
is not used for the purpose of evading this division.

(b) In determining whether an open end loan is an open end loan
of a bona fide principal amount specified in any section in this
division or more and whether the regulatory ceiling provision of that
section is used for the purpose of evading this division, the open end
loan shall be deemed to be for that amount or more if both the
following criteria are met:

(1) The line of credit is equal to or more than the specified
amount.

(2) The initial advance was equal to or more than the specified
amount.

(c) A subsequent advance of money of less than the specified
amount pursuant to the open end loan agreement between a
borrower and a licensed personal property broker shall be deemed
to be a loan of a principal amount of the specified amount if the
criteria of paragraphs (1) and (2) of subdivision (b) have been met,
even though the actual unpaid balance after the advance or at any
other time is less than the specified amount.

SEC. 9. Section 24007.5 of the Financial Code is amended to read:
24007.5. "Consumer loan" means a loan, whether secured by
either real or personal property, or both, or unsecured, the proceeds
of which are intended by the borrower for use primarily for personal,
family or household purposes. For purposes of determining whether
a loan is a consumer loan, the lender may rely on any written
statement of intended purposes signed by the borrower. The
statement may be a separate statement signed by the borrower or
may be contained in a loan application or other document signed by the borrower. The lender shall not be required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes. Nothing in this section shall authorize the taking of real property as security where the principal of the loan amount is less than five thousand dollars ($5,000).

SEC. 10. Section 24455.5 is added to the Financial Code, to read:

24455.5. (a) Except for a rebate or refund pursuant to any administrative, civil, or criminal action, or any act of the commissioner, a rebate or refund required to be made upon payment in full of a loan pursuant to this division need not be made if the aggregate of all rebates or refunds required in connection with a loan is less than one dollar ($1).

(b) No licensee shall contract for or receive any payment required in connection with a loan for the purpose of avoiding a rebate or refund of less than one dollar ($1).

SEC. 11. Section 24465.5 of the Financial Code is amended to read:

24465.5. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.

(b) In the absence of default in the performance of any of the borrower's obligations under the loan, the licensee may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(c) If, after default by the borrower, the licensee repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the loan shall have a right to reinstate the loan and the licensee shall not accelerate the maturity of any part or all of the loan prior to the expiration of the right to reinstate, unless the licensee reasonably and in good faith determines that:

(1) The borrower or any other person liable on the loan by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.

(2) The borrower or any other person liable on the loan in order to avoid repossession has concealed the motor vehicle or removed it from the state.

(3) The borrower or any other person liable on the loan has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.

(d) Exercise of the right to reinstate the loan shall be limited to once in any 12-month period and twice during the term of the loan.

(e) The provisions of this subdivision shall govern the method by which a loan shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.

(1) Where the default is the result of the borrower's failure to make any payment due under the loan, the borrower or any other
person liable on the loan shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the borrower's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the borrower or any other person liable on the loan shall either satisfy all the encumbrances and liens or, in the event the licensee satisfies the encumbrances and liens, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the borrower's failure to keep and maintain insurance on the motor vehicle, the borrower or any other person liable on the loan shall either obtain the insurance or, in the event the licensee has obtained the insurance, the borrower or any other person liable on the loan shall reimburse the licensee for premiums paid and all reasonable costs and expenses incurred therefor.

(4) Where the default is the result of the borrower's failure to perform any other obligation under the loan, unless the licensee has made a good faith determination that the default is so substantial as to be incurable, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(5) Additionally, the borrower or any other person liable on the loan shall reimburse the licensee for actual fees in an amount not exceeding the amount specified in subdivision (f) of Section 24005 paid in connection with the repossession of a motor vehicle to a repossession agency licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.

(f) If the licensee denies the right to reinstatement under subdivision (c) or paragraph (4) of subdivision (e), the licensee shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the licensee fails to sustain the burden of proof, the licensee shall not be entitled to a deficiency.

SEC. 12. Section 24472 of the Financial Code is amended to read:

24472. This article does not prohibit any licensee from contracting for, collecting, or receiving the following:

(a) The statutory fee paid by the licensee to any public officer for acknowledging, filing, recording, or releasing in any public office any instrument securing the loan or executed in connection with the loan.

(b) Premiums paid by the licensee of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226).

These amounts are not included in determining the applicable maximum charges which may be made under this article.

SEC. 13. Section 24508 of the Financial Code is amended to read:

24508. In lieu of subdivision (a) of Section 24473, with respect to open end loans, except in the case of an account which the licensee
deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226), the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after that change.

SEC. 14. Section 24510 of the Financial Code is amended to read:

24510. Section 24469 shall not apply to a change in terms of an open end loan if notice is given to the borrower in accordance with subsection (c) of Section 226.9 of Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226).

SEC. 15. Section 24517 of the Financial Code is amended to read:

24517. (a) A section which refers to this section or which is subject to Section 24054 does not apply to any open end loan of the bona fide principal amount specified in the regulatory ceiling provision of that section or more or to a duly licensed consumer finance lender in connection with any such loan if that provision is not used for the purpose of evading this division.

(b) In determining whether an open end loan is an open end loan of a bona fide principal amount specified in any section in this division or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this division, the open end loan shall be deemed to be for that amount or more if both the following criteria are met:

(1) The line of credit is equal to or more than the specified amount.

(2) The initial advance was equal to or more than the specified amount.

(c) A subsequent advance of money of less than the specified amount pursuant to the open end loan agreement between a borrower and a licensed consumer finance lender shall be deemed to be a loan of a principal amount of the specified amount if the criteria of paragraphs (1) and (2) of subdivision (b) have been met, even though the actual unpaid balance after the advance or at any other time is less than the specified amount.
SEC. 16. Section 26007.5 of the Financial Code is amended to read:

26007.5. "Commercial loan" means a loan of a principal amount of five thousand dollars ($5,000) or more, or any loan under an open end credit program, whether secured by either real or personal property, or both, or unsecured, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes.

For purposes of determining whether a loan is a commercial loan, the lender may rely on any written statement of intended purposes signed by the borrower. The statement may be a separate statement signed by the borrower or may be contained in a loan application or other document signed by the borrower. The lender shall not be required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes.

SEC. 17. Section 26053 of the Financial Code is amended and renumbered to read:

26057. This division does not apply to the Department of Commerce.

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 531

An act to amend Section 27673 of the Health and Safety Code, relating to food facilities.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 27673 of the Health and Safety Code is amended to read:

27673. (a) The following foods may be sold from vehicles in an unpackaged state, provided the storage, display, and dispensing methods are approved by the enforcement agency:

(1) Popcorn.
(2) Nuts.
(3) Produce.

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(4) Pretzels and similar bakery products.
(5) Candy.
(6) Hot dogs.
(7) Snow cones.
(8) Whole fish and whole aquatic invertebrates.
(9) Frozen ice cream bars that meet the requirements of subdivision (d).

(b) Hot and cold beverages which are not potentially hazardous, as defined in Section 27531, may be sold from approved bulk dispensing units.

(c) (1) Vehicles selling or offering for sale nonprepackaged foods, as specified in subdivision (a), except produce and approved beverages shall be equipped with a food compartment as specified in subdivision (a) of Section 27675.

(2) In addition, those vehicles handling nonprepackaged hot dogs, popcorn, frozen ice cream bars, or snow cones shall comply with subdivisions (b), (c), (d) and (e) of Section 27675.

(3) Vehicles selling unpackaged frozen ice cream bars shall have overhead protection, utensils and equipment equal or equivalent to National Sanitation Foundation Standards, a commissary for cleaning utensils, compartments, and vessels used for product storage, and shall also meet all sanitary design and operating requirements of the local enforcement officials. Vehicles selling unpackaged frozen ice cream bars shall be equipped with refrigeration units, as described in Section 27534.

(4) Those vehicles handling unpackaged whole fish and aquatic invertebrates shall comply with subdivision (e) of Section 27675, for drainage of waste water from display and storage compartments.

(d) Frozen ice cream bars may be sold from vehicles in an unpackaged state if the frozen ice cream bars are prepackaged at a facility approved by the enforcement agency pursuant to subdivision (b) of Section 27672 and unpackaged for the purpose of adding condiments.

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.
An act to amend Sections 3702.3, 3702.5, and 3702.6 of the Labor Code, relating to workers' compensation.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 3702.3 of the Labor Code is amended to read:

3702.3. Failure to submit reports or information as deemed necessary by the director to implement the purposes of Section 3701, 3702, or 3702.2 may result in the assessment of a civil penalty as set forth in subdivision (a) of Section 3702.9. Moneys collected shall be used for the administration of self-insurance plans.

SEC. 2. Section 3702.5 of the Labor Code is amended to read:

3702.5. (a) The cost of administration of the public self-insured program by the Director of Industrial Relations shall be a General Fund item. The cost of administration of the private self-insured program by the Director of Industrial Relations shall be borne by the private self-insurers through payment of certificate fees which shall be established by the director in broad ranges based on the comparative numbers of employees insured by the private self-insurers and the number of adjusting locations. The director may assess other fees as necessary to cover the costs of special audits or services rendered to private self-insured employers. The director may assess a civil penalty for late filing as set forth in subdivision (a) of Section 3702.9.

(b) All revenues from fees and penalties paid by private self-insured employers shall be deposited into the Self-Insurance Plans Fund, which is hereby created for the administration of the private self-insurance program. Any unencumbered balance in subdivision (a) of Item 8350-001-001 of the Budget Act of 1983 shall be transferred to the Self-Insurance Plans Fund. The director shall annually eliminate any unused surplus in the Self-Insurance Plans Fund by reducing certificate fee assessments by an appropriate amount in the subsequent year. Moneys paid into the Self-Insurance Plans Fund for administration of the private self-insured program shall not be used by any other department or agency or for any purpose other than administration of the private self-insurance program. Detailed accountability shall be maintained by the director for any security deposit or other funds held in trust for the Self-Insurer's Security Fund in the Self-Insurance Plans Fund.

Moneys held by the director shall be invested in the Surplus Money Investment Fund. Interest shall be paid on all moneys transferred to the General Fund in accordance with Section 16310 of the Government Code. The Treasurer's and Controller's administrative
costs may be charged to the interest earnings upon approval of the director.

SEC. 3. Section 3702.6 of the Labor Code is amended to read:
3702.6. (a) The director shall establish an audit program addressing the adequacy of estimates of future liability of claims for all private self-insured employers, and shall ensure that all private self-insured employers are audited within a three-year cycle by the Office of Self Insurance Plans.

(b) Each public self-insurer shall advise its governing board within 90 days after submission of the self-insurer's annual report of the total liabilities reported and whether current funding of those workers' compensation liabilities is in compliance with the requirements of Government Accounting Standards Board Publication No. 10.

(c) The director shall, upon a showing of good cause, order a special audit of any public self-insured employer to determine the adequacy of estimates of future liability of claims.

(d) For purposes of this section, "good cause" means that there exists circumstances sufficient to raise concerns regarding the adequacy of estimates of future liability of claims to justify a special audit.

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 533

An act to amend Sections 8208 and 8360 of, to add Sections 8244, 8360.2, and 8360.3 to, and to repeal, add, and repeal Section 8360.1 of, the Education Code, relating to child care.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 8208, as amended by Section 1 of Chapter 196 of the Statutes of 1991, of the Education Code is amended to read:
8208. As used in this chapter:
(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child care day of average daily enrollment level of service required.

(b) "Alternative payments" includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent's purchase of child care and development services.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

1. Campus child care and development.
2. General child care and development.
3. Intergenerational child care and development.
4. Migrant child care and development.
5. Schoolage parenting and infant development.
7. Resource and referral.
8. Severely handicapped.
(9) Family day care.
(10) Alternative payment.
(11) Child abuse protection and prevention services.
(12) Schoolage community child care.
(i) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.
(j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.
(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.
(l) "Children with exceptional needs" means children who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000), and meeting eligibility criteria described in Section 56026 and Sections 56333 to 56338, inclusive, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children have an active individualized education program, and are receiving appropriate special education and services, unless they are under three years of age and permissive special education programs are available. These children may be mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting.
(m) "Children with special needs" includes infants and toddlers under the age of three years; limited-English-speaking-proficient children; children with exceptional needs; limited-English-speaking-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.
(n) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.
(o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to
employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.

(p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) "Severely handicapped children" are children who require instructions and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbance, or severe mental retardation. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(r) "Health services" includes, but is not limited to, all of the following:

1. Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

2. Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

3. Health education and training for children, parents, staff, and providers.

4. Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(s) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(t) "Intergenerational center" means a facility in which child care and development services are provided, on an ongoing basis, on the same premises as senior care services, involving activities organized to provide interaction between children and seniors in a manner designed to meet the needs of both. The participation of seniors in any activity of interaction with children, as described in this subdivision, shall be voluntary.

(u) "Intergenerational staff" means persons of various generations.

(v) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are
unable to benefit fully from an English-only child care and
development program as a result of either of the following:

(1) Having used a language other than English when they first
began to speak.

(2) Having a language other than English predominantly or
exclusively spoken at home.

(w) "Parent" means any person living with a child who has
responsibility for the care and welfare of the child.

(x) "Program director" means a person who, pursuant to Sections
8244 and 8360.1, is qualified to serve as a program director.

(y) A "proprietary child care agency" means an organization or
facility providing child care, which is operated for profit.

(z) "Resource and referral programs" means programs that
provide information to parents, including referrals and coordination
of community resources for parents and public or private providers
of care. Services frequently include, but are not limited to, technical
assistance for providers, toy-lending libraries, equipment-lending
libraries, toy- and equipment-lending libraries, staff development
programs, health and nutrition education, and referrals to social
services.

(aa) "Site supervisor" means a person who, regardless of his or her
title, has operational program responsibility for a child care and
development program at a single site. A site supervisor shall meet the
qualifications prescribed by the state licensing regulations for a child
care center director. Effective July 1, 1987, these persons shall
additionally hold a regular children's center instructional permit,
and shall have completed not less than six units of administration and
supervision of early childhood education or child development, or
both. The Superintendent of Public Instruction may waive the
requirements of this subdivision if the superintendent determines
that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may
qualify under any of the provisions in this subdivision, or may qualify
by holding an administrative credential or an administrative services
credential.

(bb) "Standard reimbursement rate" means that rate established
by the Superintendent of Public Instruction pursuant to Section 8265.

(cc) "Startup costs" means those expenses an agency incurs in the
process of opening a new or additional facility prior to the full
enrollment of children.

(dd) "State preschool services" means part-day educational
programs for low-income or otherwise disadvantaged
prekindergarten-age children.

(ee) "Support services" means those services which, when
combined with child care and development services, help promote
the healthy physical, mental, social, and emotional growth of
children. Support services include, but are not limited to, protective
services, parent training, provider and staff training, transportation,
parent and child counseling, child development resource and
referral services, and child placement counseling.

(ff) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(gg) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

1. To undertake training in preparation for a job.
2. To undertake or retain a job.
3. To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

(hh) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1993, pursuant to Section 9611 of the Government Code, Section 8208 of the Education Code, as amended by Section 1 of Chapter 1120 of the Statutes of 1987, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 8208, as amended by Section 2 of Chapter 196 of the Statutes of 1991, of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.

(b) "Alternative payments" includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent’s purchase of child care and development services.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation
and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

1. Campus child care and development.
2. General child care and development.
3. Intergenerational child care and development.
4. Migrant child care and development.
5. Schoolage parenting and infant development.
7. Resource and referral.
8. Severely handicapped.
9. Family day care.
10. Alternative payment.
11. Child abuse protection and prevention services.

(i) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.

(j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(l) "Children with exceptional needs" means children who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30.
(commencing with Section 56000), and meeting eligibility criteria described in Section 56026 and Sections 56333 to 56338, inclusive, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children have an active individualized education program, and are receiving appropriate special education and services, unless they are under three years of age and permissive special education programs are available. These children may be mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting.

(m) “Children with special needs” includes infants and toddlers under the age of three years; limited-English-speaking-proficient children; children with exceptional needs; limited-English-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.

(n) “Closedown costs” means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(o) “Cost” includes, but is not limited to, expenditures that are related to the operation of child development programs. “Cost” may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.

(p) “Elementary school,” as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) “Severely handicapped children” are children who require instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbance, or severe mental retardation. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(r) “Health services” includes, but is not limited to, all of the following:

1. Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

2. Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of
Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(s) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(t) "Intergenerational staff" means persons of various generations.

(u) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(v) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(w) "Program director" means a person who, pursuant to Sections 8244 and 8360.1, is qualified to serve as a program director.

(x) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(y) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(z) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall meet the qualifications prescribed by the state licensing regulations for a child care center director. Effective July 1, 1987, these persons shall additionally hold a regular children's center instructional permit, and shall have completed not less than six units of administration and supervision of early childhood education and child development, or both. The Superintendent of Public Instruction may waive the requirements of this subdivision if the superintendent determines that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify
by holding an administrative credential or an administrative services credential.

(aa) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(bb) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(cc) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

(dd) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(ee) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(ff) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

SEC. 3. Section 8244 is added to the Education Code, to read:

8244. (a) Any entity operating child care and development programs funded pursuant to this chapter that provide direct services to children at two or more sites, including through more than one contract or subcontract funded pursuant to this chapter, shall employ a program director.

Programs providing direct services to children, for the purposes of this section, are general child care and development programs pursuant to Article 8 (commencing with Section 8240), migrant child care and development programs pursuant to Article 6 (commencing with Section 8230), campus child care and development programs pursuant to Article 4 (commencing with Section 8225), state preschool programs pursuant to Article 7 (commencing with Section 8235), child care and development services for children with special needs programs pursuant to Article 9 (commencing with Section 8250), infant care and development services programs pursuant to Article 17 (commencing with Section 8390), and any of these programs operated through family child care homes.

(b) For purposes of this section the following definitions shall apply:

(1) "Program director" means a person who, regardless of his or
her title, has programmatic and administrative responsibility for a child care and development program that provides direct services to children at two or more sites.

(2) "Programmatic responsibility" means overall supervision of curriculum and instructional staff, including instructional aides, and the knowledge and authority to direct or modify program practices and procedures to ensure compliance to applicable quality and health and safety standards imposed by law.

