Volume 1

# STATUTES OF CALIFORNIA

## AND DIGESTS OF MEASURES

## 2008

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Presidential Primary Election, February 5, 2008,
Statewide Direct Primary Election, June 3, 2008
and General Election, November 4, 2008

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

**2007–08 Regular Session**
**2007–08 First Extraordinary Session**
**2007–08 Second Extraordinary Session**
**2007–08 Third Extraordinary Session**
**2007–08 Fourth Extraordinary Session**

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**APPENDIX**

# EFFECTIVE DATES

### Regular Session

The 2007–08 Regular Session convened on January 7, 2008, and adjourned *sine die* on November 30, 2008. Statutes enacted in 2008, other than those taking immediate effect, will become effective January 1, 2009.

The effective date of a joint or concurrent resolution is the date it is filed with the Secretary of State.

An initiative statute or referendum or a constitutional amendment proposed by the Legislature and adopted by the people takes effect the day after the election unless the measure provides otherwise.

*Statutes Which Take Effect Immediately.* An urgency statute, and a statute calling an election, providing for a tax levy, or making an appropriation for the usual current expenses of the state may take effect immediately. Such a statute becomes *effective* on the date it is filed with the Secretary of State.

*Operative Date.* The provisions of a statute normally become operative on the date it takes effect. However, any statute may, by its own terms, delay the *operation* of its provisions until the happening of some contingency or until a specified time. Also, a later statute or a general provision in a particular code may delay the operation of a statute to a time after its effective date.

### Extraordinary Sessions

An urgency statute enacted at a special session of the Legislature takes effect immediately, as outlined above, and the same rules apply with respect to a delayed *operative* date. A nonurgency statute takes effect on the 91st day after adjournment of the special session at which the bill was passed. The effective date of a concurrent resolution is the date it is filed with the Secretary of State.

The 2007–08 First Extraordinary Session reconvened on January 7, 2008, and adjourned *sine die* on September 19, 2008. The 91st day after adjournment is December 19, 2008.

The 2007–08 Second Extraordinary Session reconvened on January 7, 2008, and adjourned *sine die* on November 30, 2008. The 91st day after adjournment is March 1, 2009.

The 2007–08 Third Extraordinary Session convened on January 14, 2008, and adjourned *sine die* on September 16, 2008. The 91st day after adjournment is December 16, 2008.

The 2007–08 Fourth Extraordinary Session convened on November 6, 2008, and adjourned *sine die* on November 30, 2008. No statutes were enacted at the 2007–08 Fourth Extraordinary Session.

# CONSTITUTIONAL AMENDMENTS

## Adopted Since Publication of Statutes of 2007

**NOTE: Since the publication of the Statutes of 2007, the following changes were adopted at the Statewide Direct Primary Election, June 3, 2008, and the General Election, November 4, 2008:**

| *Article* | *Section* | *Change* | *Constitutional amendment number* | *Year* | *Resolution chapter number* | *Proposition number* | *Subject* |
|---|---|---|---|---|---|---|---|
| I | 7.5 | Addition | Initiative Measure | 2008 | — | 8 | Eliminates Right of Same-Sex Couples to Marry. |
| | 19 | Amendment | Initiative Measure | 2008 | — | 99 | Eminent Domain. Limits on Government Acquisition of Owner-Occupied Residence. |
| | 28 | Amendment | Initiative Measure | 2008 | — | 9 | Criminal Justice System. Victims' Rights. Parole. |
| XXI | Heading | Amendment | Initiative Measure | 2008 | — | 11 | Redistricting. |
| | 1 | Amendment | Initiative Measure | 2008 | — | 11 | Redistricting. |
| | 2 | Addition | Initiative Measure | 2008 | — | 11 | Redistricting. |
| | 3 | Addition | Initiative Measure | 2008 | — | 11 | Redistricting. |

# PROPOSED CHANGES IN CONSTITUTION

**NOTE: The following proposed changes were defeated at the Presidential Primary Election, February 5, 2008, the Statewide Direct Primary Election, June 3, 2008, and the General Election, November 4, 2008:**

| *Article* | *Section* | *Proposed Change* | *Constitutional amendment number* | *Year* | *Resolution chapter number* | *Proposition number* | *Subject* |
|---|---|---|---|---|---|---|---|
| I | 19 | Amendment | Initiative Measure | 2008 | — | 98 | Eminent Domain. Limits on Government Authority. |
| | 32 | Addition | Initiative Measure | 2008 | — | 4 | Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. |
| IV | 2 | Amendment | Initiative Measure | 2008 | — | 93 | Limits on Legislators' Terms in Office. |
| VII | 4 | Amendment | Initiative Measure | 2008 | — | 92 | Community Colleges. Funding. Governance. Fees. |
| IX | 17 | Addition | Initiative Measure | 2008 | — | 92 | Community Colleges. Funding. Governance. Fees. |
| | 18 | Addition | Initiative Measure | 2008 | — | 92 | Community Colleges. Funding. Governance. Fees. |
| | 19 | Addition | Initiative Measure | 2008 | — | 92 | Community Colleges. Funding. Governance. Fees. |
| XVI | 8 | Amendment | Initiative Measure | 2008 | — | 92 | Community Colleges. Funding. Governance. Fees. |
| XIX | 6 | Amendment | Initiative Measure | 2008 | — | 91 | Transportation Funds. |

## PROPOSED CHANGES IN CONSTITUTION—Continued

| *Article* | *Section* | *Proposed Change* | *Constitutional amendment number* | *Year* | *Resolution chapter number* | *Proposition number* | *Subject* |
|---|---|---|---|---|---|---|---|
| XIXA | 1 | Repeal | Initiative Measure | 2008 | — | 91 | Transportation Funds. |
| XIXB | 1 | Amendment | Initiative Measure | 2008 | — | 91 | Transportation Funds. |
| XIXC | 1 | Addition | Initiative Measure | 2008 | — | 91 | Transportation Funds. |
| XX | 7 | Amendment | Initiative Measure | 2008 | — | 93 | Limits on Legislators' Terms in Office. |

# CONSTITUTION OF THE STATE OF CALIFORNIA

**1879**

# CONSTITUTION OF THE STATE OF CALIFORNIA*

AS AMENDED AND IN FORCE NOVEMBER 4, 2008

PREAMBLE

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

## ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. [*Repealed November 5, 1974. See Section 1, below.*]

[*Inalienable Rights*]

SECTION 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. [*New section adopted November 5, 1974.*]

[*Liberty of Speech and of the Press—Newspersons' Refusal to Disclose Information Sources Not Adjudged in Contempt*]

SEC. 2. (a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

(b) A publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed, shall not be adjudged in contempt by a judicial, legislative, or administrative body, or any other body having the power to issue subpoenas, for refusing to disclose the source of any information procured while so connected or employed for publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

Nor shall a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, be so adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

* Adopted by the people on May 7, 1879. Certain spelling and capitalization variances reflect State Printer's style in effect at time of adoption of amendments.

As used in this subdivision, ''unpublished information'' includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated. [*As amended June 3, 1980.*]

[*Right to Assemble and to Petition—Right of Access to Government Information*]

SEC. 3. (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

(3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

(4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.

(5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect

the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses. [*As amended November 4, 2004.*]

SEC. 4. [*Repealed November 5, 1974. See Section 4, below.*]

[*Liberty of Conscience*]

SEC. 4. Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion.

A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs. [*New section adopted November 5, 1974.*]

SEC. 5. [*Repealed November 5, 1974. See Section 5, below.*]

[*The Military*]

SEC. 5. The military is subordinate to civil power. A standing army may not be maintained in peacetime. Soldiers may not be quartered in any house in wartime except as prescribed by law, or in peacetime without the owner's consent. [*New section adopted November 5, 1974.*]

SEC. 6. [*Repealed November 5, 1974. See Section 6, below.*]

[*Slavery Prohibited*]

SEC. 6. Slavery is prohibited. Involuntary servitude is prohibited except to punish crime. [*New section adopted November 5, 1974.*]

[*Due Process of Law—Use of Pupil School Assignment or Pupil Transportation*]

SEC. 7. (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this State may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or re-

sponsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this State, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979–80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this State and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

[*Privileges and Immunities*]

(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. Privileges or immunities granted by the Legislature may be altered or revoked. [*As amended November 6, 1979.*]

[Marriage]

SEC. 7.5. Only marriage between a man and a woman is valid or recognized in California. [*New section adopted November 4, 2008. Initiative measure.*]

[*Sex, Race, Etc., Not a Disqualification for Business*]

SEC. 8. A person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed,

color, or national or ethnic origin. [*Former Section 18 of Article XX, as renumbered and amended November 5, 1974.*]

SEC. 9. [*Repealed November 5, 1974. See Section 9, below.*]

[*Bill of Attainder—Ex Post Facto Law—Obligation of Contract*]

SEC. 9. A bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed. [*New section adopted November 5, 1974.*]

SEC. 10. [*Repealed November 5, 1974. See Section 10, below.*]

[*Detention of Witnesses—No Imprisonment for Debt*]

SEC. 10. Witnesses may not be unreasonably detained. A person may not be imprisoned in a civil action for debt or tort, or in peacetime for a militia fine. [*New section adopted November 5, 1974.*]

SEC. 11. [*Repealed November 5, 1974. See Section 11, below.*]

[*Suspension of Habeas Corpus*]

SEC. 11. Habeas corpus may not be suspended unless required by public safety in cases of rebellion or invasion. [*New section adopted November 5, 1974.*]

[*Bail—Release on Own Recognizance*]

SEC. 12. A person shall be released on bail by sufficient sureties, except for:

(a) Capital crimes when the facts are evident or the presumption great;

(b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or

(c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convinving evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.