(3) "Administrative responsibility" means awareness of the financial and business circumstances of the program, and, in appropriate cases, supervision of administrative and support personnel and the knowledge and authority to direct or modify administrative practices and procedures to ensure compliance to administrative and financial standards imposed by law.

Administrative and programmatic responsibility also includes the responsibility to act as the representative for the child development program to the State Department of Education. With respect to programs operated through family child care homes, administrative and programmatic responsibility includes ensuring that quality services are provided in the family child care homes.

(c) The program director also may serve as the site supervisor at one of the sites, provided that he or she both fulfills the duties of a "day care center director," as set forth in Section 101315 of Title 22 of the California Code of Regulations, and meets the qualifications for a site supervisor as set forth in subdivision (aa) of Section 8208.

(d) The Superintendent of Public Instruction may waive the qualifications for program director described in Sections 8360.1 and 8360.3 upon a finding of the following circumstances:

(1) That the applicant for the waiver meets the requirements for a site supervisor, as defined in this chapter.

(2) That one of the following applies:

(A) The applicant is making satisfactory progress toward securing the children's center supervision permit, or its equivalent as specified in Section 8360.1, or for program directors in severely handicapped programs, as specified in Section 8360.3.

(B) The place of employment is so remote from institutions offering the necessary coursework as to make continuing education impracticable and the contractor has made a diligent search but has been unable to hire a more qualified applicant.

(e) The Superintendent of Public Instruction, upon good cause, may by rule:

(1) Establish equivalents to the children's center supervision permit in addition to those referred to in Sections 8360.1 and 8360.3.

(2) Identify and apply grounds in addition to those specified in subdivision (d) for granting a waiver of the qualifications for program director.

SEC. 4. Section 8360 of the Education Code is amended to read:

8360. (a) Child development programs shall include a career ladder program for classroom staff. Persons who are 18 years of age
and older may be employed as aides and may be eligible for salary
increases upon the completion of additional semester units in early
childhood education or child development. The governing board of
each contracting agency shall be encouraged to provide teachers and
aides with salary increases for the successful completion of early
childhood education or child development courses in six semester
unit increments.

Persons employed as teachers shall possess one of the following:
(1) Regular children’s center instructional permit.
(2) Limited children’s center instructional permit.
(3) Emergency children’s center instructional permit.
(b) Any person who meets the following criteria shall be deemed
to hold a regular children’s center instructional permit:
(1) Possesses a current credential issued by the Commission on
Teacher Credentia lizing authorizing teaching service in elementary
school or a single subject credential in home economics.
(2) Twelve units in early childhood education or child
development, or both, or two years’ experience in early childhood
education or a child care and development program.

SEC. 5. Section 8360.1 of the Education Code is repealed.
SEC. 6. Section 8360.1 is added to the Education Code, to read:
8360.1. Except as waived under Section 8242 and except as stated
in Section 18203 of Title 5 of the California Code of Regulations
regarding program directors in schoolage community child care
services programs, any entity operating child care and development
programs providing direct services to children, as defined in Section
8244, at two or more sites, shall employ a program director who
possesses one of the following:
(a) Children’s center supervision permit.
(b) Regular children’s center instructional permit, in addition to
all of the following:
(1) Twelve units in early childhood education or child
development, or both, at an advanced level. For purposes of this
paragraph, instruction at an “advanced” level means courses beyond
those taken to qualify for the instructional permit.
(2) Six units in administration and supervision of early childhood
education or child development, or both.
(3) Two experience periods working as a teacher or supervisor, or
both, in a child care and development program, or working directly
with children and families in a social service program.
(4) Passage of the California Basic Education and Skills Test, or a
proficiency test in English, math, and writing, or completion of three
semester units or equivalent quarter units of English, math, and
writing at the college level with a grade of “C” or better.
(5) One of the following:
(A) A baccalaureate degree.
(B) An associate of arts degree plus making progress towards a
baccalaureate degree.
(C) Thirty units in addition to the units required in paragraphs
(1) and (2).

(D) Eight years' experience as a supervisor of one or more programs in early childhood education or child development, or both.

(c) Master's degree in early childhood education or child development from an accredited institution of higher education, in addition to both of the following:

(1) Six units in administration and supervision of early childhood education or child development, or both.

(2) Two experience periods working as a teacher or administrator, or both, in a child care and development program, or working directly with children and families in a social service program.

(d) Master's or equivalent degree or credential from an accredited institution, in addition to both of the following:

(1) A regular children's center instructional permit.

(2) Six units in administration and supervision of early childhood education or child development, or both.

(e) Any administrative or supervision credential authorizing services in public schools in California, and either 12 units in early childhood education or child development, or both, or at least two years' experience in early childhood education or a child care and development program.

(f) Any person who meets the following criteria shall be deemed to hold a children's center supervision permit that will authorize supervision and instruction of children or supervision of a child development program:

(1) Possesses a current credential issued by the Commission on Teacher Credentialing authorizing teaching service in elementary school or a single subject credential in home economics.

(2) Six units in administration and supervision of early childhood education or child development, or both. The requirement set forth in this paragraph does not apply to any person who was employed as a program director prior to January 1, 1993, in a child care and development program receiving funding under this chapter.

(3) Twelve units in early childhood education or child development, or both, or at least two years' experience in early childhood education or a child care and development program.

(g) A waiver issued by the Superintendent of Public Instruction pursuant to Section 8244.

For the purposes of this section, an "experience period" means paid or volunteer services for not less than 200 hours. The services must be provided for a minimum of two hours per day during not more than 36 consecutive months.

For the purposes of this section, "making progress towards a baccalaureate degree" means being continuously enrolled in an institution of higher education, excluding summer sessions, taking at least two units, and completing the course with a grade of "C" or better.
This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 6.5. Section 8360.1 is added to the Education Code, to read:
8360.1. Except as waived under Section 8242 and except as stated in Section 18203 of Title 5 of the California Code of Regulations regarding program directors in schoolage community child care services programs, any entity operating child care and development programs providing direct services to children, as defined in Section 8244, at two or more sites, shall employ a program director who possesses one of the following:
(a) Children's center supervision permit.
(b) Any person who meets the following criteria shall be deemed to hold a children's center supervision permit that will authorize supervision and instruction of children or supervision of a child development program:
(1) Possesses a current credential issued by the Commission on Teacher Credentialing authorizing teaching service in elementary school or a single subject credential in home economics.
(2) Six units in administration and supervision of early childhood education or child development, or both. The requirement set forth in this paragraph does not apply to any person who was employed as a program director prior to January 1, 1993, in a child care and development program receiving funding under this chapter.
(3) Twelve units in early childhood education or child development, or both, or at least two years' experience in early childhood education or a child care and development program.
(c) A waiver issued by the Superintendent of Public Instruction pursuant to Section 8244.

This section shall become operative on July 1, 1996.

SEC. 7. Section 8360.2 is added to the Education Code, to read:
8360.2. Not later than 95 days after the governing board of a public agency sets the date a person employed by that board shall begin service in a position requiring a children's center instructional permit or a children's center supervision permit, that person shall file, on or before that date, with the county superintendent of schools a valid permit issued on or before that date, authorizing him or her to serve in a position for which he or she was employed. Upon renewal of that permit, that person shall file that renewal with the county superintendent of schools no later than 95 days after the renewal.

SEC. 8. Section 8360.3 is added to the Education Code, to read:
8360.3. Notwithstanding Sections 8360 and 8360.1, any person serving as a teacher or program director in a child care and development program that provides service to severely handicapped children, as defined in Section 8208, pursuant to subdivision (d) of Section 8250, shall hold an appropriate child care and development permit, be deemed to hold that permit pursuant to subdivision (b) of Section 8360 or subdivision (f) of Section 8360.1,
or meet one or more of the following options:
   (a) Is a teacher meeting one of the following criteria:
       (1) Has completed all the following:
           (A) Twenty-four semester units of coursework, with a “C” or better average, from an accredited institution in any one or a combination of the following areas: psychology, sociology, special education, physical education, recreation therapy, vocational education, early childhood education, and child development.
           (B) Sixteen semester units of coursework in general education, including one course in each of the following areas: humanities, social sciences, math or science, or both, and English.
           (C) Completed one of the following:
               (i) Two experience periods as a paid aide or assistant in a program serving children with exceptional needs or severely handicapped children.
               (ii) Three experience periods as a volunteer in an instructional capacity in a program serving children with exceptional needs or severely handicapped children.
               (iii) Two or more semester units of supervised field coursework in a child care and development program at an accredited institution, plus one experience period in a program serving children with exceptional needs or severely handicapped children.
           For purposes of this subparagraph, “experience period” means paid or volunteer services in a program serving children with exceptional needs or severely handicapped children for not less than 200 hours. Those services shall have been provided for a minimum of two hours per day during not more than 36 consecutive months.
       (2) Holds a California special education credential.
   (b) Is a program director meeting one of the following criteria:
       (1) Holds a California special education credential.
       (2) Holds a professional credential, license, or masters degree in psychology, social work, special education, physical education, recreation therapy, vocational education, counseling, early childhood education, or child development, and has completed six semester units of administration and supervision of early childhood education or child development programs, or both.
   (c) Was employed prior to January 1, 1993, as a teacher or program director in a child care and development program that provides services to severely handicapped children.

SEC. 9. The Commission on Teacher Credentialing and the Superintendent of Public Instruction jointly shall consult with representatives of the Secretary of Child Development and Education, school districts, private contractors that operate child care and development programs under contract with the State Department of Education, and community colleges and other higher educational institutions that offer programs in early childhood education to examine the current Children’s Center Permit structure. The Commission on Teacher Credentialing and the Superintendent of Public Instruction shall make recommendations
to the Legislature regarding the preparation and licensing requirements for children’s center instructors and supervisors not later than December 1, 1994.

CHAPTER 534

An act to amend Sections 5801, 5810, and 5812 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 20, 1992 Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 5801 of the Welfare and Institutions Code is amended to read:

5801. (a) The State Department of Mental Health shall contract with one or more counties for at least one, but not more than three, county demonstration projects to develop and implement the model adult and senior county interagency mental health service system beginning July 1, 1989, and ending June 30, 1995.

(b) The State Department of Mental Health shall adopt as part of its overall mission for the proposed demonstration projects the development of community-based, county interagency systems of mental health care for seriously mentally disordered adults and seniors that result in the highest benefit to the client, family, and community while ensuring that the public sector meets its legal responsibility and fiscal liability at the lowest possible cost. The underlying philosophy for these systems of care includes the following:

1. Mental health care is a basic human service, no less so than food and shelter programs, adult protective services, medical care, education, or vocational training.

2. Seriously mentally disordered adults and seniors are citizens of a community with all the rights, privileges, opportunities, and responsibilities accorded other citizens.

3. Seriously mentally disordered adults and seniors usually have multiple disorders and disabling conditions and should have the highest priority for mental health services.

4. Seriously mentally disordered adults and seniors should have an interagency network of services with multiple points of access and be assigned a single person or team to be responsible for all treatment, case management, and community support services.

5. The client should be fully informed and volunteer for all treatment provided, unless danger to self or others or grave disability requires temporary involuntary treatment.

6. Clients and families should directly participate in making decisions about services and resource allocations that affect their
lives.

(7) People in local communities are the most knowledgeable regarding their particular environments, issues, service gaps and strengths, and opportunities.

(8) State and county government agencies each have responsibilities and fiscal liabilities for seriously mentally disordered adults and seniors.

(9) Mental health services should be responsive to the unique needs, among the seriously mentally disordered, of minority and ethnic groups, elderly persons, and people with multiple disorders.

(10) For the majority of seriously mentally disordered adults and seniors, treatment is best provided in the client's natural setting in the community. Treatment, case management, and community support services should be designed to prevent inappropriate removal from the natural environment to more restrictive and costly placements.

(11) Mental health systems of care shall have measurable goals and be fully accountable by providing measures of client outcomes and cost of services.

(c) Notwithstanding subdivision (a), if the Director of Mental Health determines prior to June 30, 1993, that a project is unsuccessful pursuant to the client and cost outcomes specified in Section 5834, the department may terminate the contract as of that date.

SEC. 2. Section 5810 of the Welfare and Institutions Code is amended to read:

5810. (a) The State Department of Mental Health shall establish at least two, but not more than six, pilot integrated service agencies for the seriously mentally disordered beginning July 1, 1989, and ending June 30, 1995, hereafter referred to in this part as pilot agencies.

(b) Notwithstanding subdivision (a), if the Director of Mental Health determines prior to June 30, 1993, that a project is unsuccessful pursuant to the client and cost outcomes specified in Section 5834, the department may terminate the agency as of that date. If one or more of the projects continues beyond June 30, 1993, the director may continue the independent evaluation of client and cost outcomes of these projects.

SEC. 3. Section 5812 of the Welfare and Institutions Code is amended to read:

5812. (a) Any public or private agency, organization, or corporation, including a county, may respond to the request for proposals and be considered as a contractor to operate a pilot agency. Two or more counties, agencies, organizations, or corporations may respond jointly. A pilot agency or its satellite shall be located within a reasonable distance to its members.

(b) The director shall award contracts effective July 1, 1989, to implement the pilot agencies. Each contract shall ensure that the number of persons in the pilot agencies remain constant and that the
population served meets the criteria established in this part. No pilot agency shall serve more than 200 clients or fewer than 100 clients. (c) (1) Contracts entered into pursuant to this part shall start July 1, 1989, and end June 30, 1995. (2) Notwithstanding paragraph (1) if the Director of Mental Health determines prior to June 30, 1993, that a project is unsuccessful, the department may terminate the contract as of that date.

CHAPTER 535

An act relating to transportation.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. (a) It is the intent of the Legislature that the Department of Transportation adopt and implement a policy for the reimbursement of claimants receiving an allocation under any of the programs specified in subdivision (b), in accordance with all of the following: (1) The policy shall require the department to pay the invoice within 10 days of receiving the invoice. (2) In the case of a disputed invoice, the policy shall require the dispute to be resolved within 20 days and shall authorize the department to deduct any adjustment in the amount to be reimbursed from subsequent invoices. (3) The policy shall allow a claimant to submit invoices to the department more frequently than once a month if the director determines that more frequent submittals are necessary. (4) The policy shall provide for project audits by the department. (b) This section is applicable to claims for reimbursement submitted to the department under any of the following: (1) The Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17 (commencing with Section 2701) of Division 3 of the Streets and Highways Code). (2) The Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code). (3) The Flexible Congestion Relief Program (Section 164.2 of the Streets and Highways Code). (c) If a policy is adopted and implemented, the Director of Transportation may, upon making a determination that a claimant has submitted an excessive number of disputed invoices, declare that claimant ineligible to participate under the policy.
An act to amend Section 99255 of, and to add Sections 66151 and 89700.1 to, the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

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

(a) Many students attending public institutions of higher learning have been heavily burdened over the past few years by severe fee increases.

(b) Sharp, unpredictable, and unexpected student fee increases have imposed drastic limitations on the personal budgets of many students, requiring them to use various forms of credit.

(c) The option to pay student fees by use of a credit card or by a fee deferment plan may have a favorable bearing on a student’s decision to continue pursuing a college education.

(d) No California State University campus currently offers the option of payment for fees and tuition by a fee deferment plan, and only 11 of the 20 campuses of the university currently offer the option of payment fees and tuition by credit card, with three campuses deciding in the 1991–92 fiscal year to eliminate that option.

SEC. 2. Section 66151 is added to the Education Code, to read:

66151. The California State University may offer a variety of student fee payment options, including payment by cash, check, money order, or credit card or by a fee deferment plan.

SEC. 3. Section 89700.1 is added to the Education Code, to read:

89700.1. (a) Notwithstanding the requirement of Section 89301 that tuition, material, and service fees be collected by campus officials at the time of registration, the trustees, in consultation with student representatives, may authorize installment payments for the California State University fee established by the trustees pursuant to Section 89700 to cover the costs of services, facilities, or materials, and for nonresident tuition established pursuant to Section 89705. Installment payment schedules may be established in accordance with timetables as determined appropriate by the trustees, in consultation with student representatives.

(b) The trustees, in consultation with student representatives, shall impose a fee in an amount necessary to cover the costs of administering a system of installment payments and may deposit that fee in the General Fund or in local trust accounts as authorized by Section 89721 and established for the purpose of covering those costs. The administrative costs shall include, but not be limited to, the cost of collecting delinquent and defaulted accounts.
(c) The trustees shall include, in the fee imposed for administering the system of installment payments, the interest that the state would have earned in the Pooled Money Investment Account had the fee been collected at the time of registration. The portion of the administrative fee attributable to reimbursement for loss of interest earnings shall be deposited in the General Fund.

(d) The trustees shall provide notice of the amount of the fee that is imposed upon students who use the installment payment system. That notice shall include information regarding the amount of the fee and shall be included in the billing statement sent to the student and posted on signs at the campus cashier window. The information regarding the fee may also be conveyed to the students in any other manner determined appropriate by the trustees.

SEC. 4. Section 99255 of the Education Code is amended to read:
99255. The Governor's Professor of the Year Awards shall be awarded commencing in 1993, and every year thereafter.

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

In order to permit students to pay student fees utilizing a variety of methods and in order to prepare for the Professor of the Year Awards as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 537

An act to amend Section 12301 of the Penal Code, relating to weapons.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. Section 12301 of the Penal Code is amended to read:
12301. (a) The term "destructive device," as used in this chapter, shall include any of the following weapons:
(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.
(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.
(3) Any weapon of a caliber greater than 0.60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun, shotgun ammunition, or an antique cannon. For purposes of this section, the term "antique cannon" means any cannon
manufactured before January 1, 1899, which has been rendered incapable of firing or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(6) Any sealed device containing dry ice (CO₂) or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

(b) The term “explosive,” as used in this chapter, shall mean any explosive defined in Section 12000 of the Health and Safety 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.

CHAPTER 538

An act to amend Section 40803 of, and to add Section 40808 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. 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 in any prosecution under this code upon a charge involving the speed of a vehicle when the evidence is based upon or obtained from
or by the maintenance or use of a speedtrap.

(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 speedtrap 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 speedtrap as defined in subdivision (b) of Section 40802.

SEC. 2. Section 40808 is added to the Vehicle Code, to read:

40808. Subdivision (d) of Section 28 of Article I of the California Constitution shall not be construed as abrogating the evidentiary provisions of this article.

CHAPTER 539

An act to add Section 742.3 to the Public Utilities Code, relating to telephones.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. The Legislature finds and declares that the public has a right to the use of public telephones which do not discriminate unnecessarily with respect to charges which are based on the method in which a customer may pay for a call. Therefore, if any additional charge is allowed to be placed on customers by the Public Utilities Commission, such as operator assistance surcharges for calling card, bill to third number, collect, and person-to-person calls, and pay station service charges, it is the intent of the Legislature that a posted notification that surcharges apply should be required of public telephone providers.

SEC. 2. Section 742.3 is added to the Public Utilities Code, to read:

742.3. The commission shall, by rule or order, adopt and enforce an operating requirement for coin-activated and credit card-activated telephones available for public use, whether owned by telephone corporations or persons other than telephone corporations, which requires that every telephone display a notice that surcharges may apply to operator-assisted and calling card calls.
The required signage shall be phased in over a period of two years beginning on January 1, 1993. A sticker with the necessary notification may be used as an interim measure until January 1, 1995.

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 540

An act to amend Section 22223 of the Education Code, and to amend Section 20205.7 of the Government Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1992. Filed with Secretary of State August 21, 1992.]

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

SECTION 1. The Legislature hereby finds and declares that the investment of the assets of the Public Employees' Retirement System and the State Teachers' Retirement System in California residential realty provides an essential financial source for the development of housing in California. The Legislature further finds and declares that the continued investment of these public retirement systems in California residential realty is important to stimulate the economy and produce jobs.

SEC. 2. Section 22223 of the Education Code is amended to read:

22223. Notwithstanding any other provision of law, the board shall give first priority to investing not less than 25 percent of all funds which become available in a fiscal year for new investments, in the following:

(a) Obligations secured by a lien or charge solely on residential realty, including rental housing, located in the state and on the security of which, commercial banks are permitted to make loans pursuant to Article 2 (commencing with Section 1220) of Chapter 10 of Division 1 of the Financial Code.

(b) Securities representing a beneficial interest in a pool of obligations secured by a lien or charge solely on residential realty located in the state.

(c) Certificates of deposit issued by savings and loan associations,
if the savings and loan associations agree to make loans, or to fund
tax-exempt notes or bonds issued by housing authorities, cities, or
counties, on residential realty located in the state, including rental
housing, in an amount equal to the amount of the deposit.

Funds subject to investment pursuant to this section include all
moneys received as employer and member contributions, investment income, and the proceeds from all net gains and losses
from securities, reduced by the amount of benefit payments and
withdrawals occurring during the fiscal year. In computing the
amount of investment pursuant to this section, a dollar-for-dollar
credit shall be given for residential realty investments described in
this section which are contractually agreed to be made by a financial
institution from which the board (in consideration thereof)
purchases other such investments. In computing the amount of
investment pursuant to this section, the board may elect to include
the dollar amount of commitments to purchase mortgages from
public revenue bond programs in the year the commitment is given.
However, that election may not exceed one-fifth of the total
guideline amount.

Nothing in this section shall be construed to require the acquisition
of any instrument or security at less than the market rate.

If the board determines during any fiscal year that compliance
with this section will result in lower overall earnings for the fund
than obtainable from alternative investment opportunities that
would provide equal or superior security, including guarantee of
yield, the board may substitute those higher yielding investments, to
the extent actually available for acquisition, for the investments
otherwise specified by this section. Additionally, if (and to the extent
that) adherence to the diversification guideline specified in this
section would conflict with its fiduciary obligations in violation of
Section 9 of Article I of the California Constitution or Section 10 of
Article I of the United States Constitution, or would conflict with the
standard for prudent investment of the fund as set forth in Section
17 of Article XVI of the California Constitution, the board may
substitute alternative investments. In that case, the board shall
estimate the amount of funds available for investment in substitute
alternative investments and the amount of funds invested pursuant
to the first paragraph of this section and shall submit its resolution
of findings and determinations, together with a description of the
type, quantity, and yield of the investments substituted, to the
Governor and to the Joint Legislative Audit Committee within 20
days following the conclusion of the fiscal year. Within 30 days
thereafter, the Joint Legislative Audit Committee shall transmit the
Auditor General's report to the Speaker of the Assembly and to the
Senate Rules Committee for transmittal to affected policy
committees.

The board, upon determining the final amount of funds available
for investment in substitute alternative investments and the
estimated amount of funds invested pursuant to the first paragraph
of this section, shall submit that information to the Governor and the
Joint Legislative Audit Committee. Thereafter, the Joint Legislative
Audit Committee shall transmit the report of the Auditor General to
the Speaker of the Assembly and the Senate Committee on Rules for
transmittal to the affected policy committees.

SEC. 3. Section 20205.7 of the Government Code is amended to
read:

20205.7. Notwithstanding any other provision of law, the board
shall give first priority to investing not less than 25 percent of all
funds which become available in a fiscal year for new investments,
in the following:

(a) Obligations secured by a lien or charge solely on residential
realty, including rental housing, located in the state and on the
security of which, commercial banks are permitted to make loans
pursuant to Article 2 (commencing with Section 1220) of Chapter 10
of Division 1 of the Financial Code.

(b) Securities representing a beneficial interest in a pool of
obligations secured by a lien or charge solely on residential realty
located in the state.

(c) Certificates of deposit issued by savings and loan associations,
if the savings and loan associations agree to make loans, or to fund
tax-exempt notes or bonds issued by housing authorities, cities, or
counties, on residential realty located in the state, including rental
housing, in an amount equal to the amount of the deposit.

Funds subject to investment pursuant to this section include all
moneys received as employer and member contributions, investment
income, and the proceeds from all net gains and losses from
securities, reduced by the amount of benefit payments and
withdrawals occurring during the fiscal year. In computing the
amount of investment pursuant to this section, a dollar-for-dollar
credit shall be given for residential realty investments described in
this section which are contractually agreed to be made by a financial
institution from which the board (in consideration thereof)
purchases other such investments. In computing the amount of
investment pursuant to this section, the board may elect to include
the dollar amount of commitments to purchase mortgages from
public revenue bond programs in the year the commitment is given.
However, that election may not exceed one-fifth of the total
guideline amount.

Nothing in this section shall be construed to require the acquisition
of any instrument or security at less than the market rate.

If the board determines during any fiscal year that compliance
with this section will result in lower overall earnings for the fund
than obtainable from alternative investment opportunities that
would provide equal or superior security, including guarantee of
yield, the board may substitute those higher yielding investments, to
the extent actually available for acquisition, for the investments
otherwise specified by this section. Additionally, if (and to the extent
that) adherence to the diversification guideline specified in this
section would conflict with its fiduciary obligations in violation of Section 9 of Article I of the California Constitution or Section 10 of Article I of the United States Constitution, or would conflict with the standard for prudent investment of the fund set forth in Section 17 of Article XVI of the California Constitution, the board may substitute alternative investments. In that case, the board shall estimate the amount of funds available for investment in substitute alternative investments and the amount of funds invested pursuant to the first paragraph of this section and shall submit its resolution of findings and determinations, together with a description of the type, quantity, and yield of the investments substituted, to the Governor and to the Joint Legislative Audit Committee within 20 days following the conclusion of the fiscal year. Within 30 days thereafter, the Joint Legislative Audit Committee shall transmit the Auditor General's report to the Speaker of the Assembly and to the Senate Rules Committee for transmittal to affected policy committees.

The board, upon determining the final amount of funds available for investment in substitute alternative investments and the estimated amount of funds invested pursuant to the first paragraph of this section, shall submit that information to the Governor and the Joint Legislative Audit Committee. Thereafter, the Joint Legislative Audit Committee shall transmit the report of the Auditor General to the Speaker of the Assembly and the Senate Committee on Rules for transmittal to the affected policy committees.

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

In order for essential public retirement fund investment standards to be maintained, this act must take effect immediately.

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CHAPTER 541

An act to add Chapter 11 (commencing with Section 19870) to Part 3 of Division 13 of the Health and Safety Code, relating to land use.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. Chapter 11 (commencing with Section 19870) is added to Part 3 of Division 13 of the Health and Safety Code, to read:
CHAPTER 11. PLANS AND SPECIFICATIONS FOR DEVELOPMENT

19870. (a) As a result of construction inspection, an enforcement agency shall not impose a new or modified building requirement different from those specified in the plans and specifications approved during plan checking functions for which a building permit is issued, unless any of the following apply:

(1) The requirement is necessary to correct a violation of the governing code or standard and to protect the public health or safety.
(2) The plans and specifications did not reference the requirement or were not in sufficient detail.
(3) There is a deviation, addition, or deletion from the plan.
(4) There are modifications to the plan by the permittee.
(5) The permit is deemed expired because the building or work authorized by the permit is not commenced within 180 days from the date of the permit, or the permittee has suspended or abandoned the work authorized by the permit at any time after the work is commenced.

(6) The permit is deemed suspended or revoked pursuant to subdivision (e) of Section 303 of the 1991 Uniform Building Code.

(b) As used in this chapter:

(1) "Building requirement" means a building standard as defined in Section 18909, or other standard adopted by a local agency pursuant to Section 17958 or subdivision (c) of Section 18941.5, that was effective on the date of the application for the building permit.

(2) "Enforcement agency" means any department of a local agency that has the authority to inspect a construction or renovation project and enforce health, safety, or building codes including, but not limited to, the building department or building division, the fire department or fire district, and the health department.

(3) "Local agency" means a city, county, or city and county.

(4) "Plans and specifications" mean the plans, drawings, and specifications for a construction or renovation project, for which a building permit was issued, which relates to buildings classified for occupancy as a building of Group A, B, and R-1, pursuant to the 1991, Edition of the Uniform Building Code of the International Conference of Building Officials.

(5) "Building inspector" means any employee of an enforcement agency who performs inspections of a construction or renovation project for the purpose of assuring compliance with adopted uniform building codes and standards.

(6) "Supervisor" means any employee of any enforcement agency to whom a building inspector reports and who is responsible for reviewing a building inspector's project approvals or denials or modification orders.

(c) (1) If an enforcement agency requires that a new or modified building requirement be met pursuant to the condition set forth in paragraph (1) of subdivision (a), the building inspector, within 48 hours of ordering the requirement shall provide the permittee, in
writing on a form prescribed by the enforcement agency, a description of the specific threat to public health and safety and the section of the applicable building code or standard that has been violated or not complied with, and the interpretations and reasons for differing from the approved plans and specifications.

(2) If an enforcement agency requires that a new or modified building requirement be met pursuant to the condition set forth in paragraph (2) of subdivision (a), the building inspector, within 48 hours of ordering the requirement, shall provide the permittee, in writing on a form prescribed by the enforcement agency, the applicable building code or standard that has been violated or not complied with, and a description of how that requirement is applicable and necessary to the construction or renovation project for which the building permit is issued.

(3) If an enforcement agency requires that a new or modified building requirement be met pursuant to the condition set forth in paragraph (3) or (4) of subdivision (a), the building inspector, within 48 hours of ordering the requirement, shall provide the permittee, in writing on a form prescribed by the enforcement agency, the applicable building code or standard that has been violated or not complied with, and the deviations, additions, or deletions from, or the modifications to, the plan, as the case may be, which results in a violation or noncompliance with an applicable building code or standard.

(d) If an enforcement agency requires a new or modified building requirement that results in a cumulative increase in the overall cost of the construction or renovation project of 10 percent or more, all findings made by a building inspector pursuant to subdivision (c) shall be reviewed and approved in writing by the supervisor of the construction inspector within five working days of the order for a new or modified building requirement. No certificate of occupancy may be denied if the findings of a construction supervisor are not so approved.

(e) A copy of all findings made by the building inspector pursuant to subdivision (c) shall be sent to the department within the local agency that is responsible for reviewing and approving the plans and specifications during the plan checking functions for which the building permit is issued.

(f) Compliance with subdivisions (c) and (d) shall not be required if, at the time an enforcement agency imposes a new or modified building requirement, the building inspector, the building inspector's supervisor, and the permittee consult with one another within 48 hours of imposing the requirement, and the permittee agrees with the enforcement agency's order.

19872. (a) An enforcement agency may require as a condition of receiving a building permit, that a permittee participate in a preconstruction conference prior to completion of plan checking of the permittee's submitted plans and specifications for the purpose of reviewing the plans to ensure consistency of building code
interpretations, and adequacy and sufficiency of plan details.

(b) If an enforcement agency requires a preconstruction conference, that enforcement agency shall request the participation of any other appropriate enforcement agencies of the local agency who may inspect a construction or renovation project.

(c) An enforcement agency may require the permittee to maintain at the site of the construction or renovation project, a set of plans and specifications that reflect any points of discussion, understandings, and agreements derived from the preconstruction conference.

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 542

An act to add Section 17026.1 to the Business and Professions Code, relating to unfair trade practices.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. Section 17026.1 is added to the Business and Professions Code, to read:

17026.1. (a) (1) Notwithstanding the provisions of Section 17026, commissions or rebates regularly earned by the retailers of cellular telephones may be used to reduce cost, provided, that in no event shall the reduction exceed the greater of the following:

(A) Ten percent of cost, as defined in Section 17026.

(B) Twenty dollars ($20).

(2) Consistent with the provisions of subdivision (d) of Section 17050, providers of cellular services shall be permitted to sell cellular telephones below cost, provided that sales below cost are a good faith endeavor to meet the legal market prices of competitors in the same locality or trade area.

(b) In each retail location, all retailers of cellular telephones shall post a large conspicuous sign, in lettering no smaller than 36-point type, that states the following: "Activation of any cellular telephone is not required and the advertised price of any cellular telephone is not contingent upon activation, acceptance, or denial of cellular service by any cellular provider."
The sign shall be prominently displayed and visible to consumers and located in that area in each retail location where cellular telephones are displayed and purchased.

(c) No retailer of cellular telephones shall refuse to sell a cellular telephone to any customer solely on the basis of the customer's refusal to activate the telephone with the provider of cellular service for whom the retailer is an agent. Nothing herein shall preclude a retailer from limiting the number of cellular telephones that he or she is otherwise required under this subdivision to sell to any single customer.

The intent of this subdivision is to reaffirm the Legislature's support for the Public Utilities Commission's policy that makes illegal the act, or practice, of "bundling," as defined and described in relevant decisions and orders of the commission.

(d) The Public Utilities Commission may adopt rules and regulations to fully implement and enforce the provisions of this section.

(e) Nothing in this section shall be interpreted to reduce, alter, or otherwise modify the authority of the California Public Utilities Commission to regulate, in any manner, or prohibit, the payment of commissions or rebates to distributors or vendors of cellular telephones. The provisions of this section shall be effective only to the extent that they do not conflict with any applicable regulations, rules, or orders promulgated or issued by the Public Utilities Commission.

(f) This section shall become operative on January 1, 1994.

CHAPTER 543

An act to amend Section 20607 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. The provisions of the State Bargaining Unit 6 memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the California Correctional Peace Officers Association which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 2. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by
the Legislature in legislation other than the annual Budget Act.

SEC. 3. Any provision in a memorandum of understanding approved by Section 1 which is scheduled to take effect on or after July 1, 1993, and which requires the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate over the affected provisions.

SEC. 4. Notwithstanding any other provisions of law, the Department of Finance may adjust departmental appropriations to reflect the salary, personal leave, and benefit changes made pursuant to this act or pursuant to a memorandum of understanding entered into by the state employer and a recognized employee organization pursuant to Section 3517.5 of the Government Code which has been approved and ratified by the Legislature.

SEC. 5. 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.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to
Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 1992–93 fiscal year, and so facilitate the orderly administration of state government at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 544

An act to add Article 9.5 (commencing with Section 1399.55) to Chapter 2.2 of Division 2 of the Health and Safety Code, and to add Article 6.8 (commencing with Section 796.01) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. Article 9.5 (commencing with Section 1399.55) is added to Chapter 2.2 of Division 2 of the Health and Safety Code, to read:

Article 9.5. Claims Reviewers

1399.55. Health care service plans shall, upon rejecting a claim from a health care provider or a patient, and upon their demand, disclose the specific rationale used in determining why the claim was rejected. Nothing in this section is intended to expand or restrict the ability of a health care provider or a patient from having health care coverage approved in advance of services.

1399.56. Compensation of a person retained by a health care service plan to review claims for health care services shall not be based on a percentage of the amount by which a claim is reduced for payment.

1399.57. This article does not apply to services or benefits provided pursuant to Medi-Cal, including services or benefits provided under Chapters 7 (commencing with Section 14000) and 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 2. Article 6.8 (commencing with Section 796.01) is added to
Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 6.8. Claims Reviewers

796.01. Disability insurers and nonprofit hospital service plans shall, upon rejecting a claim from a health care provider or a patient, and upon their demand, disclose the specific rationale used in determining why the claim was rejected. Nothing in this section is intended to expand or restrict the ability of a health care provider or a patient from having health care coverage approved in advance of services.

796.02. Compensation of a person retained by a disability insurer to review claims for health care services shall not be based on a percentage of the amount by which a claim is reduced for payment.

796.03. This article does not apply to services or benefits provided pursuant to Medi-Cal, including services or benefits provided under Chapters 7 (commencing with Section 14000) and 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

CHAPTER 545

An act to add Section 49604 to the Education Code, relating to schools.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. Section 49604 is added to the Education Code, to read:

49604. The Superintendent of Public Instruction shall send a notice to each middle school, junior high school, and high school that encourages each school to provide suicide prevention training to each school counselor at least one time while employed as a counselor, provides information on the availability of the suicide prevention training curriculum developed by the State Department of Education, and informs schools about the suicide prevention training provided by the department and describes how a school might retain those services.
CHAPTER 546

An act to amend Sections 8276, 8277, 8278, and 8279 of the Public Utilities Code, relating to public utilities.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992]

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

SECTION 1. Section 8276 of the Public Utilities Code is amended to read:
8276. The commission shall prohibit any public utility that has any retirement funds invested in the government of South Africa or Libya, or in any corporation based in those countries, from including in its plant operating budget any losses incurred as a result of those investments.