A person may be released on his or her own recognizance in the court's discretion. [*As amended November 8, 1994.*]

SEC. 13. [*Repealed November 5, 1974. See Section 13, below.*]

[*Unreasonable Seizure and Search—Warrant*]

SEC. 13. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. [*New section adopted November 5, 1974.*]

SEC. 14. [*Repealed November 5, 1974. See Section 14, below.*]

[*Felony Defendant Before Magistrate—Prosecutions*]

SEC. 14. Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information.

A person charged with a felony by complaint subscribed under penalty of perjury and on file in a court in the county where the felony is triable shall be taken without unnecessary delay before a magistrate of that court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant's right to counsel, allow the defendant a reasonable time to send for counsel, and on the defendant's request read the complaint to the defendant. On the defendant's request the magistrate shall require a peace officer to transmit within the county where the court is located a message to counsel named by defendant.

A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings. [*New section adopted November 5, 1974.*]

[*Felony—Prosecution by Indictment*]

SEC. 14.1. If a felony is prosecuted by indictment, there shall be no postindictment preliminary hearing. [*New section adopted June 5, 1990. Initiative measure.*]

SEC. 14½. [*Repealed November 5, 1974.*]

SEC. 15. [*Repealed November 5, 1974. See Section 15, below.*]

[*Criminal Prosecutions—Rights of Defendant—Due Process of Law—Jeopardy—Depositions—Assistance of Counsel*]

SEC. 15. The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant. The Legislature may provide for the deposition of a witness in the presence of the defendant and the defendant's counsel.

Persons may not twice be put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law. [*New section adopted November 5, 1974.*]

[*Trial by Jury*]

SEC. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict. A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

[*Number of Jurors in Civil Trials*]

In civil causes the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes other than causes within the appellate jurisdiction of the court of appeal the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

[*Number of Jurors in Criminal Trials*]

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. [*As amended June 2, 1998.*]

SEC. 17. [*Repealed November 5, 1974. See Section 17, below.*]

[*Unusual Punishment—Excessive Fines*]

SEC. 17. Cruel or unusual punishment may not be inflicted or excessive fines imposed. [*New section adopted November 5, 1974.*]

SEC. 18. [*Repealed November 5, 1974. See Section 18, below.*]

[*Treason*]

SEC. 18. Treason against the State consists only in levying war against it, adhering to its enemies, or giving them aid and comfort. A person may not be convicted of treason except on the evidence of two witnesses to the same overt act or by confession in open court. [*New section adopted November 5, 1974.*]

SEC. 19. [*Repealed November 5, 1974. See Section 19, below.*]

[*Eminent Domain*]

SEC. 19. (a) Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may

provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(b) The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person.

(c) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.

(d) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of acquiring private property for a public work or improvement.

(e) For the purpose of this section:

1. ''Conveyance'' means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.

2. ''Local government'' means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.

3. ''Owner-occupied residence'' means real property that is improved with a single-family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single-family residence which provides complete independent living facilities for one or more persons.

4. ''Person'' means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.

5. ''Public work or improvement'' means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the public work or improvement.

6. ''State'' means the State of California and any of its agencies or departments. [*As amended June 3, 2008. Initiative measure.*]

SEC. 20. [*Repealed November 5, 1974. See Section 20, below.*]

[*Rights of Noncitizens*]

SEC. 20. Noncitizens have the same property rights as citizens. [*New section adopted November 5, 1974.*]

SEC. 21. [*Repealed November 5, 1974. See Section 21, below.*]

[*Separate Property of Husband and Wife*]

SEC. 21. Property owned before marriage or acquired during marriage by gift, will, or inheritance is separate property. [*Former Section 8 of Article XX, as renumbered November 5, 1974.*]

SEC. 22. [*Repealed November 5, 1974. See Section 22, below.*]

[*No Property Qualification for Electors*]

SEC. 22. The right to vote or hold office may not be conditioned by a property qualification. [*New section adopted November 5, 1974.*]

SEC. 23. [*Repealed November 5, 1974. See Section 23, below.*]

[*Grand Juries*]

SEC. 23. One or more grand juries shall be drawn and summoned at least once a year in each county. [*New section adopted November 5, 1974.*]

[*Constitutional Rights—Rights Reserved*]

SEC. 24. Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution.

In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer the imposition of cruel or unusual punishment, shall be construed by the courts of this State in a manner consistent with the Constitution of the United States. This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States.

This declaration of rights may not be construed to impair or deny others retained by the people. [*As amended June 5, 1990. Initiative measure.*]

[*Right to Fish*]

SECTION 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; *provided*, that the Legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken. [*New section adopted November 8, 1910.*]

SEC. 26. [*Renumbered Section 1 of Article II June 8, 1976. See Section 26, below.*]

[*Constitution Mandatory and Prohibitory*]

SEC. 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise. [*Former Section 28, as renumbered June 8, 1976.*]

SEC. 26a. [*Repealed November 8, 1949.*]

[*Death Penalty*]

SEC. 27. All statutes of this State in effect on February 17, 1972, requiring, authorizing, imposing, or relating to the death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative, or referendum.

The death penalty provided for under those statutes shall not be deemed to be, or to constitute, the infliction of cruel or unusual punishments within the meaning of Article 1, Section 6 nor shall such punishment for such offenses be deemed to contravene any other provision of this constitution. [*New section adopted November 7, 1972. Initiative measure.*]

[*"The Victims' Bill of Rights"*]

SEC. 28. (a) The People of the State of California find and declare all of the following:

(1) Criminal activity has a serious impact on the citizens of California. The rights of victims of crime and their families in criminal prosecutions are a subject of grave statewide concern.

(2) Victims of crime are entitled to have the criminal justice system view criminal acts as serious threats to the safety and welfare of the people of California. The enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safeguards in the criminal justice system fully protecting those rights and ensuring that crime victims are treated with respect and dignity, is a matter of high public importance. California's victims of crime are largely dependent upon

the proper functioning of government, upon the criminal justice system and upon the expeditious enforcement of the rights of victims of crime described herein, in order to protect the public safety and to secure justice when the public safety has been compromised by criminal activity.

(3) The rights of victims pervade the criminal justice system. These rights include personally held and enforceable rights described in paragraphs (1) through (17) of subdivision (b).

(4) The rights of victims also include broader shared collective rights that are held in common with all of the People of the State of California and that are enforceable through the enactment of laws and through good-faith efforts and actions of California's elected, appointed, and publicly employed officials. These rights encompass the expectation shared with all of the people of California that persons who commit felonious acts causing injury to innocent victims will be appropriately and thoroughly investigated, appropriately detained in custody, brought before the courts of California even if arrested outside the State, tried by the courts in a timely manner, sentenced, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance.

(5) Victims of crime have a collectively shared right to expect that persons convicted of committing criminal acts are sufficiently punished in both the manner and the length of the sentences imposed by the courts of the State of California. This right includes the right to expect that the punitive and deterrent effect of custodial sentences imposed by the courts will not be undercut or diminished by the granting of rights and privileges to prisoners that are not required by any provision of the United States Constitution or by the laws of this State to be granted to any person incarcerated in a penal or other custodial facility in this State as a punishment or correction for the commission of a crime.

(6) Victims of crime are entitled to finality in their criminal cases. Lengthy appeals and other post-judgment proceedings that challenge criminal convictions, frequent and difficult parole hearings that threaten to release criminal offenders, and the ongoing threat that the sentences of criminal wrongdoers will be reduced, prolong the suffering of crime victims for many years after the crimes themselves have been perpetrated. This prolonged suffering of crime victims and their families must come to an end.

(7) Finally, the People find and declare that the right to public safety extends to public and private primary, elementary, junior high, and senior high school, and community college, California State University, University of California, and private college and university campuses, where students and staff have the right to be safe and secure in their persons.

(8) To accomplish the goals it is necessary that the laws of California relating to the criminal justice process be amended in order to protect the legitimate rights of victims of crime.

(b) In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:

(1) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.

(2) To be reasonably protected from the defendant and persons acting on behalf of the defendant.

(3) To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.

(4) To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.

(5) To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

(6) To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.

(7) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

(8) To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

(9) To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

(10) To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

(11) To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.

(12) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.

(13) To restitution.

(A) It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.

(B) Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.

(C) All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

(14) To the prompt return of property when no longer needed as evidence.

(15) To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.

(16) To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.

(17) To be informed of the rights enumerated in paragraphs (1) through (16).

(c) (1) A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the rights enumerated in subdivision (b) in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request.

(2) This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

(d) The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. The court in its discretion may extend the right to be heard at sentencing to any person harmed by the defendant. The parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.

(e) As used in this section, a ''victim'' is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term ''victim'' also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated.

The term ''victim'' does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim.

(f) In addition to the enumerated rights provided in subdivision (b) that are personally enforceable by victims as provided in subdivision (c), victims of crime have additional rights that are shared with all of the People of the State of California. These collectively held rights include, but are not limited to, the following:

(1) Right to Safe Schools. All students and staff of public primary, elementary, junior high, and senior high schools, and community colleges, colleges, and universities have the inalienable right to attend campuses which are safe, secure and peaceful.

(2) Right to Truth-in-Evidence. Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code Sections 352, 782 or 1103. Nothing in this section shall affect any existing statutory or constitutional right of the press.

(3) Public Safety Bail. A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations.

A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail.

Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney and the victim shall be given notice and reasonable opportunity to be heard on the matter.

When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.

(4) Use of Prior Convictions. Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.

(5) Truth in Sentencing. Sentences that are individually imposed upon convicted criminal wrongdoers based upon the facts and circumstances surrounding their cases shall be carried out in compliance with the courts' sentencing orders, and shall not be substantially diminished by early release policies intended to alleviate overcrowding in custodial facilities. The legislative branch shall ensure sufficient funding to adequately house inmates for the full terms of their sentences, except for statutorily authorized credits which reduce those sentences.