SEC. 2. Section 8277 of the Public Utilities Code is amended to read:
8277. The commission shall require every public utility to provide the commission with a list of its retirement fund investments in the government of South Africa or Libya, or in any corporation based in those countries.

SEC. 3. Section 8278 of the Public Utilities Code is amended to read:
8278. The commission shall verify the accuracy of the information provided pursuant to Section 8277, and shall disallow any losses incurred as a result of investments in the government of South Africa or Libya, or in any corporation based in those countries, in establishing rates for the public utility.

SEC. 4. Section 8279 of the Public Utilities Code is amended to read:
8279. This article does not prevent the commission from applying this article to public utility retirement fund investments in other countries such as, but not limited to, South Africa and Libya, if comparable conditions warrant that application.

CHAPTER 547

An act to amend Section 845 of the Government Code, relating to public safety.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992]

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

SECTION 1. Section 845 of the Government Code is amended to
Neither a public entity nor a public employee is liable for failure to establish a police department or otherwise to provide police protection service or, if police protection service is provided, for failure to provide sufficient police protection service.

A police department shall not fail to respond to a request for service via a burglar alarm system or an alarm company referral service solely on the basis that a permit from the city has not been obtained.

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 548

An act to amend Section 4057 of the Health and Safety Code, relating to water treatment devices.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992 ]

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

SECTION 1. Section 4057 of the Health and Safety Code is amended to read:

4057. Unless the context otherwise requires, the following definitions shall govern construction of this chapter:

(a) "Water treatment device" means any point of use or point of entry instrument or contrivance sold or offered for rental or lease for residential use, and designed to be added to the plumbing system, or used without being connected to the plumbing of a water supply intended for human consumption in order to improve the water supply by any means, including, but not limited to, filtration, distillation, adsorption, ion exchange, reverse osmosis, or other treatment. "Water treatment device" does not include any device that is regulated pursuant to Article 6.5 (commencing with Section 26591) of Chapter 5 of Division 21.

(b) "Department" means the State Department of Health Services.
(c) "Person" means any individual, firm, corporation, or association, or any employee or agent thereof.
(d) "Contaminants" means any health-related physical, chemical, biological, or radiological substance or matter in water.

CHAPTER 549

An act to add Sections 701.10, 727.5, and 739.8 to the Public Utilities Code, relating to water.

[Approved by Governor August 22, 1992 Filed with Secretary of State August 24, 1992]

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

SECTION 1. Section 701.10 is added to the Public Utilities Code, to read:
701.10. The policy of the State of California is that rates and charges established by the commission for water service provided by water corporations shall do all of the following:
(a) Provide revenues and earnings sufficient to afford the utility an opportunity to earn a reasonable return on its used and useful investment, to attract capital for investment on reasonable terms and to ensure the financial integrity of the utility.
(b) Minimize the long-term cost of reliable water service to water customers.
(c) Provide appropriate incentives to water utilities and customers for conservation of water resources.
(d) Provide for equity between present and future users of water service.
(e) Promote the long-term stabilization of rates in order to avoid steep increases in rates.
(f) Be based on the cost of providing the water service including, to the extent consistent with the above policies, appropriate coverage of fixed costs with fixed revenues.

SEC. 2. Section 727.5 is added to the Public Utilities Code, to read:
727.5. (a) In establishing rates for water service, the commission shall consider, and may establish, separate charges for costs associated with customer service, facilities, variable operating costs, including fixed and variable costs associated with supplying the water, or other components of the water service provided to water users.
(b) The commission shall consider, and may authorize, a water corporation to assess a fee for future water service, or a reservation charge for future water service, for persons or entities occupying or owning property within the service territory of the water corporation.
(c) The commission shall consider, and may authorize, a water corporation to establish a balancing account, rate stabilization fund, or other contingency fund, the purpose of which shall be the long-term stabilization of water rates.

(d) The commission shall consider, and may authorize, a water corporation to establish programs, including rate designs, for achieving conservation of water and recovering the cost of these programs through the rates.

(e) In establishing rates for recovery of the costs of used and useful water plant, the commission may utilize a capital structure and payback methodology that shall maintain the reliability of water service, shall minimize the long-term cost to ratepayers, shall provide equity between present and future ratepayers, and shall afford the utility an opportunity to earn a reasonable return on its used and useful investment, to attract capital for investment on reasonable terms and to ensure the financial integrity of the utility.

SEC. 3. Section 739.8 is added to the Public Utilities Code, to read:

739.8. (a) Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an affordable cost.

(b) The commission shall consider and may implement programs to provide rate relief for low-income ratepayers.

(c) The commission shall consider and may implement programs to assist low-income ratepayers in order to provide appropriate incentives and capabilities to achieve water conservation goals.

(d) In establishing the feasibility of rate relief and conservation incentives for low-income ratepayers, the commission may take into account variations in water needs caused by geography, climate and the ability of communities to support these programs.

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 550

An act to add Section 25369.1 to the Health and Safety Code, relating to hazardous substances.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. Section 25369.1 is added to the Health and Safety Code, to read:

25369.1. On or before January 1, 1994, the department shall, within the limits of available resources, prepare and submit to the Governor and the Legislature for their consideration a plan for carrying out an abandoned site survey of urban counties in the state. The plan shall include all of the following:

(a) An identification of the urban counties in the state that have not been surveyed for abandoned sites and not scheduled to be surveyed under the program established by Section 25369.

(b) Alternative schedules for carrying out surveys in those urban counties where abandoned site surveys have not been completed.

(c) Alternative schedules for screening the potential sites that are identified as a result of the surveys and for screening the potential sites located in urban counties that previously were identified by the department and are listed on the department’s Calsites data base.

(d) The personnel and budgetary resources that will be required to implement the alternative schedules identified in subdivisions (b) and (c) and recommendations for funding the various alternatives.

CHAPTER 551

An act to amend Section 12404.1 of the Insurance Code, relating to title insurance.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. Section 12404.1 of the Insurance Code is amended to read:

12404.1. The furnishing of a preliminary report by any title insurer, controlled escrow company or underwritten title company, without charge to any person, shall constitute a violation of Section 12404. The charge for a preliminary report shall have a reasonable relation to the cost of production of the report but in no event shall it be less than the rate for a standard owners policy, minimum
liability, as set forth in the company's rate schedule. After billing any person for a preliminary report the title insurer, controlled escrow company or underwritten title company shall promptly make a good faith attempt to collect; provided, however, that notwithstanding Section 12404, but without limiting the applicability of that section to other transactions, this charge may be waived or canceled, if the company follows uniform practices as to all customers under like circumstances.

(a) After the issuance of the preliminary report, but before the charge is waived or canceled, the files of the issuing company contain a copy of a bona fide sales or exchange agreement, or loan commitment executed by the party or parties in interest relating to the property described in the report, and the sale, exchange, or loan is not consummated.

(b) When the preliminary report so furnished contains a lien or encumbrance or other title defect which the issuing company has refused to eliminate from its policy of title insurance or to provide insurance against loss by reason thereof, and another title insurance company has eliminated the lien or encumbrance or other title defect from its policy of title insurance or provided insurance against loss resulting therefrom within a reasonable period of time from the date of the issuance of the preliminary report.

The furnishing of the names of owners of record, descriptions of real property, and property characteristics, as defined in Section 408.3 of the Revenue and Taxation Code, shall not be deemed to be a violation of Section 12404, whether provided on individual or multiple properties and whether provided in printed form or by electronic media.

SEC. 2. This act is intended to clarify existing law regarding "farming" materials provided by the title insurance industry as part of legitimate promotional activities and is not intended to either impair or enhance the authority of the Department of Insurance to enforce existing prohibitions against unlawful rebates, nor is it intended to alter the provisions of Section 12404.1 of the Insurance Code regarding the furnishing of preliminary reports without charge.
An act to amend Section 18986.11 of the Welfare and Institutions Code, relating to children.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 24, 1992.]

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

SECTION 1. Section 18986.11 of the Welfare and Institutions Code is amended to read:

18986.11. A council shall be comprised of, but not be limited to, the following members:
(a) Persons responsible for management of the following county functions:
   (1) Alcohol and drug programs.
   (2) Children's services.
   (3) Housing and redevelopment.
   (4) Mental health services.
   (5) Probation.
   (6) Public health services.
   (7) Welfare or public social services.
(b) The presiding judge of the county's juvenile court.
(c) The superintendent of the county office of education and at least one superintendent of a unified school district within the county.
(d) A prosecuting attorney of the county or city and county.
(e) A representative of a private nonprofit corporation which has a goal of entering into a public private partnership with the county to meet the needs of children that are not adequately met by existing public or private funds.
(f) One member of the county board of supervisors.
(g) A representative of law enforcement.
(h) A representative of the local child abuse council.
(i) A representative of a local planning agency participating in the California Early Intervention Program pursuant to Subchapter VIII (commencing with Section 1471) of Chapter 33 of Title 20 of the United States Code.
(j) A representative of the local child care resource and referral agency or other local child care coordinating group.
(k) A representative, or representatives, of one or more community-based organizations with ties to the ethnic communities served in the area.
An act to add Section 13132.7 to the Health and Safety Code, relating to fire safety.

[Approved by Governor August 22, 1992. Filed with Secretary of State August 25, 1992.]

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

SECTION 1. This act shall be known and may be cited as the “Watson-O’Connell Fire Prevention Act.”

SEC. 1.5. Section 13132.7 is added to the Health and Safety Code, to read:

13132.7. (a) (1) On or after July 1, 1995, every new structure, and every existing structure, when 50 percent or more of the total roof area is reroofed within any one-year period, during any one-year period commencing any date on or after July 1, 1995, shall have a fire retardant roof covering that is at least class C as defined in Section 3204 of the 1991 edition of the Uniform Building Code and Standard 32-7 of the 1991 Uniform Building Code.

(2) The State Building Standards Commission shall incorporate the requirement set forth in paragraph (1) by publishing it in the California Building Standards Code, commencing with the 1994 edition, in accordance with Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13.

(b) A city, county, or city and county, may by ordinance, and pursuant to Section 13143.5, adopt, and a fire protection district organized pursuant to Part 2.7 (commencing with Section 13800) of Division 12 may adopt pursuant to the procedures of Section 13869.7, regulations related to fire and panic safety for roof coverings and construction within its jurisdiction, including fire hazard severity zones pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, that are more stringent than the class C level of fire retardancy as mandated in subdivision (a), but shall not adopt regulations that are less stringent than the class C level.

(c) This section shall not affect the validity of an ordinance, adopted prior to July 1, 1995, by a city, county, city and county, or fire protection district, unless the ordinance mandates a standard that is less stringent than class C, pursuant to subdivision (a), in which case the ordinance shall not be valid on or after July 1, 1995.

(d) Any qualified historical building or structure as defined in Section 18955 may, on a case-by-case basis, utilize alternative roof constructions as provided by the State Historical Building Code, that meet the same level of fire protection as class C, as described in subdivision (a).

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 554

An act to amend Sections 65088.1, 65089, and 65089.3 of the Government Code, to add Article 5 (commencing with Section 43945) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, to amend Section 24343.5 of, and to add Sections 17090 and 17202 to, the Revenue and Taxation Code, relating to transportation.

[Approved by Governor August 26, 1992. Filed with Secretary of State August 27, 1992.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:
(a) Existing local, state, and federal policies tend to encourage the provision of subsidized parking by employers.
(b) Subsidized parking creates a strong incentive for employees to commute to work in a single occupancy vehicle.
(c) Commuting in a single occupancy vehicle contributes to traffic congestion and air pollution.
(d) In Los Angeles and Orange Counties, more than 90 percent of the commuters receive free worksite parking, but less than 10 percent of employers provide an employee ridesharing or transit benefit.

SEC. 2. Section 65088.1 of the Government Code is amended to read:
65088.1. As used in this chapter the following terms have the following meanings:
(a) Unless the context requires otherwise, “regional agency” means the agency responsible for preparation of the regional transportation improvement program.
(b) Unless the context requires otherwise, “agency” means the agency responsible for the preparation and adoption of the congestion management program.
(c) “City” includes a city and county.
(d) “Commission” means the California Transportation Commission.
(e) “Department” means the Department of Transportation.
(f) "Parking cash-out program" means an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space. "Parking subsidy" means the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space.

A parking cash-out program may include a requirement that employee participants certify that they will comply with guidelines established by the employer designed to avoid neighborhood parking problems, with a provision that employees not complying with the guidelines will no longer be eligible for the parking cash-out program.

(g) "Urbanized area" has the same meaning as is defined in the 1990 federal census for urbanized areas of more than 50,000 population.

(h) "Interregional travel" means trips that have neither origin nor destination within the boundary of the congestion management program.

SEC. 3. Section 65089 of the Government Code is amended to read:

65089. (a) A congestion management program shall be developed, adopted, and annually updated for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated 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.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system. Level of service (LOS) shall be measured by Circular 212, (or by the most recent version of the Highway Capacity Manual), or by a uniform methodology adopted by the agency which is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department
shall make this determination instead if either (i) the regional
agency is also the agency, as those terms are defined in Section
65088.1, or (ii) the department is responsible for preparing the
regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the
level of service E or the current level, whichever is farthest from
level of service A, except where a segment or intersection has been
designated as deficient and a deficiency plan has been adopted
pursuant to Section 65089.3.

(2) Standards established for the frequency and routing of public
transit, and for the coordination of transit service provided by
separate operators.

(3) A trip reduction and travel demand element that promotes
alternative transportation methods, such as carpools, vanpools,
transit, bicycles, and park-and-ride lots; improvements in the balance
between jobs and housing; and other strategies, including flexible
work hours and parking management programs. The agency shall
consider parking cash-out programs during the development and
annual update of the trip reduction and travel demand element.

(4) A program to analyze the impacts of land use decisions made
by local jurisdictions on regional transportation systems, including an
estimate of the costs associated with mitigating those impacts. In no
case shall the program include an estimate of the costs of mitigating
the impacts of interregional travel. The program shall provide credit
for local public and private contributions to improvements to
regional transportation systems. However, in the case of toll road
facilities, credit shall only be allowed for local public and private
contributions which are unreimbursed from toll revenues or other
state or federal sources. The agency shall calculate the amount of the
credit to be provided.

(5) A seven-year capital improvement program to maintain or
improve the traffic level of service and transit performance
standards developed pursuant to paragraphs (1) and (2), and to
mitigate regional transportation impacts identified pursuant to
paragraph (4), which conforms to transportation-related vehicle
emissions air quality mitigation measures.

(c) The agency, in consultation with the regional agency, cities,
and the county, shall develop a uniform data base on traffic impacts
for use in a countywide transportation computer model and shall
approve transportation computer models of specific areas within the
county that will be used by local jurisdictions to determine the
quantitative impacts of development on the circulation system that
are based on the countywide model and standardized modeling
assumptions and conventions. The computer models shall be
consistent with the modeling methodology adopted by the regional
planning agency. The data bases used in the models shall be
consistent with the data bases used by the regional planning agency.
Where the regional agency has jurisdiction over two or more
counties, the data bases used by the agency shall be consistent with
the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program which is included in a congestion management program pursuant to subdivision (b), or a deficiency plan pursuant to Section 65089.3, shall grant to that development an appropriate reduction in the parking requirements otherwise in effect for new commercial development.

(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

SEC. 3.5. Section 65089 of the Government Code is amended to read:

65089. (a) A congestion management program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated 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.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system. Level of service (LOS) shall be measured by Circular 212, (or by the most recent version of the Highway Capacity Manual), or by a uniform methodology adopted by the agency which is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department shall make this determination instead if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is farthest from level of service A, except where a segment or intersection has been
designated as deficient and a deficiency plan has been adopted pursuant to Section 65089.3.

(2) Standards established for the frequency and routing of public transit, and for the coordination of transit service provided by separate operators.

(3) A trip reduction and travel demand element that promotes alternative transportation methods, such as carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including flexible work hours and parking management programs. The agency shall consider parking cash-out programs during the development and annual update of the trip reduction and travel demand element.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided.

(5) A seven-year capital improvement program to maintain or improve the traffic level of service and transit performance standards developed pursuant to paragraphs (1) and (2), and to mitigate regional transportation impacts identified pursuant to paragraph (4), which conforms to transportation-related vehicle emissions air quality mitigation measures.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program which is included in a congestion management program pursuant to subdivision (b), or a deficiency plan pursuant to Section 65089.3, shall grant to that development an appropriate reduction in the parking requirements otherwise in effect for new commercial development.
(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

SEC. 4. Section 65089.3 of the Government Code is amended to read:

65089.3. (a) The agency shall monitor the implementation of all elements of the congestion management program. Annually, the agency shall determine if the county and cities are conforming to the congestion management program, including, but not limited to, all of the following:

(1) Consistency with levels of service and performance standards, except as provided in subdivisions (b) and (c).

(2) Adoption and implementation of a trip reduction and travel demand ordinance.

(3) Adoption and implementation of a program to analyze the impacts of land use decisions, including the estimate of the costs associated with mitigating these impacts.

(b) (1) A city or county may designate individual deficient segments or intersections which do not meet the established level of service standards if, prior to the designation, at a noticed public hearing, the city or county has adopted a deficiency plan which shall include all of the following:

(A) An analysis of the causes of the deficiency.

(B) A list of improvements necessary for the deficient segment or intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.

(C) A list of improvements, programs, or actions, and estimates of costs, that will (i) measurably improve the level of service of the system, as defined in subdivision (b) of Section 65089, and (ii) contribute to significant improvements in air quality, such as improved public transit service and facilities, improved nonmotorized transportation facilities, high occupancy vehicle facilities, parking cash-out programs, and transportation control measures. The air quality management district or the air pollution control district shall establish and periodically revise a list of approved improvements, programs, and actions which meet the scope of this paragraph. If an improvement, program, or action is on the approved list and has not yet been fully implemented, it shall be deemed to contribute to significant improvements in air quality. If an improvement, program, or action is not on the approved list, it shall not be implemented unless approved by the local air quality management district or air pollution control district.