(6) Reform of the parole process. The current process for parole hearings is excessive, especially in cases in which the defendant has been convicted of murder. The parole hearing process must be reformed for the benefit of crime victims.

(g) As used in this article, the term ''serious felony'' is any crime defined in subdivision (c) of Section 1192.7 of the Penal Code, or any successor statute. [*As amended November 4, 2008. Initiative measure.*]

[*Criminal Cases—Due Process of Law—Speedy and Public Trial*]

SEC. 29. In a criminal case, the people of the State of California have the right to due process of law and to a speedy and public trial. [*New section adopted June 5, 1990. Initiative measure.*]

[*Criminal Cases—Jointure-Hearsay Evidence—Discovery*]

SEC. 30. (a) This Constitution shall not be construed by the courts to prohibit the joining of criminal cases as prescribed by the Legislature or by the people through the initiative process.

(b) In order to protect victims and witnesses in criminal cases, hearsay evidence shall be admissible at preliminary hearings, as prescribed by the Legislature or by the people through the initiative process.

(c) In order to provide for fair and speedy trials, discovery in criminal cases shall be reciprocal in nature, as prescribed by the Legislature or by the people through the initiative process. [*New section adopted June 5, 1990. Initiative measure.*]

[*Prohibition Against Discrimination or Preferential Treatment*]

SEC. 31. (a) The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(b) This section shall apply only to action taken after the section's effective date.

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.

(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the State.

(f) For the purposes of this section, ''State'' shall include, but not necessarily be limited to, the State itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State.

(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section. [*New section adopted November 5, 1996. Initiative measure.*]

## ARTICLE II. [*Repealed November 7, 1972. See Article II, below.*]

## ARTICLE II*

VOTING, INITIATIVE AND REFERENDUM, AND RECALL

[*Heading as amended June 8, 1976.*]

SEC. 1. [*Renumbered Section 2 June 8, 1976. See Section 1, below.*]

[*Purpose of Government*]

SECTION 1. All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require. [*Former Section 26 of Article I, as renumbered June 8, 1976.*]

SEC. 1½. [*Repealed November 7, 1972.*]

SEC. 2. [*Renumbered Section 3 June 8, 1976. See Section 2, below.*]

[*Right to Vote*]

SEC. 2. A United States citizen 18 years of age and resident in this State may vote. [*Former Section 1, as renumbered June 8, 1976.*]

* New Article II adopted November 7, 1972.

SEC. 2.5. [*Repealed November 7, 1972. See Section 2.5, below.*]

[*Right to Have Vote Counted*]

SEC. 2.5. A voter who casts a vote in an election in accordance with the laws of this State shall have that vote counted. [*New Section adopted November 5, 2002.*]

SEC. 2¾. [*Repealed November 7, 1972.*]

SEC. 3. [*Renumbered Section 4 June 8, 1976. See Section 3, below.*]

[*Residence—Registration—Free Elections*]

SEC. 3. The Legislature shall define residence and provide for registration and free elections. [*Former Section 2, as renumbered June 8, 1976.*]

SEC. 4. [*Renumbered Section 5 June 8, 1976. See Section 4, below.*]

[*Improper Practices That Affect Elections—Mentally Incompetent, Etc.*]

SEC. 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. [*Former Section 3, as renumbered June 8, 1976.*]

SEC. 5. [*Renumbered Section 6 June 8, 1976. See Section 5, below.*]

[*Primary Elections for Partisan Offices—Open Presidential Primary—Election Rights of Political Parties*]

SEC. 5. (a) The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

(b) A political party that participated in a primary election for a partisan office has the right to participate in the general election for that office and shall not be denied the ability to place on the general election ballot the candidate who received, at the primary election, the highest vote among that party's candidates. [*As amended November 2, 2004.*]

[*Nonpartisan Offices*]

SEC. 6. (a) All judicial, school, county, and city offices shall be nonpartisan.

(b) No political party or party central committee may endorse, support, or oppose a candidate for nonpartisan office. [*As amended June 3, 1986.*]

[*Voting—Secret*]

SEC. 7. Voting shall be secret. [*Former Section 6, as renumbered June 8, 1976.*]

[*Initiative*]

SEC. 8. (a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.

(e) An initiative measure may not include or exclude any political subdivision of the State from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision.

(f) An initiative measure may not contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure. [*As amended June 2, 1998.*]

[*Referendum*]

SEC. 9. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors. In the case of a statute enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, the petition may not be presented on or after January 1 next following the enactment date unless a

copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure. [*As amended June 5, 1990.*]

[*Initiative and Referendum—Vote and Effective Date—Conflicts—Legislative Repeal or Amendment—Titling*]

SEC. 10. (a) An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder shall not be delayed from going into effect.

(b) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

(c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

(d) Prior to circulation of an initiative or referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors. [*Former Section 24 of Article IV, as renumbered June 8, 1976.*]

[*Initiative and Referendum—Cities or Counties*]

SEC. 11. (a) Initiative and referendum powers may be exercised by the electors of each city or county under procedures that the Legislature shall provide. Except as provided in subdivisions (b) and (c), this section does not affect a city having a charter.

(b) A city or county initiative measure may not include or exclude any part of the city or county from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city or county or any part thereof.

(c) A city or county initiative measure may not contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure. [*As amended June 2, 1998.*]

[*Naming Individual or Private Corporation to Office or Duty Prohibited*]

SEC. 12. No amendment to the Constitution, and no statute proposed to the electors by the Legislature or by initiative, that names any individual

to hold any office, or names or identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect. [*Former Section 26 of Article IV, as renumbered June 8, 1976.*]

[*Recall Defined*]

SEC. 13. Recall is the power of the electors to remove an elective officer. [*New section adopted June 8, 1976.*]

[*Recall Petitions*]

SEC. 14. (a) Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

(b) A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county. Signatures to recall Senators, members of the Assembly, members of the Board of Equalization, and judges of courts of appeal and trial courts must equal in number 20 percent of the last vote for the office.

(c) The Secretary of State shall maintain a continuous count of the signatures certified to that office. [*New section adopted June 8, 1976.*]

[*Recall Elections*]

SEC. 15. (a) An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

(b) A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

(c) If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI. [*As amended November 8, 1994.*]

[*Legislature to Provide for Petitions, Etc.*]

SEC. 16. The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election. [*New section adopted June 8, 1976.*]

[*Recall of Governor or Secretary of State*]

SEC. 17. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively. [*New section adopted June 8, 1976.*]

[*Reimbursement of Recall Election Expenses*]

SEC. 18. A state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election. [*New section adopted June 8, 1976.*]

[*Recall of Local Officers*]

SEC. 19. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall. [*New section adopted June 8, 1976.*]

[*Terms of Elective Offices*]

SEC. 20. Terms of elective offices provided for by this Constitution, other than Members of the Legislature, commence on the Monday after January 1 following election. The election shall be held in the last even-numbered year before the term expires. [*New section adopted June 8, 1976.*]

## ARTICLE III. [*Repealed November 7, 1972. See Article III, below.*]

## ARTICLE III*

STATE OF CALIFORNIA

[*United States Constitution Supreme Law*]

SECTION 1. The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land. [*New section adopted November 7, 1972.*]

[*Boundaries of the State—Sacramento Seat of Government*]

SEC. 2. The boundaries of the State are those stated in the Constitution of 1849 as modified pursuant to statute. Sacramento is the capital of California. [*New section adopted November 7, 1972.*]

[*Separation of Powers*]

SEC. 3. The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution. [*New section adopted November 7, 1972.*]

* New Article III adopted November 7, 1972.

[*Administrative Agencies: Declaration Statute Unenforceable or Unconstitutional Prohibited*]

SEC. 3.5. An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power:

(a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional;

(b) To declare a statute unconstitutional;

(c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations. [*New section adopted June 6, 1978.*]

[*Salaries of Elected State Officers—Salaries of Judges*]

SEC. 4. (a) Except as provided in subdivision (b), salaries of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations.

(b) Beginning on January 1, 1981, the base salary of a judge of a court of record shall equal the annual salary payable as of July 1, 1980, for that office had the judge been elected in 1978. The Legislature may prescribe increases in those salaries during a term of office, and it may terminate prospective increases in those salaries at any time during a term of office, but it shall not reduce the salary of a judge during a term of office below the highest level paid during that term of office. Laws setting the salaries of judges shall not constitute an obligation of contract pursuant to Section 9 of Article I or any other provision of law. [*As amended November 4, 1980.*]

[*Suits Against State*]

SEC. 5. Suits may be brought against the State in such manner and in such courts as shall be directed by law. [*New section adopted November 7, 1972.*]

[*Official State Language*]

SEC. 6. (a) Purpose.

English is the common language of the people of the United States of America and the State of California. This section is intended to preserve, protect and strengthen the English language, and not to supersede any of the rights guaranteed to the people by this Constitution.

(b) English as the Official Language of California.

English is the official language of the State of California.

(c) Enforcement.

The Legislature shall enforce this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps

necessary to insure that the role of English as the common language of the State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California.

(d) Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of California shall have standing to sue the State of California to enforce this section, and the Courts of record of the State of California shall have jurisdiction to hear cases brought to enforce this section. The Legislature may provide reasonable and appropriate limitations on the time and manner of suits brought under this section. [*New section adopted November 4, 1986. Initiative measure.*]

[*Retirement Benefits for Elected Constitutional Officers*]

SEC. 7. (a) The retirement allowance for any person, all of whose credited service in the Legislators' Retirement System was rendered or was deemed to have been rendered as an elective officer of the State whose office is provided for by the California Constitution, other than a judge and other than a Member of the Senate or Assembly, and all or any part of whose retirement allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement, or for the survivor or beneficiary of such a person, shall not be increased or affected in any manner by changes on or after November 5, 1986, in the compensation payable to the officer holding the office which the member last held prior to retirement.