(D) An action plan, consistent with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7, that shall be implemented, consisting of improvements identified in paragraph (B), or improvements, programs, or actions identified in paragraph (C),
that are found by the agency to be in the interest of the public's health, safety and welfare. The action plan shall include a specific implementation schedule.

(2) A city or county shall forward its adopted deficiency plan to the agency. The agency shall hold a noticed public hearing within 60 days of receiving the deficiency plan. Following the hearing, the agency shall either accept or reject the deficiency plan in its entirety, but the agency may not modify the deficiency plan. If the agency rejects the plan, it shall notify the city or county of the reasons for that rejection.

(c) The agency, after consultation with the regional agency, the department, and the air quality management district or air pollution control district, shall exclude from the determination of conformance with level of service standards, the impacts of any of the following:

(1) Interregional travel.
(2) Construction, rehabilitation, or maintenance of facilities that impact the system.
(3) Freeway ramp metering.
(4) Traffic signal coordination by the state or multijurisdictional agencies.
(5) Traffic generated by the provision of low and very low income housing.

(d) For the purposes of this chapter, the impacts of a trip which originates in one county and which terminates in another county shall be included in the determination of conformance with level of service standards with respect to the originating county only. A roundtrip shall be considered to consist of two individual trips.

SEC. 4.5. Section 65089.3 of the Government Code is amended to read:

65089.3. (a) The agency shall monitor the implementation of all elements of the congestion management program. Annually, the agency shall determine if the county and cities are conforming to the congestion management program, including, but not limited to, all of the following:

(1) Consistency with levels of service and performance standards, except as provided in subdivisions (b) and (c).
(2) Adoption and implementation of a trip reduction and travel demand ordinance.
(3) Adoption and implementation of a program to analyze the impacts of land use decisions, including the estimate of the costs associated with mitigating these impacts.

(b) (1) A city or county may designate individual deficient segments or intersections which do not meet the established level of service standards if, prior to the designation, at a noticed public hearing, the city or county has adopted a deficiency plan which shall include all of the following:

(A) An analysis of the causes of the deficiency.
(B) A list of improvements necessary for the deficient segment or

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intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.

(C) A list of improvements, programs, or actions, and estimates of costs, that will (i) measurably improve the level of service of the system, as defined in subdivision (b) of Section 65089, and (ii) contribute to significant improvements in air quality, such as improved public transit service and facilities, improved nonmotorized transportation facilities, high occupancy vehicle facilities, parking cash-out programs, and transportation control measures. The air quality management district or the air pollution control district shall establish and periodically revise a list of approved improvements, programs, and actions which meet the scope of this paragraph. If an improvement, program, or action is on the approved list and has not yet been fully implemented, it shall be deemed to contribute to significant improvements in air quality. If an improvement, program, or action is not on the approved list, it shall not be implemented unless approved by the local air quality management district or air pollution control district.

(D) An action plan, consistent with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7, that shall be implemented, consisting of improvements identified in paragraph (B), or improvements, programs, or actions identified in paragraph (C), that are found by the agency to be in the interest of the public's health, safety and welfare. The action plan shall include a specific implementation schedule.

(2) A city or county shall forward its adopted deficiency plan to the agency. The agency shall hold a noticed public hearing within 60 days of receiving the deficiency plan. Following the hearing, the agency shall either accept or reject the deficiency plan in its entirety, but the agency may not modify the deficiency plan. If the agency rejects the plan, it shall notify the city or county of the reasons for that rejection.

(c) The agency, after consultation with the regional agency, the department, and the air quality management district or air pollution control district, shall exclude from the determination of conformance with level of service standards, the impacts of any of the following:

(1) Interregional travel.
(2) Construction, rehabilitation, or maintenance of facilities that impact the system.
(3) Freeway ramp metering.
(4) Traffic signal coordination by the state or multijurisdictional agencies.
(5) Traffic generated by the provision of low and very low income housing.
(6) (A) Traffic generated by high density residential development located within one-fourth mile of a fixed rail passenger station.
(B) Traffic generated by any mixed use development located
within one-fourth mile of a fixed rail passenger station, if more than half of the land area, or floor area, of the mixed use development is used for high density residential housing, as determined by the agency.

(C) For the purposes of this section, the following terms have the following meanings:

(i) "High density" means residential density which is equal to or greater than 120 percent of the maximum residential density allowed under the local general plan and zoning ordinance.

(ii) "Mixed use development" means development which integrates compatible commercial or retail uses, or both, with residential uses, and which, due to the proximity of job locations, shopping opportunities, and residences, will discourage new trip generation.

(d) For the purposes of this chapter, the impacts of a trip which originates in one county and which terminates in another county shall be included in the determination of conformance with level of service standards with respect to the originating county only. A roundtrip shall be considered to consist of two individual trips.

(e) It is the intent of the Legislature that a deficiency plan be prepared and adopted by the city or county, and approved by the agency, prior to the occurrence of a deficiency.

SEC. 5. Article 5 (commencing with Section 43845) is added to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, to read:

Article 5. Employee Parking

43845. (a) In any air basin designated as a nonattainment area pursuant to Section 39608, each employer of 50 persons or more who provides a parking subsidy to employees, shall offer a parking cash-out program. "Parking cash-out program" means an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space.

(b) A parking cash-out program may include a requirement that employee participants certify that they will comply with guidelines established by the employer designed to avoid neighborhood parking problems, with a provision that employees not complying with the guidelines will no longer be eligible for the parking cash-out program.

(c) As used in this section, the following terms have the following meanings:

(1) "Employee" means an employee of an employer subject to this section.

(2) "Parking subsidy" means the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned
by the employer and the price, if any, charged to an employee for use of that space.

(d) Subdivision (a) does not apply to any employer who, on or before January 1, 1993, has leased employee parking, until the expiration of that lease or unless the lease permits the employer to reduce, without penalty, the number of parking spaces subject to the lease.

(e) It is the intent of the Legislature, in enacting this section, that the cash-out requirements apply only to employers who can reduce, without penalty, the number of paid parking spaces they maintain for the use of their employees and instead provide their employees the cash-out option described in this section.

SEC. 6. Section 17090 is added to the Revenue and Taxation Code, to read:

17090. Gross income includes cash allowances received by an employee under a parking cash-out program, except any portion used for a ridesharing purpose and excluded from gross income by Section 17149.

SEC. 7. Section 17202 is added to the Revenue and Taxation Code, to read:

17202. There shall be allowed to an employer as an ordinary and necessary expense paid or incurred during the taxable year in carrying on any trade or business (as provided in Section 162(a) of the Internal Revenue Code), the expenses involved in carrying out a parking cash-out program, as defined by subdivision (f) of Section 65088.1 of the Government Code.

SEC. 8. Section 24343.5 of the Revenue and Taxation Code is amended to read:

24343.5. (a) In addition to the deduction allowed by Section 24343, a deduction shall be allowed to an employer as an ordinary and necessary expense paid or incurred during the income year in carrying on any trade or business for those expenses involved in any of the following ridesharing arrangements:

(1) Subsidizing employees commuting in vanpools.

(2) Subsidizing employees commuting in private commuter buses or buspools.

(3) Subsidizing monthly transit passes for its employees or for use by the employee's dependents, except that no deduction shall be allowed for transit passes issued for the use of elementary and secondary school students.

(4) Subsidizing employees commuting in subscription taxipools.

(5) Subsidizing employees commuting in a carpool.

(6) In the case of an employer who offers free parking to its employees, offering a cash equivalent to employees who do not require parking, including a parking cash-out program, as defined by subdivision (f) of Section 65088.1 of the Government Code.

(7) Providing free or preferential parking to carpools, vanpools, or any other vehicle used in a ridesharing arrangement.

(8) Making facility improvements to encourage employees, for
the purpose of commuting from their homes, to participate in ridesharing arrangements, to use bicycles, or to walk. These facility improvements may include, but are not limited to, any of the following: the construction of bus shelters; the installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms; and parking lot modifications to provide carpools, vanpools, or buspools with preferential treatment. The cost of these facility improvements shall be allowed as a depreciation deduction. Notwithstanding subdivision (c), the depreciation deduction shall be allowable over a 36-month period.

(9) Providing company commuter van or bus service to its employees and to others for commuting from their homes, but not for transportation required as part of the employer’s business activities, except as otherwise provided in this section. The capital costs of providing this service shall not be an eligible deduction under this section.

(10) Providing to employees transportation services which are required as part of the employer’s business activities to the extent that the transportation would be provided by employees without reimbursement in the absence of an employer-sponsored ridesharing incentive program. The capital costs of providing this service shall not be an eligible deduction under this section.

(b) For purposes of this section:
(1) “Employer” means either of the following:
(A) A taxpayer for whom services are performed by employees, except entities which are not subject to tax under this part.
(B) A taxpayer which is a private or public educational institution which enrolls students at higher than the secondary level.
(2) “Employee” means either of the following:
(A) An individual who performs service for an employer for more than eight hours per week for remuneration.
(B) Any commuting student, as defined in paragraph (3).
(3) “Commuting student” means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the “employment site” for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.
(4) “Employer-sponsored ridesharing incentive program” means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.
(5) “Company commuter bus or van” means a highway vehicle which meets all of the following criteria:
(A) Has at least seven or more persons commuting on a daily basis to and from work.
(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and
from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this legislation.

(6) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adult persons.

(7) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.

(8) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(9) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily-fare basis, following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(10) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where that transportation is incidental to another purpose of the driver. The term includes ridesharing arrangements known as carpools, vanpools, and buspools.

(11) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than seven adults, including the driver.

(12) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(13) "Private commuter bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least seven adults, including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this section.

(D) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which the vehicle is placed in service.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 65089 of the Government Code proposed by both this bill and AB 3093. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1993, (2) each bill amends Section 65089 of the Government Code, and (3) this bill is enacted after AB 3093, in which case Section 3 of this bill shall not become operative.

SEC. 10. Section 4.5 of this bill incorporates amendments to
Section 65089.3 of the Government Code proposed by both this bill and AB 3093. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1993, (2) each bill amends Section 65089.3 of the Government Code, and (3) this bill is enacted after AB 3093, in which case Section 4 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 555

An act to amend Section 836 of the Penal Code, relating to domestic violence.

[Approved by Governor August 26, 1992. Filed with Secretary of State August 27, 1992.]

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

SECTION 1. Section 836 of the Penal Code is amended to read:
836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has reasonable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has reasonable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

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 556

An act to amend Sections 5004 and 7201 of the Food and Agricultural Code, relating to weeds.

[Became law without Governor's signature. Filed with Secretary of State August 27, 1992.

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

SECTION 1. Section 5004 of the Food and Agricultural Code is amended to read:

5004. "Noxious weed" means any species of plant that is, or is liable to be, troublesome, aggressive, intrusive, detrimental, or destructive to agriculture, silviculture, or important native species, and difficult to control or eradicate, which the director, by regulation, designates to be a noxious weed. In determining whether or not a species shall be designated a noxious weed for the purposes of protecting silviculture or important native plant species, the director shall not make that designation if the designation will be detrimental to agriculture.

SEC. 2. Section 7201 of the Food and Agricultural Code is amended to read:

7201. The director, after investigation and practical survey, may consult with other state and federal agencies having responsibility for forest management and protection of native species and, by proclamation, declare an area within this state to be practically free from any noxious weed, as defined in Section 5004, which is named in the proclamation.
An act to add Chapter 3.4 (commencing with Section 15819.80) to Part 10b of Division 3 of Title 2 of the Government Code, and to amend Section 1012.3 of the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1992. Filed with Secretary of State August 28, 1992.]

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

SECTION 1. Chapter 3.4 (commencing with Section 15819.80) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.4. FINANCING OF THE SECOND CALIFORNIA VETERANS’ HOME

15819.80. The Department of Veterans Affairs may construct and establish a second veterans’ home to be located in southern California, as specified in subdivision (b) of Section 1011 of the Military and Veterans Code.

15819.85. (a) The board shall issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the construction of a second veterans’ home in southern California.

(b) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold pursuant to Chapter 5 (commencing with Section 15830) for capital outlay for this purpose shall not exceed the sum of eleven million dollars ($11,000,000). This amount shall be available, in addition to any federal funds available, as necessary for the construction of a second veterans’ home, site studies, suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and equipment.

(c) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the costs of performance of all functions referred to in subdivision (b), and any additional amounts, as specified in subdivision (g).

(d) The amount of negotiable bond anticipation notes to be sold shall not exceed the amount of revenue bonds or negotiable notes authorized by this chapter.

(e) Notwithstanding Section 13340, funds derived for the purposes of this chapter from the financing methods pursuant to Chapter 5 (commencing with Section 15830) for the construction of a second veterans’ home are hereby continuously appropriated to the board on behalf of the Department of Veterans Affairs for the
construction or refinancing of the second veterans' home so financed.

(f) The Department of Veterans Affairs may borrow funds for construction of the second veterans' home from the Pooled Money Investment Account pursuant to Sections 16312 and 16313.

(g) The board may authorize the augmentation of the cost of the construction of the home set forth in this chapter pursuant to the board's authority under Section 13332.11. In addition, the board may authorize any additional amounts necessary to pay the costs of financing, including, but not limited to, the payment of interest during acquisition or construction of the home, any additional amount as may be authorized by the board to pay the cost of financing a reasonably required reserve fund, interest payable on any interim loan for the home from the Pooled Money Investment Account pursuant to Section 16312, and the costs of issuance of permanent financing of the home.

SEC. 2. Section 1012.3 of the Military and Veterans Code is amended to read:

1012.3. Members of the home shall pay fees and charges as determined by the department, except that the total of the fees and charges for any fiscal year shall not be greater than 30 percent of the state's General Fund cost of operating the home for that year.

SEC. 3. At least 20 days prior to the award of the principal bid for construction of the facilities described in this act, the Director of Veterans Affairs shall notify the chairpersons of the fiscal committees of each house of the Legislature of the amount of the bid.

SEC. 4. The Director of Veterans Affairs shall notify the Chairperson of the Joint Legislative Budget Committee of the director's intention to execute any lease agreement authorized by this act at least 20 days prior to its execution.

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

The State Veterans Home Grants program of the United States Department of Veterans Affairs has committed twenty million dollars ($20,000,000) for the construction of a second veterans' home to be located in southern California pending a commitment by the State of California to fund a matching share requirement of 35 percent of the total construction costs no later than August 15, 1992. In order to ensure federal funding for construction of this needed second veterans' home to be located in southern California, it is necessary that this act take effect immediately.
An act to amend Sections 3603 and 3604 of the Penal Code, relating to capital punishment.

[Approved by Governor August 27, 1992. Filed with Secretary of State August 28, 1992]

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

SECTION 1. Section 3603 of the Penal Code is amended to read:
3603. The judgment of death shall be executed within the walls of the California State Prison at San Quentin.

SEC. 2. Section 3604 of the Penal Code is amended to read:
3604. (a) The punishment of death shall be inflicted by the administration of a lethal gas or by an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death, by standards established under the direction of the Department of Corrections.

(b) Persons sentenced to death prior to or after the operative date of this subdivision shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection. This choice shall be made in writing and shall be submitted to the warden pursuant to regulations established by the Department of Corrections. If a person under sentence of death does not choose either lethal gas or lethal injection within 10 days after the warden's service upon the inmate of an execution warrant issued following the operative date of this subdivision, the penalty of death shall be imposed by lethal gas.

(c) Where the person sentenced to death is not executed on the date set for execution and a new execution date is subsequently set, the person again shall have the opportunity to elect to have punishment imposed by lethal gas or lethal injection, according to the procedures set forth in subdivision (b).

(d) Notwithstanding subdivision (b), if either manner of execution described in subdivision (a) is held invalid, the punishment of death shall be imposed by the alternative means specified in subdivision (a).

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.
An act to amend Section 7004 of the Civil Code, relating to family law.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. Section 7004 of the Civil Code is amended to read:

7004. (a) A man is presumed to be the natural father of a child if he meets the conditions as set forth in Section 621 of the Evidence Code or in any of the following paragraphs:

(1) He and the child’s natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.

(2) Before the child’s birth, he and the child’s natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(i) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

(ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(3) After the child’s birth, he and the child’s natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(i) With his consent, he is named as the child’s father on the child’s birth certificate.

(ii) He is obligated to support the child under a written voluntary promise or by court order.

(4) He receives the child into his home and openly holds out the child as his natural child.

(5) If the child was born and resides in a nation with which the United States engages in an Orderly Departure Program or successor program, he acknowledges that he is the child’s father in a declaration under penalty of perjury, as specified in Section 2015.5 of the Code of Civil Procedure.

This paragraph shall remain in effect only until January 1, 1997, and on that date shall become inoperative.

(b) If (a) is not applicable, then, a man shall not be presumed to be the natural father of a child if either of the following is true:
(1) The child was conceived as a result of an act in violation of Section 261 of the Penal Code and the father was convicted of that violation.

(2) The child was conceived as a result of an act in violation of Section 261.5 of the Penal Code, the father was convicted of that violation, and the mother was under the age of 15 years and the father was 21 years of age or older at the time of conception.

(c) Except as provided in Section 621 of the Evidence Code, a presumption under this section is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise under this section which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

CHAPTER 560

An act to amend Section 101.7 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. (a) The Legislature finds and declares that the current program of providing information signs identifying specific roadside businesses offering services of interest to motorists along rural portions of State Highway Route 5 has been effective in its intended purpose.

(b) It is, therefore, the intent of the Legislature, in enacting amendments to Section 101.7 of the Streets and Highways Code, to provide motorists on freeways in other rural areas of the state with information on the availability of specific roadside businesses offering fuel, food, lodging, and camping services. It is not the intent of the Legislature, in enacting these amendments, to prohibit, limit, or restrict on-premises or off-premises highway oriented business signs or directional signs along or near the highways or freeways, but to supplement privately erected structures and signs.

SEC. 2. Section 101.7 of the Streets and Highways Code is amended to read:

101.7. (a) The department shall adopt rules and regulations which allow the placement near exits on freeways located in rural areas, of information signs identifying specific roadside businesses offering fuel, food, lodging, or camping services and which prescribe the standards for those signs. The department shall not approve the
placement of any sign within any urban area designated by the United States Bureau of the Census as having a population of 5,000 or more.