(b) This section shall apply to any person, survivor, or beneficiary described in subdivision (a) who receives, or is receiving, from the Legislators' Retirement System a retirement allowance on or after November 5, 1986, all or any part of which allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement.

(c) It is the intent of the people, in adopting this section, to restrict retirement allowances to amounts reasonably to be expected by certain members and retired members of the Legislators' Retirement System and to preserve the basic character of earned retirement benefits while prohibiting windfalls and unforeseen advantages which have no relation to the real theory and objective of a sound retirement system. It is not the intent of this section to deny any member, retired member, survivor, or beneficiary a reasonable retirement allowance. Thus, this section shall not be construed as a repudiation of a debt nor the impairment of a contract for a substantial and reasonable retirement allowance from the Legislators' Retirement System.

(d) The people and the Legislature hereby find and declare that the dramatic increase in the retirement allowances of persons described in sub-

division (a) which would otherwise result when the compensation for those offices increases on November 5, 1986, or January 5, 1987, are not benefits which could have reasonably been expected. The people and the Legislature further find and declare that the Legislature did not intend to provide in its scheme of compensation for those offices such windfall benefits. [*New section adopted November 4, 1986.*]

[*California Citizens Compensation Commission*]

SEC. 8. (a) The California Citizens Compensation Commission is hereby created and shall consist of seven members appointed by the Governor. The commission shall establish the annual salary and the medical dental, insurance, and other similar benefits of state officers.

(b) The commission shall consist of the following persons:

(1) Three public members, one of whom has expertise in the area of compensation, such as an economist, market researcher, or personnel manager; one of whom is a member of a nonprofit public interest organization; and one of whom is representative of the general population and may include, among others, a retiree, homemaker, or person of median income. No person appointed pursuant to this paragraph may, during the 12 months prior to his or her appointment, have held public office, either elective or appointive, have been a candidate for elective public office, or have been a lobbyist, as defined by the Political Reform Act of 1974.

(2) Two members who have experience in the business community, one of whom is an executive of a corporation incorporated in this State which ranks among the largest private sector employers in the State based on the number of employees employed by the corporation in this State and one of whom is an owner of a small business in this State.

(3) Two members, each of whom is an officer or member of a labor organization.

(c) The Governor shall strive insofar as practicable to provide a balanced representation of the geographic, gender, racial, and ethnic diversity of the State in appointing commission members.

(d) The Governor shall appoint commission members and designate a chairperson for the commission not later than 30 days after the effective date of this section. The terms of two of the initial appointees shall expire on December 31, 1992, two on December 31, 1994, and three on December 31, 1996, as determined by the Governor. Thereafter, the term of each member shall be six years. Within 15 days of any vacancy, the Governor shall appoint a person to serve the unexpired portion of the term.

(e) No current or former officer or employee of this State is eligible for appointment to the commission.

(f) Public notice shall be given of all meetings of the commission, and the meetings shall be open to the public.

(g) On or before December 3, 1990, the commission shall, by a single resolution adopted by a majority of the membership of the commission, establish the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in that resolution shall be effective on and after December 3, 1990.

Thereafter, at or before the end of each fiscal year, the commission shall, by a single resolution adopted by a majority of the membership of the commission, adjust the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in the resolution shall be effective on and after the first Monday of the next December.

(h) In establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits, the commission shall consider all of the following:

(1) The amount of time directly or indirectly related to the performance of the duties, functions, and services of a state officer.

(2) The amount of the annual salary and the medical, dental, insurance, and other similar benefits for other elected and appointed officers and officials in this State with comparable responsibilities, the judiciary, and, to the extent practicable, the private sector, recognizing, however, that state officers do not receive, and do not expect to receive, compensation at the same levels as individuals in the private sector with comparable experience and responsibilities.

(3) The responsibility and scope of authority of the entity in which the state officer serves.

(i) Until a resolution establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits for state officers takes effect, each state officer shall continue to receive the same annual salary and the medical, dental, insurance, and other similar benefits received previously.

(j) All commission members shall receive their actual and necessary expenses, including travel expenses, incurred in the performance of their duties. Each member shall be compensated at the same rate as members, other than the chairperson, of the Fair Political Practices Commission, or its successor, for each day engaged in official duties, not to exceed 45 days per year.

(k) It is the intent of the Legislature that the creation of the commission should not generate new state costs for staff and services. The Department of Personnel Administration, the Board of Administration of the Public Employees' Retirement System, or other appropriate agencies, or their successors, shall furnish, from existing resources, staff and services to the commission as needed for the performance of its duties.

(*l*) ''State officer,'' as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner,

Secretary of State, Superintendent of Public Instruction, Treasurer, member of the State Board of Equalization, and Member of the Legislature. [*New section adopted June 5, 1990.*]

[*Sale of Surplus State Property*]

SEC. 9. The proceeds from the sale of surplus state property occurring on or after the effective date of this section, and any proceeds from the previous sale of surplus state property that have not been expended or encumbered as of that date, shall be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act authorized at the March 2, 2004, statewide primary election. Once the principal and interest on those bonds are fully paid, the proceeds from the sale of surplus state property shall be deposited into the Special Fund for Economic Uncertainties, or any successor fund. For purposes of this section, surplus state property does not include property purchased with revenues described in Article XIX or any other special fund moneys. [*New section adopted November 2, 2004.*]

## ARTICLE IV

LEGISLATIVE

[*Heading as amended November 8, 1966.*]

SECTION 1. [*Repealed November 8, 1966. See Section 1, below.*]

[*Legislative Power*]

SECTION 1. The legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum. [*New section adopted November 8, 1966.*]

SEC. 1a. [*Renumbered Section 20 of Article XIII and amended November 8, 1966.*]

SEC. 1b. [*Repealed November 8, 1966.*]

SEC. 1c. [*Repealed November 8, 1966.*]

SEC. 1d. [*Repealed November 8, 1966.*]

[*Legislators—Limitation on Incumbency—Restriction of Retirement Benefits— Limitation of Staff and Support Services—Number of Terms*]

SEC. 1.5. The people find and declare that the Founding Fathers established a system of representative government based upon free, fair, and competitive elections. The increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative.

The ability of legislators to serve unlimited number of terms, to establish their own retirement system, and to pay for staff and support services at state expense contribute heavily to the extremely high number of incumbents who are reelected. These unfair incumbent advantages discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. These career politicians become representatives of the bureaucracy, rather than of the people whom they are elected to represent.

To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served. [*New section adopted November 6, 1990. Initiative measure.*]

[*Senate and Assembly—Membership—Elections—Number of Terms—Qualifications—Vacancies*]

SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. No Senator may serve more than 2 terms.

The Assembly has a membership of 80 members elected for 2-year terms. No member of the Assembly may serve more than 3 terms.

Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy. [*As amended November 6, 1990. Initiative measure.*]

[*Legislative Sessions—Regular and Special Sessions*]

SEC. 3. (a) The Legislature shall convene in regular session at noon on the first Monday in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn sine die by operation of the Constitution at midnight on November 30 of the following even-numbered year.

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled

it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session. [*As amended June 8, 1976.*]

[*Legislators—Conflict of Interest—Prohibited Compensation—Earned Income*]

SEC. 4. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no Member of the Legislature may knowingly receive any salary, wages, commissions, or other similar earned income from a lobbyist or lobbying firm, as defined by the Political Reform Act of 1974, or from a person who, during the previous 12 months, has been under a contract with the Legislature. The Legislature shall enact laws that define earned income. However, earned income does not include any community property interest in the income of a spouse. Any Member who knowingly receives any salary, wages, commissions, or other similar earned income from a lobbyist employer, as defined by the Political Reform Act of 1974, may not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of this article, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession.

[*Legislators—Travel and Living Expenses*]

(b) Travel and living expenses for Members of the Legislature in connection with their official duties shall be prescribed by statute passed by rollcall vote entered in the journal, two-thirds of the membership of each house concurring. A Member may not receive travel and living expenses during the times that the Legislature is in recess for more than three calendar days, unless the Member is traveling to or from, or is in attendance at, any meeting of a committee of which he or she is a member, or a meeting, conference, or other legislative function or responsibility as authorized by the rules of the house of which he or she is a member, which is held at a location at least 20 miles from his or her place of residence.

[*Legislators—Retirement*]

(c) The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of five hundred dollars ($500) paid to any Member of the Legislature unless the Member receives the greater amount while serving as a Member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to Members of the Legislature who serve during or after the term commencing in 1967.

When computing the retirement allowance of a Member who serves in the Legislature during the term commencing in 1967 or later, allowance may be made for increases in cost of living if so provided by statute, but only with respect to increases in the cost of living occurring after retirement of the Member. However, the Legislature may provide that no Member shall be deprived of a cost of living adjustment based on a monthly salary of five hundred dollars ($500) which has accrued prior to the commencement of the 1967 Regular Session of the Legislature. [*As amended June 5, 1990.*]

[*Legislators—Retirement*]

SEC. 4.5. Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) Program and the State shall pay only the employer's share of the contribution necessary to such participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such service not being intended as a career occupation. This Section shall not be construed to abrogate or diminish any vested pension or retirement benefit which may have accrued under an existing law to a person holding or having held office in the Legislature, but upon adoption of this Act no further entitlement to nor vesting in any existing program shall accrue to any such person, other than Social Security to the extent herein provided. [*New section adopted November 6, 1990. Initiative measure.*]

[*Legislators—Qualifications—Expulsion*]

SEC. 5. (a) Each house shall judge the qualifications and elections of its Members and, by rollcall vote entered in the journal, two thirds of the membership concurring, may expel a Member.

[*Legislators—Honoraria*]

(b) No Member of the Legislature may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

[*Legislators—Gifts—Conflict of Interest*]

(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a Member of the Legislature from any source if the acceptance of the gift might create a conflict of interest.