The information signs may be placed near the freeway exits in addition to, or in lieu of, other highway signs of the department, but not in lieu of on-premises or off-premises highway oriented business signs and directional signs.

(b) The department shall establish and charge a fee to place and maintain information signs in an amount not less than 25 percent above its estimated cost in placing and maintaining the information signs. The department shall annually review the amount of that fee and revise it as necessary. Funds derived from the imposition of the fee, after deduction of the cost to the department for the placement and maintenance of the information signs, shall be available, upon appropriation by the Legislature, for safety roadside rest purposes.

CHAPTER 561

An act to add Section 13823.6 to the Penal Code, relating to the Statewide Task Force on Sexual Assault of Children.

[Approved by Governor August 30, 1992 Filed with Secretary of State August 31, 1992.]

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

SECTION 1. (a) The Legislature finds and declares each of the following:

(1) Organized pedophile rings, with national and international connections, operate in California.

(2) A pedophile is a person whose sexual preference is that of children.

(3) Runaways and disadvantaged children are targets for exploitation by pedophiles.

(4) The average pedophile molestes 70 children in a lifetime.

(5) Organized pedophile rings are a statewide problem and investigation of these rings requires the ability of law enforcement to cross normal jurisdictional boundaries.

(b) The Legislature further finds and declares that for various reasons, including lack of training, expertise, coordination, and priority, organized pedophile rings are not investigated or prosecuted to the fullest extent possible by local and state law enforcement agencies.

(c) The Department of Justice is authorized to create and administer a statewide task force with authority to study and develop recommendations for the Legislature relating to pedophiles. Funding for this task force shall be subject to the availability of grants or donations from private individuals and groups, and no state money
shall be used in the implementation of this act.

SEC. 2. Section 13823.6 is added to the Penal Code, to read:
13823.6. The office may secure grants, donations, or other funding for the purpose of funding any statewide task force on sexual assault of children that may be established and administered by the Department of Justice.

CHAPTER 562

An act to add Sections 1663 and 27314.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. Section 1663 is added to the Vehicle Code, to read: 1663. (a) The department shall include, with each motor vehicle registration renewal notice sent to the registered owner of a vehicle between July 1, 1993, and June 30, 1994, a printed message to the effect that the failure to install and use shoulder harnesses together with lap belts can result in serious or fatal injuries in certain motor vehicle accidents. The message shall also furnish the “hotline” telephone number for the National Highway Transportation Safety Administration to which a person may direct inquiries on retrofitting a vehicle with shoulder harnesses. If there is no appropriate telephone number, the department may omit the specific reference to a telephone number in the message.

(b) The department shall, in the synopsis or summary of laws regulating the operation of vehicles and the use of the highways published pursuant to subdivision (b) of Section 1656, provide a warning which states that, in certain accidents, the lack of a shoulder harness may cause, or aggravate, serious and fatal injuries, especially to the head, spinal column, and abdominal organs.

(c) Nothing in this section limits or impairs the rights or remedies which are otherwise available to any person under existing law.

SEC. 2. Section 27314.5 is added to the Vehicle Code, to read: 27314.5. (a) (1) Subject to paragraph (3), no dealer shall sell or offer for sale any used passenger vehicle of a model year of 1972 to 1990, inclusive, unless there is affixed to the window of the left front door or, if there is no window, to another suitable location so that it may be seen and read by a person standing outside the vehicle at that location, a notice, printed in 14-point type, which reads as follows: “WARNING: While use of all seat belts reduces the chance of ejection, failure to install and use shoulder harnesses with lap belts can result in serious or fatal injuries in some crashes. Lap-only belts increase the chance of head and neck injury by allowing the upper
torso to move unrestrained in a crash and increase the chance of spinal column and abdominal injuries by concentrating excessive force on the lower torso. Because children carry a disproportionate amount of body weight above the waist, they are more likely to sustain such injuries. Shoulder harnesses may be available that can be retrofitted in this vehicle. For more information call the Auto Safety Hotline at 1-800-424-9393.”

(2) The notice shall remain affixed to the vehicle pursuant to paragraph (1) at all times that the vehicle is for sale.

(3) The notice is not required to be affixed to any vehicle equipped with both a lap belt and a shoulder harness for the driver and one passenger in the front seat of the vehicle and for at least two passengers in the rear seat of the vehicle.

(b) (1) In addition to the requirements of subdivision (a), and subject to paragraph (3) and subdivision (c), the dealer shall affix, to one rear seat lap belt buckle of every used passenger vehicle of a model year of 1972 to 1990, inclusive, that has a rear seat, a notice, printed in 10-point type, which reads as follows:

“WARNING: While use of all seat belts reduces the change of ejection, failure to install and use shoulder harnesses with lap belts can result in serious or fatal injuries in some crashes. Shoulder harnesses may be available that can be retrofitted in this vehicle. For more information, call the Auto Safety Hotline at 1-800-424-9393.”

(2) The notice shall remain affixed to the vehicle pursuant to paragraph (1) at all times that the vehicle is for sale.

(3) The message is not required to be affixed to any vehicle either equipped with both a lap belt and a shoulder harness for at least two passengers in the rear seat or having no rear seat lap belts.

(c) A dealer is not in violation of subdivision (b) unless a private nonprofit entity has furnished a supply of the appropriate notices suitable for affixing as required free of charge or, having requested a resupply of notices, has not received the resupply.

(d) The department shall furnish, to a nonprofit private entity for purposes of this section, for a fee not to exceed its costs in so furnishing, at least once every six months, a list of all licensed dealers who sell used passenger vehicles.

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.
An act to add Sections 58801.6 and 58804.2 to the Education Code, relating to education.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. (a) The Legislature finds and declares that one of the beneficial results of the Hughes-Hart Educational Reform Act of 1983 (Chapter 498 of the Statutes of 1983) was the authorization for specialized secondary education programs in technology and the visual and performing arts. Two such exemplary programs are the Los Angeles High School for the Arts operated by the Los Angeles County Office of Education on the campus of California State University, Los Angeles, and the California Academy for Math and Science operated jointly by the Compton and Long Beach Unified School Districts on the campus of the California State University, Dominguez Hills.

(b) The Legislature further finds and declares that these two programs, with the support of the California State University and major private donations, have met with great success in providing access and opportunity for programs in mathematics, science, and the visual and performing arts to many students, particularly underrepresented and disadvantaged youngsters, and have received state and national recognition as models to be replicated elsewhere.

(c) The Legislature declares that the purpose of this act is to acknowledge that the cost of these programs is higher than regular secondary school efforts, and to provide a level of enhanced funding that will ensure their continued success and expansion. In addition, this act will provide specific recognition of the fact that these programs may be operated by school districts or consortia of school districts operating one or more high schools.

SEC. 2. Section 58801.6 is added to the Education Code, to read:

58801.6. The Superintendent of Public Instruction shall apportion funds as available from the annual Budget Act for support of specialized secondary programs established prior to the 1991–92 fiscal year that operate in conjunction with the California State University. Funds apportioned pursuant to this section shall be distributed equally among eligible specialized secondary schools.

SEC. 3. Section 58804.2 is added to the Education Code, to read:

58804.2. Commencing with the 1992–93 academic year, each specialized secondary school operated pursuant to Section 58804 shall annually evaluate the success of its program as follows:

(a) The program shall be deemed successful if it meets all of the following:

(1) Eighty percent of the pupils participating in the program
pursue either postsecondary education or additional professional training in their chosen fields of study after graduation from high school.

(2) Eighty percent of the pupils that remain in the program complete their high school education.

(b) The program shall also be evaluated based on an assessment of other factors including, but not limited to, the following:

(1) Increased pupil, parent, community, professional and business community, and school employee satisfaction with pupil learning, school organization, and school governance and management.

(2) Counseling and other support services that enhance the program and the success of the pupils.

(3) Improvement in the academic performance of pupils as measured by grade point average or other appropriate standards of achievement.

CHAPTER 564

An act to add Section 17538.4 to the Business and Professions Code, relating to advertising.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992]

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

SECTION 1. Section 17538.4 is added to the Business and Professions Code, to read:

17538.4. (a) No person or entity conducting business in this state shall fax or cause to be faxed documents consisting of unsolicited advertising material for the lease, sale, rental, gift offer, or other disposition of any realty, goods, services, or extension of credit unless that person or entity establishes a toll-free telephone number which a recipient of the unsolicited faxed documents may call to notify the sender not to fax the recipient any further unsolicited documents.

(b) All unsolicited faxed documents subject to this section shall include a statement, in at least 9-point type, informing the recipient of the toll-free telephone number the recipient may call, and an address the recipient may write to, notifying the sender not to fax the recipient any further unsolicited documents to the fax number, or numbers, specified by the recipient.

(c) Upon notification by a recipient of his or her request not to receive any further unsolicited faxed documents, no person or entity conducting business in this state shall fax or cause to be faxed any unsolicited documents to that recipient.

(d) Any violation of subdivision (c) is an infraction punishable by a fine of five hundred dollars ($500) for each and every transmission.

(e) As used in this section, “fax” or “cause to be faxed” shall not
include or refer to the transmission of any documents by a telecommunications utility to the extent that the telecommunications utility merely carries that transmission over its network.

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 565

An act to amend Sections 3.1, 4, 5, 12, 12.4, 16, and 18.5 of, and to add Sections 12.8 and 30.5 to, the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951), relating to the Contra Costa County Flood Control and Water Conservation District.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. Section 3.1 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 3.1. (a) All of the provisions of this act relating to zones or participating zones apply to subzones formed under Section 3, and all of the powers and duties conferred or imposed by this act with respect to zones or participating zones, including the powers and duties to levy and collect taxes or assessments and to incur indebtedness and to issue and sell bonds, apply with respect to subzones or participating subzones.

(b) It is hereby declared that for the purposes of any tax or assessment levied under paragraph (2) of subdivision (a) of Section 12 in any subzone or participating subzone, the property so taxed or assessed is equally benefited.

(c) Whenever a special bond election is called and held under Section 13, or as authorized by Section 24, with respect to any subzone or participating subzone, the election shall be called and held only within the subzone or participating subzone for which the bonded indebtedness is proposed to be incurred and need not be called or held in any of the remaining territory of the zone or
participating zone of which the subzone or participating subzone is a part. Any defect or irregularity in the proceedings prior to the calling of the special bond election does not affect the validity of the bonds authorized by the election.

(d) When a project affects a single subzone only, then bonds for the subzone for the amount stated in the proceedings shall be issued and sold pursuant to this act only if, at the election called for that purpose, two-thirds of the votes cast in the subzone on the proposition of incurring a bonded indebtedness are in favor thereof.

(e) If the incurring of bonded indebtedness by participating subzones is to be determined at any election, no bonds for any of the participating subzones shall be issued or sold unless two-thirds of the votes cast on the proposition submitted at the election in each participating subzone are in favor of incurring the bonded indebtedness to be undertaken by the participating subzone.

(f) Bonds of the district issued for any subzone or participating subzone pursuant to this act shall be legal investments and may be used as security, and money or funds may be invested in the bonds, as provided in Section 20 with respect to bonds of the district issued for zones.

(g) The zone advisory board provided for in Section 6.2 constitutes the subzone advisory board.

SEC. 2. Section 4 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 4. The purposes of this act are to provide for the control of the flood and storm waters of the district and the flood and storm waters of streams that have their source outside of the district, but which flow into the district, and to conserve those waters for beneficial and useful purposes by spreading, storing, retaining, and causing to percolate into the soil within the district, or outside the district, those waters, or to save or conserve in any manner all or any of those waters and protect from flood or storm waters the watercourses, watersheds, harbors, public highways, life, and property in the district, and to prevent waste of water or diminution of the water supply in, or exportation of water from, the district and to obtain, retain, and reclaim drainage, storm, flood, and other waters for beneficial use in the district, and to provide for the participation of the district in the national pollutant discharge elimination system (NPDES) program pursuant to the Federal Water Pollution Control Act (Chapter 26 (commencing with Section 1251) of Title 33 of the United States Code) as provided by this act.

SEC. 3. Section 5 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 5. (a) The district has perpetual succession and may sue and be sued.
(b) The district may do all of the following:
(1) Adopt a seal.
(2) Acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and hold, use, enjoy, sell, let, and dispose of, real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges; construct, maintain, alter, and operate any and all works or improvements, within or outside the district, necessary or proper to carry out any of the purposes of this act and convenient to the full exercise of its powers; and complete, extend, add to, alter, remove, repair, or otherwise improve any works, or improvements, or property acquired by the district.

(3) Store water in surface or underground reservoirs within or outside the district for the common benefit of the district, or of any zone or zones affected; conserve and reclaim water for present and future use within the district; appropriate and acquire water and water rights, and import water into the district and conserve, within or outside the district, water for any purpose useful to the district; commence, maintain, intervene in, defend or compromise, in the name of the district or otherwise, and assume the costs of, any action or proceeding involving or affecting the ownership or use of waters or water rights within or outside the district, used or useful for any purpose of the district or of common benefit to any land situated in the district, or involving the wasteful use of water in the district; commence, maintain, intervene in, defend and compromise, and assume the cost of, any action or proceeding to prevent interference with or diminution of, or to declare rights in, the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to lands within the district or to its inhabitants, to prevent unlawful exportation of water from the district, or to prevent contamination, pollution, or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in the district; or commence, maintain, and defend actions and proceedings to prevent interference with those waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district, except that the district may not intervene or take part in, or pay the costs of, actions or controversies between the owners of lands or water rights which do not affect the interest of the district.

(4) Control the flood and storm waters of the district and the flood and storm waters of streams that have their sources outside of the district, but which flow into the district, and conserve those waters for beneficial and useful purposes of the district by spreading, storing, retaining, and causing to percolate into the soil within or outside the district, or save or conserve in any manner all or any of those waters and protect from damage from flood or storm waters the watercourses, watersheds, harbors, public highways, life, and property in the district, and the watercourses outside of the district of streams flowing into the district, and prevent waste of water or diminution of the water supply in, or exportation of water from, the district, and obtain, retain, and reclaim drainage, storm, flood, and
other waters for beneficial use in the district. However, nothing in this act authorizes the carrying out of any plan of improvement, the purpose of which is, or the effect of which will be, to take water which flows in any watershed in the district and transport or sell that water for use anywhere outside the district when the water level of any gravel beds within the district is below the normal level and the water could reasonably be used to replenish the water level of the gravel beds, or precludes the exercise by any other public entity located, in whole or in part, within the district from exercising its powers, although those powers may be of the same nature as the powers of the district. Any other public entity may, by written agreement with the district provide for the use, or joint use, of property or facilities in which the other public entity has an interest, or for the use, or joint use, of property or facilities in which the district has an interest.

(5) Cooperate and act in conjunction with the state, the United States, or with any public or private corporation, or with the County of Contra Costa or adjacent counties, in the construction of any work for the controlling of flood or storm waters of, or flowing into, the district, or for the protection of life or property in the district, or for the purpose of conserving the waters for beneficial use within the district, or in any other works, acts, or purposes provided for in this act, and adopt and carry out any definite plan or system of work for any such purpose.

(6) Carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods and use of water, both within and outside the district, and for those purposes, the district has the right of access through its authorized representatives to all properties within the district. The district, through its authorized representatives, may enter these lands and make examinations, surveys, and maps thereof.

(7) Enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way; acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of these works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and, where necessary or convenient for these purposes and uses, acquire and hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of the stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that, when holding the stock, the district has all the rights, powers, and privileges, and is subject to all the obligations and liabilities conferred or imposed by law upon other holders of
stock in the same company; perform acts necessary or proper for the performance of any agreement with the United States, or any state, county, district, public or private corporation, association, firm, or individual, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair, or operation of any rights, works, or other property of a kind which might be lawfully acquired or owned by the district; acquire the right to store water in any reservoirs, or to carry water through any canal, ditch, or conduit not owned or controlled by the district; grant to any owner or lessee the right to the use of any water or right to store water in any reservoir of the district, or to carry water through any tunnels, canal, ditch, or conduit of the district; perform any acts necessary or proper for the performance of any agreement with any district, public or private corporation, association, firm, or individual, for the transfer or delivery to any district, corporation, association, firm, or individual of any water right or water pumped, stored, appropriated, or otherwise acquired or secured, for the use of the district, or for the purpose of exchanging the water right or water pumped for other water, water right, or water supply in exchange for water, water right, or water supply to be delivered to the district by the other party to the agreement.

(8) Incur indebtedness and issue bonds as provided in this act.

(9) Cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act.

(10) Make contracts, and employ labor, and employ for temporary services only, expert appraisers, consultants, attorneys, and technical advisers, and do all acts necessary for the full exercise of all powers vested in the district or any of the officers thereof.

(11) Exercise the right of eminent domain, either within or outside the district, to take any property necessary to carry out any of the purposes of this act, including property required for recreational facilities. The district, in exercising this power, shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cable, or poles of any public utility which is required to be moved to a new location. The district may not take, by proceedings in eminent domain, any property, including water rights, appropriated to public use by any existing city and county or municipal utility district. Nothing in this act authorizes the district, or any person or persons, to divert the waters of any river, creek, stream, irrigation system, canal, or ditch, unless compensation therefor is first provided in the manner prescribed by law.