[*Legislators—Prohibited Compensation or Activity*]

(d) No Member of the Legislature may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a Member knowingly accepts any compensation for appearing, agreeing to

appear, or taking any other action on behalf of another person before any local government board or agency, the Member may not, for a period of one year following the acceptance of the compensation, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of this article, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession. However, a Member may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers' Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the Member is a member if the Member does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

[*Legislators—Lobbying*]

(e) The Legislature shall enact laws that prohibit a Member of the Legislature whose term of office commences on or after December 3, 1990, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the Legislature for 12 months after leaving office.

[*Legislators—Conflict of Interest*]

(f) The Legislature shall enact new laws, and strengthen the enforcement of existing laws, prohibiting Members of the Legislature from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities. However, the people reserve to themselves the power to implement this requirement pursuant to Article II. [*As amended June 5, 1990. Subdivision (b) operative December 3, 1990.*]

SEC. 6. [*Repealed June 3, 1980. See Section 6, below.*]

[*Senatorial and Assembly Districts*]

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts to be called Senatorial and Assembly Districts. Each Senatorial district shall choose one Senator and each Assembly district shall choose one member of the Assembly. [*New section adopted June 3, 1980.*]

[*House Rules—Officers—Quorum*]

SEC. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent members.

[*Journals*]

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the members on a question shall be taken and entered in the journal at the request of 3 members present.

[*Public Proceedings—Closed Sessions*]

(c) (1) The proceedings of each house and the committees thereof shall be open and public. However, closed sessions may be held solely for any of the following purposes:

(A) To consider the appointment, employment, evaluation of performance, or dismissal of a public officer or employee, to consider or hear complaints or charges brought against a Member of the Legislature or other public officer or employee, or to establish the classification or compensation of an employee of the Legislature.

(B) To consider matters affecting the safety and security of Members of the Legislature or its employees or the safety and security of any buildings and grounds used by the Legislature.

(C) To confer with, or receive advice from, its legal counsel regarding pending or reasonably anticipated, or whether to initiate, litigation when discussion in open session would not protect the interests of the house or committee regarding the litigation.

(2) A caucus of the Members of the Senate, the Members of the Assembly, or the Members of both houses, which is composed of the members of the same political party, may meet in closed session.

(3) The Legislature shall implement this subdivision by concurrent resolution adopted by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, or by statute, and shall prescribe that, when a closed session is held pursuant to paragraph (1), reasonable notice of the closed session and the purpose of the closed session shall be provided to the public. If there is a conflict between a concurrent resolution and statute, the last adopted or enacted shall prevail.

[*Recess*]

(d) Neither house without the consent of the other may recess for more than 10 days or to any other place. [*As amended June 5, 1990. Subdivision (c) operative December 3, 1990.*]

[*Legislature—Total Aggregate Expenditures*]

SEC. 7.5. In the fiscal year immediately following the adoption of this Act, the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature may not exceed an amount equal to nine hundred fifty thousand dollars ($950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less. For each fiscal year thereafter, the total aggregate expenditures may not exceed an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the State established pursuant to Article XIII B. [*New section adopted November 6, 1990. Initiative measure.*]

[*Bills and Statutes—30-day Waiting Period*]

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

[*Bills and Statutes—3 Readings*]

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

[*Bills and Statutes—Effective Date*]

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum

petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

[*Bills and Statutes—Urgency Statutes*]

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest. [*As amended June 5, 1990.*]

[*Ballot Measures—Application*]

SEC. 8.5. An act amending an initiative statute, an act providing for the issuance of bonds, or a constitutional amendment proposed by the Legislature and submitted to the voters for approval may not do either of the following:

(a) Include or exclude any political subdivision of the State from the application or effect of its provisions based upon approval or disapproval of the measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision.

(b) Contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure. [*New section adopted June 2, 1998.*]

SEC. 9. [*Repealed November 8, 1966. See Section 9, below.*]

[*Statutes—Title—Section*]

SEC. 9. A statute shall embrace but one subject, which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title. A section of a statute may not be amended unless the section is re-enacted as amended. [*New section adopted November 8, 1966.*]

[*Governor's Veto—Bill Introduction in Biennial Session—Fiscal Emergencies*]

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The

Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(d) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) (1) If, following the enactment of the budget bill for the 2004–05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect. [*As amended March 2, 2004.*]

[*Committees*]

SEC. 11. The Legislature or either house may by resolution provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control. [*As amended November 7, 1972.*]

[*Governor's Budget—Budget Bill—Other Appropriations*]

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 of each year.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature. [*As amended March 2, 2004.*]

[*Legislators—Ineligible for Certain Offices*]

SEC. 13. A member of the Legislature may not, during the term for which the member is elected, hold any office or employment under the State other than an elective office. [*As amended November 5, 1974.*]

SEC. 14. [*Repealed November 8, 1966. See Section 14, below.*]

[*Members—Not Subject to Civil Process*]

SEC. 14. A member of the Legislature is not subject to civil process during a session of the Legislature or for 5 days before and after a session. [*New section adopted November 8, 1966.*]

[*Influencing Action or Vote of a Member—Felony*]

SEC. 15. A person who seeks to influence the vote or action of a member of the Legislature in the member's legislative capacity by bribery, promise of reward, intimidation, or other dishonest means, or a member of the Legislature so influenced, is guilty of a felony. [*As amended November 5, 1974.*]

[*Uniform Operation of General Laws—Special Statute—Invalid*]

SEC. 16. (a) All laws of a general nature have uniform operation.

(b) A local or special statute is invalid in any case if a general statute can be made applicable. [*As amended November 5, 1974.*]

SEC. 17. [*Repealed November 8, 1966. See Section 17, below.*]

[*Grant of Extra Compensation or Allowance Prohibited*]

SEC. 17. The Legislature has no power to grant, or to authorize a city, county, or other public body to grant, extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or to authorize the payment of a claim against the State or a city, county, or other public body under an agreement made without authority of law. [*New section adopted November 8, 1966.*]

SEC. 18. [*Repealed November 8, 1966. See Section 18, below.*]

[*Impeachment*]

SEC. 18. (a) The Assembly has the sole power of impeachment. Impeachments shall be tried by the Senate. A person may not be convicted unless, by rollcall vote entered in the journal, two thirds of the membership of the Senate concurs.

(b) State officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts are subject to impeachment for misconduct in office. Judgment may extend only to removal from office and disqualification to hold any office under the State, but the person convicted or acquitted remains subject to criminal punishment according to law. [*New section adopted November 8, 1966.*]

[*Lotteries—Horse Races Regulated—Bingo Games and Raffles for Charitable Purposes—Gaming on Tribal Lands*]

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

(f)* Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.

(f)† Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor. [*As amended March 7, 2000.*]

SEC. 20. [*Repealed November 8, 1966. See Section 20, below.*]

[*Fish and Game—Districts and Commission*]

SEC. 20. (a) The Legislature may provide for division of the State into fish and game districts and may protect fish and game in districts or parts of districts.

(b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring. [*New section adopted November 8, 1966.*]

[*War- or Enemy-Caused Disaster*]

SEC. 21. To meet the needs resulting from war-caused or enemy-caused disaster in California, the Legislature may provide for:

(a) Filling the offices of members of the Legislature should at least one fifth of the membership of either house be killed, missing, or disabled, until they are able to perform their duties or successors are elected.

* Ballot Proposition 1A (SCA 11) March 7, 2000.
† Ballot Proposition 17 (SCA 4) March 7, 2000.

(b) Filling the office of Governor should the Governor be killed, missing, or disabled, until the Governor or the successor designated in this Constitution is able to perform the duties of the office of Governor or a successor is elected.

(c) Convening the Legislature.

(d) Holding elections to fill offices that are elective under this Constitution and that are either vacant or occupied by persons not elected thereto.

(e) Selecting a temporary seat of state or county government. [*As amended November 5, 1974.*]

[*Accountability—Session Goals and Objectives*]

SEC. 22. It is the right of the people to hold their legislators accountable. To assist the people in exercising this right, at the convening of each regular session of the Legislature, the President pro Tempore of the Senate, the Speaker of the Assembly, and the minority leader of each house shall report to their house the goals and objectives of that house during that session and, at the close of each regular session, the progress made toward meeting those goals and objectives. [*New section adopted June 5, 1990.*]

SEC. 22a. [*Repealed November 8, 1966.*]

SEC. 23. [*Renumbered Section 9 of Article II June 8, 1976.*]

SEC. 23a. [*Repealed November 8, 1966.*]

SEC. 23b. [*Repealed November 8, 1966.*]

SEC. 24. [*Renumbered Section 10 of Article II June 8, 1976.*]

SEC. 25. [*Renumbered Section 11 of Article II June 8, 1976.*]

SEC. 25a. [*Repealed November 8, 1966.*]

SEC. 25½. [*Repealed November 8, 1966.*]

SEC. 25⅝. [*Renumbered Section 22 of Article XIII and amended November 8, 1966.*]

SEC. 25¾. [*Renumbered Section 25.7 and amended November 6, 1962.*]

SEC. 25.7. [*Repealed November 8, 1966.*]

SEC. 26. [*Renumbered Section 12 of Article II June 8, 1976.*]

SEC. 27. [*Repealed June 3, 1980.*]

[*State Capitol Maintenance—Appropriations*]

SEC. 28. (a) Notwithstanding any other provision of this Constitution, no bill shall take effect as an urgency statute if it authorizes or contains an appropriation for either (1) the alteration or modification of the color, detail, design, structure or fixtures of the historically restored areas of the first, second, and third floors and the exterior of the west wing of the

State Capitol from that existing upon the completion of the project of restoration or rehabilitation of the building conducted pursuant to Section 9124 of the Government Code as such section read upon the effective date of this section, or (2) the purchase of furniture of different design to replace that restored, replicated, or designed to conform to the historic period of the historically restored areas specified above, including the legislators' chairs and desks in the Senate and Assembly Chambers.

(b) No expenditures shall be made in payment for any of the purposes described in subdivision (a) of this section unless funds are appropriated expressly for such purposes.

(c) This section shall not apply to appropriations or expenditures for ordinary repair and maintenance of the State Capitol building, fixtures and furniture. [*New Section adopted June 3, 1980.*]

SEC. 29. [*Renumbered Section 23 of Article XIII and amended November 8, 1966.*]

SEC. 30. [*Renumbered Section 24 of Article XIII and amended November 8, 1966.*]

SEC. 31. [*Renumbered Section 25 of Article XIII and amended November 8, 1966.*]

SEC. 31a. [*Renumbered Section 26 of Article XIII and amended November 8, 1966.*]

SEC. 31b. [*As adopted by Assembly Constitutional Amendment 14 of 1931, repealed November 6, 1956.*]

SEC. 31b. [*As adopted November 8, 1932, renumbered Section 27 of Article XIII and amended November 8, 1966.*]

SEC. 31c. [*As adopted November 3, 1936, renumbered Section 28 of Article XIII and amended November 8, 1966.*]

SEC. 31c. [*As adopted November 3, 1942, repealed November 6, 1956.*]

SEC. 31d. [*Repealed November 6, 1956.*]

SEC. 32. [*Repealed November 8, 1966.*]

SEC. 33. [*Repealed November 8, 1966.*]

SEC. 34. [*Repealed November 8, 1966.*]

SEC. 34a. [*Repealed November 8, 1966.*]

SEC. 35. [*Repealed November 8, 1966.*]

SEC. 36. [*Repealed November 8, 1966.*]

SEC. 37. [*Repealed November 8, 1966.*]

SEC. 38. [*Repealed November 8, 1966.*]

ARTICLE V. [*Repealed November 8, 1966. See Article V, below.*]

## ARTICLE V*

EXECUTIVE

[*Executive Power Vested in Governor*]

SECTION 1. The supreme executive power of this State is vested in the Governor. The Governor shall see that the law is faithfully executed. [*As amended November 5, 1974.*]

[*Election—Eligibility—Number of Terms*]

SEC. 2. The Governor shall be elected every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1 following the election until a successor qualifies. The Governor shall be an elector who has been a citizen of the United States and a resident of this State for 5 years immediately preceding the Governor's election. The Governor may not hold other public office. No Governor may serve more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

[*Report to Legislature—Recommendations*]

SEC. 3. The Governor shall report to the Legislature each calendar year on the condition of the State and may make recommendations. [*As amended November 7, 1972.*]

SEC. 4. [*Repealed November 8, 1966. See Section 4, below.*]

[*Information From Executive Officers, Etc.*]

SEC. 4. The Governor may require executive officers and agencies and their employees to furnish information relating to their duties. [*New section adopted November 8, 1966.*]

[*Filling Vacancies—Confirmation by Legislature*]

SEC. 5. (a) Unless the law otherwise provides, the Governor may fill a vacancy in office by appointment until a successor qualifies.

(b) Whenever there is a vacancy in the office of the Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, or Attorney General, or on the State Board of Equalization, the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by a majority of the membership of the Senate and a

* New Article V adopted November 8, 1966.

majority of the membership of the Assembly and who shall hold office for the balance of the unexpired term. In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if he or she had been confirmed by a majority of the Senate and Assembly; provided, that if such 90-day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes. [*As amended November 2, 1976.*]

SEC. 6. [*Repealed November 8, 1966. See Section 6, below.*]

[*Executive Assignment and Agency Reorganization*]

SEC. 6. Authority may be provided by statute for the Governor to assign and reorganize functions among executive officers and agencies and their employees, other than elective officers and agencies administered by elective officers. [*New section adopted November 8, 1966.*]

[*Commander of Militia*]

SEC. 7. The Governor is commander in chief of a militia that shall be provided by statute. The Governor may call it forth to execute the law. [*As amended November 5, 1974.*]

[*Reprieves—Pardons—Commutations*]

SEC. 8. (a) Subject to application procedures provided by statute, the Governor, on conditions the Governor deems proper, may grant a reprieve, pardon, and commutation, after sentence, except in case of impeachment. The Governor shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and the reasons for granting it. The Governor may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.

(b) No decision of the parole authority of this State with respect to the granting, denial, revocation, or suspension of parole of a person sentenced to an indeterminate term upon conviction of murder shall become effective for a period of 30 days, during which the Governor may review the decision subject to procedures provided by statute. The Governor may only affirm, modify, or reverse the decision of the parole authority on the basis of the same factors which the parole authority is required to consider. The Governor shall report to the Legislature each parole decision affirmed, modified, or reversed, stating the pertinent facts and reasons for the action. [*As amended November 8, 1988.*]

[*Lieutenant Governor—Qualifications—Casting Vote*]

SEC. 9. The Lieutenant Governor shall have the same qualifications as the Governor. The Lieutenant Governor is President of the Senate but has only a casting vote. [*As amended November 5, 1974.*]

[*Succession*]

SEC. 10. The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor.

The Lieutenant Governor shall act as Governor during the impeachment, absence from the State, or other temporary disability of the Governor or of a Governor-elect who fails to take office.

The Legislature shall provide an order of precedence after the Lieutenant Governor for succession to the office of Governor and for the temporary exercise of the Governor's functions.

The Supreme Court has exclusive jurisdiction to determine all questions arising under this section.

Standing to raise questions of vacancy or temporary disability is vested exclusively in a body provided by statute. [*As amended November 5, 1974.*]

[*Other State Officers—Election—Number of Terms*]

SEC. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor. No Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer may serve in the same office for more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

SEC. 12. [*Repealed June 5, 1990.*]

[*Attorney General—Chief Law Officer*]

SEC. 13. Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any

county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the Attorney General shall have all the powers of a district attorney. When required by the public interest or directed by the Governor, the Attorney General shall assist any district attorney in the discharge of the duties of that office. [*As amended November 5, 1974.*]

[*State Officers—Conflict of Interest—Prohibited Compensation—Earned Income*]

SEC. 14. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no state officer may knowingly receive any salary, wages, commissions, or other similar earned income from a lobbyist or lobbying firm, as defined by the Political Reform Act of 1974, or from a person who, during the previous 12 months, has been under a contract with the state agency under the jurisdiction of the state officer. The Legislature shall enact laws that define earned income. However, earned income does not include any community property interest in the income of a spouse. Any state officer who knowingly receives any salary, wages, commissions, or other similar earned income from a lobbyist employer, as defined by the Political Reform Act of 1974, may not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 12 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession.

[*State Officers—Honoraria*]

(b) No state officer may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

[*State Officers—Gifts—Conflict of Interest*]

(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a state officer from any source if the acceptance of the gift might create a conflict of interest.

[*State Officers—Prohibited Compensation or Activity*]

(d) No state officer may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a state officer

knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the state officer may not, for a period of one year following the acceptance of the compensation, make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the state agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 12 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession. However, a state officer may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers' Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the state officer is a member if the state officer does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

[*State Officers—Lobbying*]

(e) The Legislature shall enact laws that prohibit a state officer, or a secretary of an agency or director of a department appointed by the Governor, who has not resigned or retired from state service prior to January 7, 1991, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the executive branch of state government for 12 months after leaving office.

[*State Officer—Definition*]

(f) ''State officer,'' as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, and member of the State Board of Equalization. [*New section adopted June 5, 1990. Subdivision (b) operative December 3, 1990.*]

SEC. 15. [*Repealed November 8, 1966.*]

SEC. 16. [*Repealed November 8, 1966.*]

SEC. 17. [*Repealed November 8, 1966.*]

SEC. 18. [*Repealed November 8, 1966.*]

SEC. 20. [*Repealed November 8, 1966.*]

SEC. 21. [*Repealed November 8, 1966.*]

SEC. 22. [*Repealed November 8, 1966.*]

ARTICLE VI. [*Repealed November 8, 1966. See Article VI, below.*]

## ARTICLE VI*

JUDICIAL

[*Judicial Power Vested in Courts*]

SECTION 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record. [*As amended November 5, 2002.*]

SEC. 1a. [*Repealed November 8, 1966.*]

SEC. 1b. [*Repealed November 8, 1966.*]

SEC. 1c. [*Repealed November 8, 1966.*]

[*Supreme Court—Composition*]

SEC. 2. The Supreme Court consists of the Chief Justice of California and 6 associate justices. The Chief Justice may convene the court at any time. Concurrence of 4 judges present at the argument is necessary for a judgment.

An acting Chief Justice shall perform all functions of the Chief Justice when the Chief Justice is absent or unable to act. The Chief Justice or, if the Chief Justice fails to do so, the court shall select an associate justice as acting Chief Justice. [*As amended November 5, 1974.*]

[*Judicial Districts—Courts of Appeal*]

SEC. 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justices. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges present at the argument is necessary for a judgment.

An acting presiding justice shall perform all functions of the presiding justice when the presiding justice is absent or unable to act. The presiding justice or, if the presiding justice fails to do so, the Chief Justice shall select an associate justice of that division as acting presiding justice. [*As amended November 5, 1974.*]

[*Superior Courts*]

SEC. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

* New Article VI adopted November 8, 1966.