Nothing in this act affects the plenary power of any existing city and county or municipal utility district to provide for a water supply for the city and county or municipal utility district, or affects the absolute control of any properties of the city and county or municipal utility district necessary for the water supply, or vests any power of
control over these properties in the district, in any officer of the
district, or in any person referred to in this act.
(12) Make contracts with the County of Contra Costa and cities
and districts within the county, and employ labor for the purpose of
doing flood control work and for inspecting and passing upon the
adequacy of drainage plans provided for each proposed new
subdivision in the county.
(13) Construct, accept, maintain, repair, or otherwise improve
structures or channels for any purpose, in whole or in part, related
to the purposes and powers of the district, or perform any act
necessary or incidental to the exercise of any of its powers.
(14) Provide, operate, maintain, and charge for public use of
recreation facilities in connection with flood control works and
improvements within the jurisdiction of the district.
(15) Install and maintain, in connection with flood control works
and related improvements, appropriate landscaping and take other
actions as necessary to mitigate environmental damage resulting
from these works and improvements.
(16) Cause to be designed and inserted in the specifications and
contract, for any flood control channel or storm drain planned to be
constructed under this act as an open channel, provision for the
construction in conjunction therewith of facilities for the covering or
crossing over of any portion, or a part of a portion, if, in the judgment
of the governing body, the crossing or covering will not impair the
usefulness of the flood control channel or storm drain and will not be
otherwise adverse to the best interests of the district.
(17) Participate alone, or jointly with the County of Contra Costa,
or cities or districts within the county, in the national pollutant
discharge elimination system (NPDES) program; undertake
necessary acts in connection with that program; and impose
assessments in accordance with this act to pay for the activities
authorized by this paragraph.

SEC. 4. Section 12 of the Contra Costa County Flood Control and
Water Conservation District Act (Chapter 1617 of the Statutes of
1951) is amended to read:

Sec. 12. (a) The board may, in any year, do any of the following:
(1) Levy ad valorem taxes or assessments upon all property in the
district to pay the general administrative costs of the district, and to
carry out any of the purposes of this act of common benefit to the
district, but the ad valorem tax or assessment may not exceed two
cents ($0.02) on each one hundred dollars ($100) of assessed
valuation.
(2) Levy taxes or assessments in the zones and participating zones
to pay the costs of carrying out any of the purposes of this act,
including the constructing, maintaining, operating, extending,
repairing, or otherwise improving any or all works or improvements
established, or to be established, within or on behalf of the respective
zones, or assessments to pay the costs of carrying out of activities
undertaken, or to be undertaken, in connection with the national
pollutant discharge elimination (NPDES) program, according to the
benefits derived, or to be derived by the zones, by any of the
following methods:

(A) A tax or assessment upon all property within a zone or
participating zone, including land, improvements thereon, and
personal property.

(B) A tax or assessment upon all real property within a zone or
participating zones, including both land and improvements thereon.

It is declared that, for the purposes of any tax or assessment levied
under this paragraph, the property so taxed or assessed within a
given zone is equally benefited.

(C) An assessment upon all real property within a storm water
utility area, including both land and improvements thereon.

(3) Levy taxes or assessments by a method authorized in
paragraph (2) in each of the zones, according to the special benefits
derived, or to be derived, by the specific properties therein, to pay
the costs of carrying out any of the objects or purposes of this act of
special benefit to the zones, including the constructing, maintaining,
operating, extending, repairing, or otherwise improving any or all
works of improvement established or to be established within, or on
behalf of, the respective zones.

(b) In the event of project cooperation with any public entity, as
authorized in paragraph (5) of subdivision (b) of Section 5, and
requiring the making of a contract with that public entity for the
purposes set forth in that paragraph, by the terms of which work is
to be performed by the public entity in any specified zone or
participating zones, for the particular benefit thereof, and by the
proposed contract the district is to pay to the public entity a sum of
money in consideration or subvention for the performance of the
work by the public entity, the board may, after proceedings in the
manner prescribed in Section 11, levy and collect a special tax or
assessment upon the property in the zone or participating zones, to
raise funds to enable the district to make the payment, in addition
to other taxes or assessments authorized by this act.

(c) The taxes or assessments shall be levied and collected together
with, and not separately from, taxes for county purposes, and the
revenues derived from these district taxes or assessments shall be
paid into the county treasury to the credit of the district, or the
respective zones thereof, and the board may control and order the
expenditure thereof for those purposes, except that no revenues, or
portions thereof, derived in any zone from the taxes or assessments
levied under paragraph (2) or (3) of subdivision (a) may be
expended for constructing, maintaining, operating, extending,
repairing, or otherwise improving any works or improvements
located in any other zone, except in the case of joint projects, or for
projects authorized or established outside the zone, but for the
benefit thereof. In cases of projects affecting two or more zones,
those zones will become, and shall be referred to as, participating
zones.
(d) Notwithstanding any other provision of law, the district may not impose taxes or assessments to pay the costs of carrying out activities undertaken, or to be undertaken, in connection with the national pollutant discharge elimination system (NPDES) program on any discharger that is subject to storm water discharge requirements pursuant to a national pollutant discharge elimination system (NPDES) permit, if the discharger collects and treats storm water, and discharges the storm water directly into the waters of the United States.

(e) The prohibition in subdivision (d) does not apply to a discharger that is subject to storm water discharge requirements pursuant to a national pollutant discharge elimination system (NPDES) permit if the discharger discharges into a municipal storm water sewer system.

SEC. 5. Section 12.4 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 12.4. If, in its resolution specifying its intention to establish a drainage area and resolution establishing the drainage area, the board states its intention to levy ad valorem taxes or assessments upon all property in the drainage area for the financing, constructing, maintaining, repairing, extending, or otherwise improving any work or improvement authorized by this act, the board may in any year levy, collect, and expend taxes and assessments pursuant to paragraph (2) or (3) of subdivision (a) of Section 12.

SEC. 6. Section 12.8 is added to the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951), to read:

Sec. 12.8. (a) The board, by resolution, may establish storm water utility areas within the district, without reference to the boundaries of other storm water utility areas, zones, or drainage areas, and shall include in the resolution descriptions of each storm water utility area and an identification of each of the areas by area designation or number. A storm water utility area need not follow the boundaries of watersheds and may consist of unincorporated territory or incorporated territory, or a combination of both.

(b) Upon or after the formation of a storm water utility area, the board may, by resolution or ordinance adopted after notice and hearing, impose an annual assessment within a storm water utility area for the purpose of paying for the costs of activities undertaken, or to be undertaken, in connection with the national pollutant discharge elimination system (NPDES) program.

(c) (1) Before imposing an assessment pursuant to subdivision (b), the board shall cause to be prepared and filed with the clerk of the board a written report which includes all of the following:

(A) A description of each lot or parcel or class of property proposed to be subject to the assessment.

(B) The amount of the assessment for each lot or parcel or class
of property for the initial fiscal year.

(C) The maximum amount of the assessment or method for calculating the assessment that may be levied for each lot or parcel during any subsequent fiscal year.

(D) The basis of the assessment.

(2) Upon the filing of the report, the clerk shall fix a time, date, and place for a hearing on the proposed assessment and for filing objections or protests thereto. The hearing shall be held within 30 days after the filing of the report. The notices required to be given for the hearing shall comply substantially with the requirements of Section 11.

(d) (1) If the boundaries of a proposed storm water utility area include lands within the boundaries of any city within the district, the city may submit to the district a copy of a resolution approved by a majority of the members of the governing body of the city requesting formation of a storm water utility area and requesting the imposition of an assessment pursuant to this section.

(2) If the city does not submit a copy of the resolution pursuant to paragraph (1) to the board, the board shall exclude from the proposed storm water utility area the lands within the boundaries of that city.

(e) (1) At the hearing, the board shall consider all objections or protests, if any, to the report and may continue the hearing from time to time.

(2) At the conclusion of the hearing, the board shall determine whether a majority protest exists and shall rule on any objections or protests that have been filed. The board may order the formation of the storm water utility area and may impose an annual assessment, unless prior to the hearing written protests signed by the owners of more than 50 percent in area of the territory proposed to be included in the storm water utility area have been filed with the board. The persons entitled to submit written protests shall be determined pursuant to Section 11.

(3) For purposes of imposing an assessment pursuant to this section, the board may consider parcel size, class of improvement to property, use of property, proportionate storm water runoff, or any other factor determined to be relevant by the board for benefit determinations.

(f) (1) The board may provide for the collection of the assessment, or any installments thereof, in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by, or on behalf of, the district, except that if, for the first year the assessment is levied, the real property on which the assessment is levied has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of county taxes would become delinquent, the assessment shall not result in a lien against the real property but instead shall be transferred to the unsecured
roll for collection.

(2) Assessments for subsequent years may be collected according to the procedure set forth in this section. Proposed assessments for subsequent years are subject to the majority protest provisions set forth in subdivision (e) if either of the following occurs:

(A) The maximum amount of the proposed assessment exceeds the maximum amount originally established by the board and described in its written report prepared pursuant to paragraph (1) of subdivision (c).

(B) The proposed assessment is calculated by a method that is different from the method originally used by the board and described in its written report prepared pursuant to paragraph (1) of subdivision (c).

(g) Any storm water utility area formed by the district prior to July 1, 1993, shall be effective for assessment and taxation purposes for the 1993–94 fiscal year, if the required statements and map or plat are filed on or before July 15, 1993.

SEC. 7. Section 16 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 16. Any bonds issued under this act, and the interest thereon, shall be paid by revenue derived from an annual tax or assessment levied as provided in subparagraph (A) or (B) of paragraph (2) of subdivision (a) of Section 12. No zone, nor the property in any zone, is liable for the bonded indebtedness of any other zone, nor shall any money derived from taxation or assessments in any of the several zones be used to pay the principal of, or interest on, or otherwise, of the bonded indebtedness chargeable to any other zone.

SEC. 8. Section 18.5 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 18.5. (a) The total amount of taxes and assessments levied on property within any zone shall not exceed twenty cents ($0.20) on each one hundred dollars ($100) of assessed valuation, exclusive of the amounts necessary for interest and redemption of any bonds voted within the zone or any taxes and assessments levied for drainage areas pursuant to Section 12.4; except a special tax may be levied in a subzone, zone, or participating zone pursuant to paragraph (3) of subdivision (a) of Section 12 to meet contractual obligations with another public entity if, at an election held in the subzone, zone, or participating zone, in the same manner as a bond election, the proposed imposition of special tax is approved by a majority of the votes cast on the proposition.

(b) The board, in any year, may levy taxes or assessments pursuant to subdivision (a) upon all property within any zone or subzone with an adopted project to pay for work authorized pursuant to paragraph (15) of subdivision (b) of Section 5. Further, a special tax or assessment, not to exceed two cents ($0.02) on each one hundred dollars ($100) of assessed valuation, may be levied in
addition to the total twenty cents ($0.20) of taxes and assessments on each one hundred dollars ($100) of assessed valuation specified in subdivision (a) to pay for work authorized by paragraph (15) of subdivision (b) of Section 5.

SEC. 9. Section 30.5 is added to the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951), to read:

Sec. 30.5. (a) Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution adopted pursuant to this act that imposes an assessment, charge, or fee or amends an existing ordinance or resolution.

(b) If an ordinance or resolution provides for an automatic adjustment in an assessment, charge, or fee, and the automatic adjustment results in an increase in the amount of an assessment, charge, or fee, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 60 days of the effective date of the increase.

(c) Any appeal from a final judgment in the action or proceeding brought pursuant to this section shall be filed within 30 days after entry of judgment.

CHAPTER 566

An act to amend Sections 429.36 and 3380 of, to add the heading of Article 1 (commencing with Section 3380) to, and to add Article 2 (commencing with Section 3395) to, Chapter 7 of Division 4 of, the Health and Safety Code, relating to public health.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

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

1. There is a growing number of two-year old children who have not received the necessary childhood immunizations to prevent communicable diseases.

2. The reasons these children do not receive immunizations are many and varied. These reasons include, but are not limited to, the following:

(A) Their parents live in poverty and do not have access to insurance coverage for health care and immunizations.

(B) Their parents come from non-English speaking cultures where the importance of early childhood immunizations has not been emphasized.
(C) Their parents do not receive adequate referral to immunization programs, or have access to public immunization programs through other public assistance services they receive.

(3) The State Department of Health Services has developed Maternal and Child Health Year 2000 Objectives as a response to the mandates of the federal Omnibus Budget Reconciliation Act of 1989 (OBRA 89). Their Year 2000 Objective for Immunizations is to increase to 90 percent the percentage of children who complete the basic immunization requirements by two years of age. The State Department of Health Services has found:

(A) In California, fewer than half of two-year-old children are fully immunized for diphtheria, tetanus, and pertussis. Although state law regulating immunizations for children in schools and child care facilities (Chapter 7 (commencing with Section 3380) of Division 4 of the Health and Safety Code) are enforced by the state department, resulting in adequate immunization levels for schoolage children of over 92 percent, there is no similar mechanism to require full immunization status at the two-year-old age level.

(B) The percentage of fully immunized African-American and Hispanic two-year-old children is significantly less than that for Whites.

(C) The percentage of fully immunized toddlers has remained at less than 50 percent for the last eight years.

(D) The ages of concern that remain are infancy and preschool, especially for those children at high risk whether because of medical condition or because of social and environmental factors.

(E) Ensuring protective levels of immunization against communicable disease for these children is the most historically proven cost-effective preventive measure available to public health agencies.

(b) It is the intent of the Legislature, in enacting this act, to establish an immunization outreach program to respond to this problem, and to provide state and local government incentives to improve outreach to this population and achieve full and timely immunization of children, in order to reach the Maternal and Child Health Year 2000 Objectives of the State Department of Health Services relative to immunization.

SEC. 2. Section 429.36 of the Health and Safety Code is amended to read:

429.36. No person shall be liable for any injury caused by an act or omission in the administration of a vaccine or other immunizing agent to a minor, including the residual effects of the vaccine or immunizing agent, if the immunization is either required by state law, or given as part of an outreach program pursuant to Article 2 (commencing with Section 3395) of Chapter 7 of Division 4, and the act or omission does not constitute willful misconduct or gross negligence.

SEC. 3. The heading of Article 1 (commencing with Section 3380) is added to Chapter 7 of Division 4 of the Health and Safety
Article 1. School and Child Care Admission Immunization Requirements

SEC. 4. Section 3380 of the Health and Safety Code is amended to read:
3380. In enacting this chapter, it is the intent of the Legislature to provide:
(a) A means for the eventual achievement of total immunization of appropriate age groups against hemophilus influenza type B, hepatitis B, diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella, and any other infectious disease for which immunization is recommended by the most current recommendations of the American Academy of Pediatrics Report of the Committee on Infectious Diseases, the Centers for Disease Control Immunization Practices Advisory Committee, or the state department as required by state law.
(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health Services and that a record of the immunization is made in accordance with such regulations.
(c) Exemptions from immunization for medical reasons or because of personal beliefs.
(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.
(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.
(f) An immunization outreach program to the extent funds are appropriated by the Legislature, or are available from other sources, but no mandate beyond available resources.

SEC. 5. Article 2 (commencing with Section 3395) is added to Chapter 7 of Division 4 of the Health and Safety Code, to read:

Article 2. Immunization and Comprehensive Health Services Outreach Program

3395. The state department may establish an immunization outreach program.
3395.1. (a) A local health officer, or consortium of local health officers, may establish permanent, temporary, or mobile sites and programs, for the purpose of immunizing children, or performing
outreach to refer parents to other programs that provide immunizations and comprehensive health services. These sites for referral or immunization may include, but are not limited to, the following:

(1) Public places where parents of children at high risk of remaining unimmunized reside, shop, worship, or recreate.

(2) School grounds, either during regular hours, or evening hours or on weekends.

(3) On or adjacent to sites of public- or community-based agencies or programs that either provide or refer persons to public assistance programs or services.

(b) Outreach programs shall, to the extent feasible, include referral components intended to link immunized children with available public or private primary care providers, in order to increase access to continuing pediatric care, including subsequent immunization services as necessary.

3395.3. The population to be targeted by the program shall include children who do not receive immunizations through private third-party sources or other public sources with priority given to infants and children from birth up to age three. Outreach programs shall include information to the families of children being immunized about possible reactions to the vaccine and about followup referral sources.

3395.5. The Health and Welfare Agency may waive state administrative, eligibility, and billing requirements that apply to other public assistance programs through which immunization and comprehensive health services outreach and vaccination are offered, for counties that establish streamlined administrative, eligibility, billing, and referral procedures between those public assistance programs, and the immunization and comprehensive health services programs established pursuant to this article.

CHAPTER 567

An act to amend Section 40001 of the Health and Safety Code, relating to air pollution.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. Section 40001 of the Health and Safety Code is amended to read:

40001. (a) Subject to the powers and duties of the state board, the districts shall adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction, and
shall enforce all applicable provisions of state and federal law.

(b) The rules and regulations may, and at the request of the state board shall, provide for the prevention and abatement of air pollution episodes which, at intervals, cause discomfort or health risks to, or damage to property of, a significant number of persons or class of persons.

(c) Prior to adopting any rule or regulation to reduce criteria pollutants, a district shall determine that there is a problem that the proposed rule or regulation will alleviate and that the rule or regulation will promote the attainment or maintenance of state or federal ambient air quality standards.

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 568

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992 ]

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

SECTION 1. This act may be cited as the Second Validating Act of 1992.

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.
Infrastructure financing districts.
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 569

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992 ]

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

SECTION 1. This act may be cited as the Third Validating Act of 1992.

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.
Infrastructure financing districts.
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 570

An act to add Sections 1509.5, 1569.150, and 1574.7 to the Health and Safety Code, relating to care facilities.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. Section 1509.5 is added to the Health and Safety Code, to read:

1509.5. (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 community care facility if the applicant possesses a current valid license to operate a community care facility 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 applicant shall be responsible for requesting and obtaining the required criminal record clearances.
(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, except as provided in subdivision (d). 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 the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal’s name and telephone number to whom a fire safety clearance request was sent. The department shall identify 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 that 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, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

SEC. 2. Section 1569.150 is added to the Health and Safety Code, immediately after Section 1569.15, to read:

1569.150. (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 residential care facility for the elderly if the applicant possesses a current valid license to operate a residential care facility for the
elderly 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 applicant shall be responsible for requesting and obtaining the required criminal record clearances.

(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, except as provided in subdivision (d). 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 the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal's name and telephone number to whom a fire safety clearance request was sent. The department shall identify 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 that 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, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

SEC. 3. Section 1574.7 is added to the Health and Safety Code, to
read:

1574.7.  (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 an adult day health center if the applicant possesses a current valid license to operate an adult day health center 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 applicant shall be responsible for requesting and obtaining the required criminal record clearances.