In each superior court there is an appellate division. The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence of the appellate division. [*As amended June 2, 1998.*]

SEC. 4a. [*Repealed November 8, 1966.*]

SEC. 4b. [*Repealed November 8, 1966.*]

SEC. 4c. [*Repealed November 8, 1966.*]

SEC. 4d. [*Repealed November 8, 1966.*]

SEC. 4e. [*Repealed November 8, 1966.*]

SEC. 4½. [*Repealed November 8, 1966.*]

SEC. 4¾. [*Repealed November 8, 1966.*]

SEC. 5. [*Repealed November 5, 2002.*]

SEC. 5.5. [*Repealed June 8, 1976.*]

[*Judicial Council—Membership and Powers*]

SEC. 6. (a) The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, three judges of courts of appeal, 10 judges of superior courts, two nonvoting court administrators, and any other nonvoting members as determined by the voting membership of the council, each appointed by the Chief Justice for a three-year term pursuant to procedures established by the council; four members of the State Bar appointed by its governing body for three-year terms; and one member of each house of the Legislature appointed as provided by the house.

(b) Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

(c) The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

(d) To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

(e) The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

(f) Judges shall report to the council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned. [*As amended November 5, 2002.*]

SEC. 7. [*Repealed November 8, 1966. See Section 7, below.*]

[*Commission on Judicial Appointments—Membership*]

SEC. 7. The Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district or, if there are 2 or more presiding justices, the one who has presided longest or, when a nomination or appointment to the Supreme Court is to be considered, the presiding justice who has presided longest on any court of appeal. [*New section adopted November 8, 1966.*]

[*Commission on Judicial Performance—Membership*]

SEC. 8. (a) The Commission on Judicial Performance consists of one judge of a court of appeal two judges of superior courts, each appointed by the Supreme Court; two members of the State Bar of California who have practiced law in this State for 10 years, each appointed by the Governor; and six citizens who are not judges, retired judges, or members of the State Bar of California, two of whom shall be appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. Except as provided in subdivisions (b) and (c), all terms are for four years. No member shall serve more than two four-year terms, or for more than a total of 10 years if appointed to fill a vacancy.

(b) Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. A member whose term has expired may continue to serve until the vacancy has been filled by the appointing power. Appointing powers may appoint members who are already serving on the commission prior to March 1, 1995, to a single two-year term, but may not appoint them to an additional term thereafter.

(c) To create staggered terms among the members of the Commission on Judicial Performance, the following members shall be appointed, as follows:

(1) Two members appointed by the Supreme Court to a term commencing March 1, 1995, shall each serve a term of two years and may be reappointed to one full term.

(2) One attorney appointed by the Governor to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(3) One citizen member appointed by the Governor to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(4) One member appointed by the Senate Committee on Rules to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(5) One member appointed by the Speaker of the Assembly to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(6) All other members shall be appointed to full four-year terms commencing March 1, 1995. [*As amended November 5, 2002.*]

SEC. 9. [*Repealed November 8, 1966. See Section 9, below.*]

[*State Bar*]

SEC. 9. The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record. [*New section adopted November 8, 1966.*]

SEC. 10. [*Repealed November 8, 1966. See Section 10, below.*]

[*Jurisdiction—Original*]

SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in causes subject to its appellate jurisdiction.

Superior courts have original jurisdiction in all other causes.

The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause. [*As amended November 5, 2002.*]

SEC. 10a. [*Repealed November 8, 1966.*]

SEC. 10b. [*Repealed November 8, 1966.*]

[*Jurisdiction—Appellate*]

SEC. 11. (a) The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute. When appellate jurisdiction in civil causes is determined by the amount in con-

troversy, the Legislature may change the appellate jurisdiction of the courts of appeal by changing the jurisdictional amount in controversy.

(b) Except as provided in subdivision (a), the appellate division of the superior court has appellate jurisdiction in causes prescribed by statute.

(c) The Legislature may permit courts exercising appellate jurisdiction to take evidence and make findings of fact when jury trial is waived or not a matter of right. [*As amended June 2, 1998.*]

[*Transfer of Causes—Jurisdiction—Review of Decisions*]

SEC. 12. (a) The Supreme Court may, before decision, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction.

(b) The Supreme Court may review the decision of a court of appeal in any cause.

(c) The Judicial Council shall provide, by rules of court, for the time and procedure for transfer and for review, including, among other things, provisions for the time and procedure for transfer with instructions, for review of all or part of a decision, and for remand as improvidently granted.

(d) This section shall not apply to an appeal involving a judgment of death. [*As amended November 6, 1984. Operative May 6, 1985.*]

[*Judgment—When Set Aside*]

SEC. 13. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice. [*New section adopted November 8, 1966.*]

SEC. 14. [*Repealed November 8, 1966. See Section 14, below.*]

[*Supreme Court and Appellate Court—Published Opinions*]

SEC. 14. The Legislature shall provide for the prompt publication of such opinions of the Supreme Court and courts of appeal as the Supreme Court deems appropriate, and those opinions shall be available for publication by any person.

Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated. [*New section adopted November 8, 1966.*]

[*Judges—Eligibility*]

SEC. 15. A person is ineligible to be a judge of a court of record unless for 10 years immediately preceding selection, the person has been a member of the State Bar or served as a judge of a court of record in this State. [*As amended November 5, 2002.*]

SEC. 15.5. [*Repealed January 1, 1995.*]

[*Judges—Elections—Terms—Vacancies*]

SEC. 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their election, except that a judge elected to an unexpired term serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) Judges of superior courts shall be elected in their counties at general elections except as otherwise necessary to meet the requirements of federal law. In the latter case the Legislature, by two-thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d), or by any other arrangement. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

(c) Terms of judges of superior courts are six years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) (1) Within 30 days before August 16 preceding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

(2) The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

(3) Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts. [*As amended November 5, 2002.*]

[*Judges—Restrictions, Other Employment, and Benefits*]

SEC. 17. A judge of a court of record may not practice law and during the term for which the judge was selected is ineligible for public employment or public office other than judicial employment or judicial office, except a judge of a court of record may accept a part-time teaching position that is outside the normal hours of his or her judicial position and that does not interfere with the regular performance of his or her judicial duties while holding office. A judge of a trial court of record may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge.

A judicial officer may not receive fines or fees for personal use.

A judicial officer may not earn retirement service credit from a public teaching position while holding judicial office. [*As amended November 8, 1988.*]

[*Judges—Discipline*]

SEC. 18. (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging the judge in the United States with a crime punishable as a felony under California or federal law, or (2) a petition to the Supreme Court to review a determination by the Commission on Judicial Performance to remove or retire a judge.

(b) The Commission on Judicial Performance may disqualify a judge from acting as a judge, without loss of salary, upon notice of formal proceedings by the commission charging the judge with judicial misconduct or disability.

(c) The Commission on Judicial Performance shall suspend a judge from office without salary when in the United States the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under California or federal law or of any other crime that involves moral turpitude under that law. If the conviction is reversed, suspension terminates, and the judge shall be paid the salary for the judicial office held by the judge for the period of suspension. If the judge is suspended and the conviction becomes final, the Commission on Judicial Performance shall remove the judge from office.

(d) Except as provided in subdivision (f), the Commission on Judicial Performance may (1) retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent, or (2) censure a judge or former judge or remove a judge for

action occurring not more than 6 years prior to the commencement of the judge's current term or of the former judge's last term that constitutes willful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or (3) publicly or privately admonish a judge or former judge found to have engaged in an improper action or dereliction of duty. The commission may also bar a former judge who has been censured from receiving an assignment, appointment, or reference of work from any California state court. Upon petition by the judge or former judge, the Supreme Court may, in its discretion, grant review of a determination by the commission to retire, remove, censure, admonish, or disqualify pursuant to subdivision (b) a judge or former judge. When the Supreme Court reviews a determination of the commission, it may make an independent review of the record. If the Supreme Court has not acted within 120 days after granting the petition, the decision of the commission shall be final.

(e) A judge retired by the commission shall be considered to have retired voluntarily. A judge removed by the commission is ineligible for judicial office, including receiving an assignment, appointment, or reference of work from any California state court, and pending further order of the court is suspended from practicing law in this State. The State Bar may institute appropriate attorney disciplinary proceedings against any judge who retires or resigns from office with judicial disciplinary charges pending.

(f) A determination by the Commission on Judicial Performance to admonish or censure a judge or former judge of the Supreme Court or remove or retire a judge of the Supreme Court shall be reviewed by a tribunal of 7 court of appeal judges selected by lot.

(g) No court, except the Supreme Court, shall have jurisdiction in a civil action or other legal proceeding of any sort brought against the commission by a judge. Any request for injunctive relief or other provisional remedy shall be granted or denied within 90 days of the filing of the request for relief. A failure to comply with the time requirements of this section does not affect the validity of commission proceedings.

(h) Members of the commission, the commission staff, and the examiners and investigators employed by the commission shall be absolutely immune from suit for all conduct at any time in the course of their official duties. No civil action may be maintained against a person, or adverse employment action taken against a person, by any employer, public or private, based on statements presented by the person to the commission.

(i) The Commission on Judicial Performance shall make rules implementing this section, including, but not limited to, the following:

(1) The commission shall make rules for the investigation of judges. The commission may provide for the confidentiality of complaints to and investigations by the commission.

(2) The commission shall make rules for formal proceedings against judges when there is cause to believe there is a disability or wrongdoing within the meaning of subdivision (d).

(j) When the commission institutes formal proceedings, the notice of charges, the answer, and all subsequent papers and proceedings shall be open to the public for all formal proceedings instituted after February 28, 1995.

(k) The commission may make explanatory statements.

(*l*) The budget of the commission shall be separate from the budget of any other state agency or court.

(m) The Supreme Court shall make rules for the conduct of judges, both on and off the bench, and for judicial candidates in the conduct of their campaigns. These rules shall be referred to as the Code of Judicial Ethics. [*As amended November 8, 1994. Operative March 1, 1995.*]

[*Subordinate Judicial Officers—Discipline*]

SEC. 18.1. The Commission on Judicial Performance shall exercise discretionary jurisdiction with regard to the oversight and discipline of subordinate judicial officers, according to the same standards, and subject to review upon petition to the Supreme Court, as specified in Section 18.