(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, except as provided in subdivision (d). 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 the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal's name and telephone number to whom a fire safety clearance request was sent. The department shall identify 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 that 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, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

CHAPTER 571

An act to add Section 29.5 to the Labor Code, relating to Workers' Memorial Day.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

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

(a) That many innocent and dedicated workers in California fall victim to job-related injuries, illnesses, and deaths every year.

(b) That the increasing toll of victims of the American workplace deserves recognition and response in our hearts and in the law.

(c) That Workers' Memorial Day has come to be recognized on April 28.

(d) That on the first Workers' Memorial Day in 1989, special services were conducted at six locations across our nation chosen because of safety problems and disasters which have occurred in those places.

(e) That coordinated services of this sort, and other coordinated activities, increase our recognition of the loss we all experience from job-related hazards, and strengthen our resolve to invigorate occupational health and safety laws.

SEC. 2. Section 29.5 is added to the Labor Code to read:

29.5. The Governor shall annually issue a proclamation declaring April 28 as Workers' Memorial Day in remembrance of the courage and integrity of American workers, and recommending that the day be observed in an appropriate manner.
An act to amend Section 56.10 of the Civil Code, and to amend Sections 1470, 1472, 1513, 1890, 2550, 2580, 2620.2, 2640, and 2641 of, and to repeal and add Section 2900 of, the Probate Code, relating to guardianship and conservatorship.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) When the disclosure is otherwise specifically authorized by law.

SEC. 1.5. Section 1470 of the Probate Code is amended to read:
1470. (a) The court may appoint private legal counsel for a ward, a proposed ward, a conservatee, or a proposed conservatee in any proceeding under this division if the court determines the person is not otherwise represented by legal counsel and that the appointment would be helpful to the resolution of the matter or is necessary to protect the person's interests.

(b) If a person is furnished legal counsel under this section, the court shall, upon conclusion of the matter, fix a reasonable sum for compensation and expenses of counsel. The sum may, in the discretion of the court, include compensation for services rendered, and expenses incurred, before the date of the order appointing counsel.

(c) The court shall order the sum fixed under subdivision (b) to be paid:

1. If the person for whom legal counsel is appointed is an adult, from the estate of that person.

2. If the person for whom legal counsel is appointed is a minor, by a parent or the parents of the minor or from the minor's estate, or any combination thereof, in any proportions the court deems just.

3. The court may make an order under subdivision (c) requiring payment by a parent or parents of the minor only after the parent or parents, as the case may be, have been given notice and the opportunity to be heard on whether the order would be just under the circumstances of the particular case.

SEC. 2. Section 1472 of the Probate Code is amended to read:

1472. (a) If a person is furnished legal counsel under Section 1471:

1. The court shall, upon conclusion of the matter, fix a reasonable sum for compensation and expenses of counsel and shall make a determination of the person's ability to pay all or a portion of that sum. The sum may, in the discretion of the court, include compensation for services rendered, and expenses incurred, before the date of the order appointing counsel.

2. If the court determines that the person has the ability to pay all or a portion of the sum, the court shall order the conservator of the estate or, if none, the person, to pay in any installments and in any manner the court determines to be reasonable and compatible with the person's financial ability.

3. In a proceeding under Chapter 3 (commencing with Section 3100) of Part 6 for court authorization of a proposed transaction involving community property, the court may order payment out of the proceeds of the transaction.

4. If a conservator is not appointed for the person furnished legal counsel, the order for payment may be enforced in the same manner as a money judgment.

(b) If the court determines that a person furnished private counsel under Section 1471 lacks the ability to pay all or a portion of the sum determined under paragraph (1) of subdivision (a), the county shall pay the sum to the private counsel to the extent the
court determines the person is unable to pay.

(c) The payment ordered by the court under subdivision (a) shall be made to the county if the public defender has been appointed or if private counsel has been appointed to perform the duties of the public defender and the county has compensated that counsel. In the case of other court-appointed counsel, the payment shall be made to that counsel.

SEC. 3. Section 1513 of the Probate Code is amended to read:

1513. (a) Unless waived by the court, a court investigator, probation officer, or domestic relations investigator shall make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians.

(b) The report shall be read and considered by the court prior to ruling on the petition for guardianship, and shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(c) If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a report is provided to the court in which the guardianship proceeding is pending.

(d) The report required by this section is confidential and shall only be made available to persons who have been served in the
proceedings or their attorneys. The county clerk shall make provisions for the limitation of the report exclusively to persons entitled to its receipt.

(e) For the purpose of writing the report required by this section, the person making the investigation and report shall have access to the proposed ward's school records, probation records, and public and private social services records, and to an oral or written summary of the proposed ward's medical records and psychological records prepared by any physician, psychologist, or psychiatrist who made or who is maintaining those records. The physician, psychologist, or psychiatrist shall be available to clarify information regarding these records pursuant to the investigator's responsibility to gather and provide information for the court.

(f) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

SEC. 4. Section 1890 of the Probate Code is amended to read:

1890. (a) An order of the court under Section 1880 may be included in the order of appointment of the conservator if the order was requested in the petition for the appointment of the conservator or, except in the case of a limited conservator, may be made subsequently upon a petition made, noticed, and heard by the court in the manner provided in this article.

(b) In the case of a petition filed under this chapter requesting that the court make an order under this chapter or that the court modify or revoke an order made under this chapter, when the order applies to a limited conservatee, the order may only be made upon a petition made, noticed, and heard by the court in the manner provided by Article 3 (commencing with Section 1820) of Chapter 1.

(c) Any request for a court order under Section 1880, whether made as part of the original petition for appointment of a conservator or subsequent thereto, shall be accompanied by a declaration executed by a licensed physician, or a licensed psychologist within the scope of his or her licensure, that the proposed conservatee or the conservatee, as the case may be, lacks the capacity to give an informed consent for any form of medical treatment and the reasons therefor. Nothing in this section shall be construed to expand the scope of practice of psychologists as set forth in the Business and Professions Code.

SEC. 5. Section 2550 of the Probate Code is amended to read:

2550. Except as otherwise provided by statute, a guardian or conservator may borrow money, lend money, give security, lease, convey, or exchange property of the estate, or engage in any other transaction under this article only after authorization by order of the court. Such an order may be obtained in the manner provided in this article.

SEC. 6. Section 2580 of the Probate Code is amended to read:

2580. (a) The conservator or other interested person may file a
petition under this article for an order of the court authorizing or requiring the conservator to take a proposed action for any one or more of the following purposes:

(1) Benefiting the conservatee or the estate.

(2) Minimizing current or prospective taxes or expenses of administration of the conservatorship estate or of the estate upon the death of the conservatee.

(3) Providing gifts for any purposes, and to any charities, relatives (including the other spouse), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the conservatee.

(b) The action proposed in the petition may include, but is not limited to, the following:

(1) Making gifts of principal or income, or both, of the estate, outright or in trust.

(2) Conveying or releasing the conservatee’s contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety.

(3) Exercising or releasing the conservatee’s powers as donee of a power of appointment.

(4) Entering into contracts.

(5) Creating for the benefit of the conservatee or others, revocable or irrevocable trusts of the property of the estate, which trusts may extend beyond the conservatee’s disability or life.

(6) Transferring to a trust created by the conservator or conservatee any property unintentionally omitted from the trust.

(7) Exercising options of the conservatee to purchase or exchange securities or other property.

(8) Exercising the rights of the conservatee to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any of the following:

(i) Life insurance policies, plans, or benefits.

(ii) Annuity policies, plans, or benefits.

(iii) Mutual fund and other dividend investment plans.

(iv) Retirement, profit sharing, and employee welfare plans and benefits.

(9) Exercising the right of the conservatee to elect to take under or against a will.

(10) Exercising the right of the conservatee to disclaim any interest that may be disclaimed under Part 8 (commencing with Section 260) of Division 2.

(11) Exercising the right of the conservatee (i) to revoke a revocable trust or (ii) to surrender the right to revoke a revocable trust, but the court shall not authorize or require the conservator to exercise the right to revoke a revocable trust if the instrument governing the trust (i) evidences an intent to reserve the right of revocation exclusively to the conservatee, (ii) provides expressly that a conservator may not revoke the trust, or (iii) otherwise
evidences an intent that would be inconsistent with authorizing or requiring the conservator to exercise the right to revoke the trust.

(12) Making an election referred to in Section 13502 or an election and agreement referred to in Section 13503.

SEC. 6.5. Section 2580 of the Probate Code is amended to read:

2580. (a) The conservator or other interested person may file a petition under this article for an order of the court authorizing or requiring the conservator to take a proposed action for any one or more of the following purposes:

(1) Benefiting the conservatee or the estate.

(2) Minimizing current or prospective taxes or expenses of administration of the conservatorship estate or of the estate upon the death of the conservatee.

(3) Providing gifts for any purposes, and to any charities, relatives (including the other spouse), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the conservatee.

(b) The action proposed in the petition may include, but is not limited to, the following:

(1) Making gifts of principal or income, or both, of the estate, outright or in trust.

(2) Conveying or releasing the conservatee’s contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety.

(3) Exercising or releasing the conservatee’s powers as donee of a power of appointment.

(4) Entering into contracts.

(5) Creating for the benefit of the conservatee or others, revocable or irrevocable trusts of the property of the estate, which trusts may extend beyond the conservatee’s disability or life. A special needs trust for money paid pursuant to a compromise or judgment for a conservatee may be established only under Chapter 4 (commencing with Section 3600) of Part 8, and not under this article.

(6) Transferring to a trust created by the conservator or conservatee any property unintentionally omitted from the trust.

(7) Exercising options of the conservatee to purchase or exchange securities or other property.

(8) Exercising the rights of the conservatee to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any of the following:

(i) Life insurance policies, plans, or benefits.

(ii) Annuity policies, plans, or benefits.

(iii) Mutual fund and other dividend investment plans.

(iv) Retirement, profit sharing, and employee welfare plans and benefits.

(9) Exercising the right of the conservatee to elect to take under or against a will.
(10) Exercising the right of the conservatee to disclaim any interest that may be disclaimed under Part 8 (commencing with Section 260) of Division 2.

(11) Exercising the right of the conservatee (i) to revoke a revocable trust or (ii) to surrender the right to revoke a revocable trust, but the court shall not authorize or require the conservator to exercise the right to revoke a revocable trust if the instrument governing the trust (i) evidences an intent to reserve the right of revocation exclusively to the conservatee, (ii) provides expressly that a conservator may not revoke the trust, or (iii) otherwise evidences an intent that would be inconsistent with authorizing or requiring the conservator to exercise the right to revoke the trust.

(12) Making an election referred to in Section 13502 or an election and agreement referred to in Section 13503.

SEC. 7. Section 2620.2 of the Probate Code is amended to read:

2620.2. (a) Whenever the conservator or guardian has failed to file an account as required by Section 2620, the court shall require that written notice be given to the conservator or guardian and the attorney of record for the conservatorship or guardianship directing the conservator or guardian to file an account and to set the account for hearing before the court within 60 days of the date of the notice or, if the conservator or guardian is a public agency, within 120 days of the date of the notice.

(b) Should the conservator or guardian fail to file the account and set the account for hearing within the time specified in subdivision (a), unless that time has been extended for good cause by court order, a citation shall be issued, served, and returned, requiring the conservator or guardian to appear at court and show cause why he or she should not be punished for contempt.

(c) If the conservator or guardian does not file an account and set the account for hearing as required by Section 2620 after having been cited under subdivision (b), the conservator or guardian may be punished for contempt, or removed as conservator or guardian, or both, in the discretion of the court.

SEC. 8. Section 2640 of the Probate Code is amended to read:

2640. (a) At any time after the filing of the inventory and appraisal, but not before the expiration of 90 days from the issuance of letters, the guardian or conservator of the estate may petition the court for an order fixing and allowing compensation to any one or more of the following:

(1) The guardian or conservator of the estate for services rendered to that time.

(2) The guardian or conservator of the person for services rendered to that time.

(3) The attorney for services rendered to that time by the attorney to the guardian or conservator of the person or estate or both.

(b) Notice of the hearing shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of
Part 1.

(c) Upon the hearing, the court shall make an order allowing (1) any compensation requested in the petition the court determines is just and reasonable to the guardian or conservator of the estate for services rendered or to the guardian or conservator of the person for services rendered, or to both, and (2) any compensation requested in the petition the court determines is reasonable to the attorney for services rendered to the guardian or conservator of the person or estate or both. The compensation allowed to the guardian or conservator of the person, the guardian or conservator of the estate, and to the attorney may, in the discretion of the court, include compensation for services rendered before the date of the order appointing the guardian or conservator. The compensation so allowed shall thereupon be charged to the estate. Legal services for which the attorney may be compensated include those services rendered by any paralegal performing the legal services under the direction and supervision of an attorney. The petition or application for compensation shall set forth the hours spent and services performed by the paralegal.

SEC. 9. Section 2641 of the Probate Code is amended to read:

2641. (a) At any time permitted by Section 2640 and upon the notice therein prescribed, the guardian or conservator of the person may petition the court for an order fixing and allowing compensation for services rendered to that time.

(b) Upon the hearing, the court shall make an order allowing any compensation the court determines just and reasonable to the guardian or conservator of the person for services rendered. The compensation allowed to the guardian or conservator of the person may, in the discretion of the court, include compensation for services rendered before the date of the order appointing the guardian or conservator. The compensation allowed shall thereupon be charged against the estate.

SEC. 10. Section 2900 of the Probate Code is repealed.

SEC. 11. Section 2900 is added to the Probate Code, to read:

2900. (a) If the public guardian or public conservator determines that the requirements for appointment of a guardian or conservator of the estate are satisfied and the public guardian or public conservator intends to apply for appointment, the public guardian or public conservator may take possession or control of real or personal property of a person domiciled in the county that is subject to loss, injury, waste, or misappropriation, and, subject to subdivision (b), may deny use of, access to, or prohibit residency in, the real or personal property, by anyone who does not have a written rental agreement or other legal right to the use of, or access to, the property.

(b) The authority provided to the public guardian and public conservator in subdivision (a) includes the authority to terminate immediately the occupancy of anyone living in the home of an intended ward or conservatee, other than the intended ward or
conservatee, and the authority to remove any such occupant residing therein, subject to the following requirements:

(1) The public guardian or public conservator shall first determine that the person whose occupancy is to be terminated has no written rental agreement or other legal right to occupancy, and has caused, contributed to, enabled, or threatened loss, injury, waste, or misappropriation of the home or its contents. In making this determination, the public guardian or public conservator shall contact the intended ward or conservatee and the occupant, advise them of the proposed removal and the grounds therefor, and consider whatever information they provide.

(2) At the time of the removal, the public guardian or public conservator shall advise the intended ward or conservatee and the occupant that a hearing will be held as provided in paragraph (3).

(3) The public guardian or public conservator shall file a petition regarding removal, showing the grounds therefor, to be set for hearing within 10 days of the filing of the petition and within 15 days of the removal. The person removed and the intended ward or conservatee shall be personally served with a notice of hearing and a copy of the petition at least five days prior to the hearing, subject to Part 2 (commencing with Section 1200) of Division 3. The right of the public guardian or public conservator to deny occupancy by the removed person to the premises shall terminate 15 days after removal, unless extended by the court at the hearing on the petition. The court shall not grant an extension unless the public guardian or public conservator has filed a petition for appointment as guardian or conservator of the estate.

(c) If the public guardian or public conservator takes possession of the residence of an intended ward or conservatee under this section, then for purposes of Section 602.3 of the Penal Code, the public guardian or public conservator shall be the owner’s representative.

SEC. 12. Section 6.5 of this bill incorporates amendments to Section 2580 of the Probate Code proposed by both this bill and AB 3328. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1993, (2) each bill amends Section 2580 of the Probate Code, and (3) this bill is enacted after AB 3328, in which case Section 6 of this bill shall not become operative.
CHAPTER 573

An act to add Section 3306.3 to the Business and Professions Code, relating to hearing aid dispensers.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. Section 3306.3 is added to the Business and Professions Code, to read:

3306.3. A licensee may conduct hearing screenings at a health fair or similar event by the application of a binary puretone screening at a preset intensity level for the purpose of identifying the need for further hearing or medical evaluation.

Upon the conclusion of each hearing screening, the licensee shall present to the person whose hearing was screened a written statement containing the following provisions:

"Results of a hearing screening are not a medical evaluation of your ear nor a diagnosis of a hearing disorder but are only the identification of the need for further medical or hearing evaluation."

A licensee conducting hearing screenings pursuant to this section shall not make or seek referrals for testing, fitting, or dispensing of hearing aids.

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 574

An act to amend Section 2 of Chapter 1469 of the Statutes of 1987, and to amend Section 6 of Chapter 77 of the Statutes of 1988, relating to property taxation.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992.]

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

SECTION 1. Section 2 of Chapter 1469 of the Statutes of 1987 is
amended to read:

Sec. 2. 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 exemptions 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.

SEC. 2. Section 6 of Chapter 77 of the Statutes of 1988 is amended to read:

Sec. 6. 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 more than 75 percent of the value thereof shall not apply to any exemptions made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for the property tax revenues lost by it pursuant to this act.

CHAPTER 575

An act relating to deepwater habitats.

[Approved by Governor August 30, 1992. Filed with Secretary of State August 31, 1992]

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

SECTION 1. (a) The commercial, deepwater ports of California may submit to the State Coastal Conservancy a report that identifies and describes deepwater habitats that could be enhanced, restored, or created as potential mitigation associated with the construction of port facilities in deepwater areas located within a port.

(b) If the commercial, deepwater ports of California submit such a report to the State Coastal Conservancy the following actions shall be taken:

1) The State Coastal Conservancy, in cooperation with the Department of Fish and Game and the California Coastal Commission, shall verify the information and scientific methodology in the report, including, but not limited to, the geographic location, size, type and value of habitat, public benefit, biological costs and benefits, and financial analysis.

2) The State Coastal Conservancy, in cooperation with the Department of Fish and Game and the California Coastal Commission, shall complete the verification of the report within 90 days of the receipt of financial assistance provided by the commercial deepwater ports of California adequate to fund the verification activities of the State Coastal Conservancy, the California Coastal Commission, and the Department of Fish and Game.