No person who has been found unfit to serve as a subordinate judicial officer after a hearing before the Commission on Judicial Performance shall have the requisite status to serve as a subordinate judicial officer.

This section does not diminish or eliminate the responsibility of a court to exercise initial jurisdiction to discipline or dismiss a subordinate judicial officer as its employee. [*New section adopted June 2, 1998.*]

[*Disciplined Judge Under Consideration for Judicial Appointment*]

SEC. 18.5. (a) Upon request, the Commission on Judicial Performance shall provide to the Governor of any State of the Union the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission's action, with respect to any applicant whom the Governor of any State of the Union indicates is under consideration for any judicial appointment.

(b) Upon request, the Commission on Judicial Performance shall provide the President of the United States the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to

a full understanding of the commission's action, with respect to any applicant whom the President indicates is under consideration for any federal judicial appointment.

(c) Upon request, the Commission on Judicial Performance shall provide the Commission on Judicial Appointments the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission action, with respect to any applicant whom the Commission on Judicial Appointments indicates is under consideration for any judicial appointment.

(d) All information released under this section shall remain confidential and privileged.

(e) Notwithstanding subdivision (d), any information released pursuant to this section shall also be provided to the applicant about whom the information was requested.

(f) ''Private admonishment'' refers to a disciplinary action against a judge by the Commission on Judicial Performance as authorized by subdivision (c) of Section 18 of Article VI, as amended November 8, 1988. [*New section adopted November 8, 1994. Operative March 1, 1995.*]

[*Judges—Compensation*]

SEC. 19. The Legislature shall prescribe compensation for judges of courts of record.

A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision. [*As amended November 5, 1974.*]

SEC. 20. [*Repealed November 8, 1966. See Section 20, below.*]

[*Judges—Retirement—Disability*]

SEC. 20. The Legislature shall provide for retirement, with reasonable allowance, of judges of courts of record for age or disability. [*New section adopted November 8, 1966.*]

SEC. 21. [*Repealed November 8, 1966. See Section 21, below.*]

[*Temporary Judges*]

SEC. 21. On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause. [*New section adopted November 8, 1966.*]

[*Appointment of Officers—Subordinate Judicial Duties*]

SEC. 22. The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties. [*New section adopted November 8, 1966.*]

SEC. 23. [*Repealed November 8, 1966. See Section 23, below.*]

[*Superior and Municipal Court Consolidation*]

SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to Section 16 of Article I, approved at the June 2, 1998, primary election is to permit the Legislature to provide for the abolition of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.

(c) Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:

(1) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.

(2) Preexisting court locations are retained as superior court locations.

(3) Preexisting court records become records of the superior court.

(4) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(5) Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.

(6) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(7) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

(d) This section shall remain in effect only until January 1, 2007, and as of that date is repealed. [*As amended and repealed November 5, 2002. Repealed on January 1, 2007.*]

SEC. 24. [*Repealed November 8, 1966.*]

SEC. 26. [*Repealed November 8, 1966.*]

## ARTICLE VII*

### PUBLIC OFFICERS AND EMPLOYEES

[*Civil Service*]

SECTION 1. (a) The civil service includes every officer and employee of the State except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination. [*New section adopted June 8, 1976.*]

[*Personnel Board—Membership and Compensation*]

SEC. 2. (a) There is a Personnel Board of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 10-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. A member may be removed by concurrent resolution adopted by each house, two-thirds of the membership of each house concurring.

(b) The board annually shall elect one of its members as presiding officer.

(c) The board shall appoint and prescribe compensation for an executive officer who shall be a member of the civil service but not a member of the board. [*New section adopted June 8, 1976.*]

[*Personnel Board—Duties*]

SEC. 3. (a) The board shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under rules of the board. [*New section adopted June 8, 1976.*]

* New Article VII adopted June 8, 1976.

[*Exempt Positions*]

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(*l*) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees. [*New section adopted June 8, 1976.*]

[*Temporary Appointments*]

SEC. 5. A temporary appointment may be made to a position for which there is no employment list. No person may serve in one or more positions under temporary appointment longer than 9 months in 12 consecutive months. [*New section adopted June 8, 1976.*]

[*Veterans' Preferences—Special Rules*]

SEC. 6. (a) The Legislature may provide preferences for veterans and their surviving spouses.

(b) The board by special rule may permit persons in exempt positions, brought under civil service by constitutional provision, to qualify to continue in their positions.

(c) When the State undertakes work previously performed by a county, city, public district of this State or by a federal department or agency, the board by special rule shall provide for persons who previously performed this work to qualify to continue in their positions in the state civil service subject to such minimum standards as may be established by statute. [*New section adopted June 8, 1976.*]

[*Dual Office Holding*]

SEC. 7. A person holding a lucrative office under the United States or other power may not hold a civil office of profit. A local officer or postmaster whose compensation does not exceed 500 dollars per year or an officer in the militia or a member of a reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year is not a holder of a lucrative office, nor is the holding of a civil office of profit affected by this military service. [*New section adopted June 8, 1976.*]

[*Disqualification From Holding Office or Serving on Jury—Free Suffrage*]

SEC. 8. (a) Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure personal election or appointment.

(b) Laws shall be made to exclude persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes from office or serving on juries. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice. [*New section adopted June 8, 1976.*]

[*Persons or Organizations Advocating Overthrow of Government*]

SEC. 9. Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:

(a) Hold any office or employment under this State, including but not limited to the University of California, or with any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State; or

(b) Receive any exemption from any tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this section. [*New section adopted June 8, 1976.*]

[*Elected Officials—Disqualification for Libelous or Slanderous Campaign Statements*]

SEC. 10. (a) No person who is found liable in a civil action for making libelous or slanderous statements against an opposing candidate during the course of an election campaign for any federal, statewide, Board of Equalization, or legislative office or for any county, city and county, city, district, or any other local elective office shall retain the seat to which he or she is elected, where it is established that the libel or slander was a major contributing cause in the defeat of an opposing candidate.

A libelous or slanderous statement shall be deemed to have been made by a person within the meaning of this section if that person actually made the statement or if the person actually or constructively assented to, authorized, or ratified the statement.

''Federal office,'' as used in this section means the office of United States Senator and Member of the House of Representatives; and to the extent that the provisions of this section do not conflict with any provision of federal law, it is intended that candidates seeking the office of United States Senator or Member of the House of Representatives comply with this section.

(b) In order to determine whether libelous or slanderous statements were a major contributing cause in the defeat of an opposing candidate, the trier of fact shall make a separate, distinct finding on that issue. If the trier of fact finds that libel or slander was a major contributing cause in the defeat of an opposing candidate and that the libelous or slanderous statement was made with knowledge that it was false or with reckless disregard of whether it was false or true, the person holding office shall be disqualified from or shall forfeit that office as provided in subdivision (d). The findings required by this section shall be in writing and shall be incorporated as part of the judgment.

(c) In a case where a person is disqualified from holding office or is required to forfeit an office under subdivisions (a) and (b), that disqualification or forfeiture shall create a vacancy in office, which vacancy shall be filled in the manner provided by law for the filling of a vacancy in that particular office.

(d) Once the judgment of liability is entered by the trial court and the time for filing a notice of appeal has expired, or all possibility of direct attack in the courts of this State has been finally exhausted, the person shall be disqualified from or shall forfeit the office involved in that election and shall have no authority to exercise the powers or perform the duties of the office.

(e) This section shall apply to libelous or slanderous statements made on or after the effective date of this section. [*New section adopted June 5, 1984.*]

[*Legislators' and Judges' Retirement Systems*]

SEC. 11. (a) The Legislators' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any state office for which membership in the Legislators' Retirement System was elective or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that office.

(b) The Judges' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any judicial office subject to the Judges' Retirement System or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the judicial office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that judicial office.

(c) The Legislature may define the terms used in this section.

(d) If any part of this measure or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application. [*As amended November 6, 1990. Initiative measure.*]

## ARTICLE VIII. [*Repealed November 8, 1966.*]

## ARTICLE IX

### EDUCATION

[*Legislative Policy*]

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

[*Superintendent of Public Instruction—Election—Date of Office—Number of Terms*]

SEC. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gu-

bernatorial election. No Superintendent of Public Instruction may serve more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

[*Deputy and Associate Superintendents of Public Instruction*]

SEC. 2.1. The State Board of Education, on nomination of the Superintendent of Public Instruction, shall appoint one Deputy Superintendent of Public Instruction and three Associate Superintendents of Public Instruction who shall be exempt from state civil service and whose terms of office shall be four years.

This section shall not be construed as prohibiting the appointment, in accordance with law, of additional Associate Superintendents of Public Instruction subject to state civil service. [*New section adopted November 5, 1946.*]

[*County Superintendents of Schools*]

SEC. 3. A Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question; provided, that two or more counties may, by an election conducted pursuant to Section 3.2 of this article, unite for the purpose of electing or appointing one joint superintendent for the counties so uniting. [*As amended November 2, 1976.*]

[*County Superintendents of Schools—Qualifications and Salaries*]

SEC. 3.1. (a) Notwithstanding any provision of this Constitution to the contrary, the Legislature shall prescribe the qualifications required of county superintendents of schools, and for these purposes shall classify the several counties in the State.

(b) Notwithstanding any provision of this Constitution to the contrary, the county board of education or joint county board of education, as the case may be, shall fix the salary of the county superintendent of schools or the joint county superintendent of schools, respectively. [*As amended November 2, 1976.*]

[*Joint County Board of Education—Joint County Superintendent of Schools*]

SEC. 3.2. Notwithstanding any provision of this Constitution to the contrary, any two or more chartered counties, or nonchartered counties, or any combination thereof, may, by a majority vote of the electors of each such county voting on the proposition at an election called for that purpose in each such county, establish one joint board of education and one joint county superintendent of schools for the counties so uniting. A joint county board of education and a joint county superintendent of schools

shall be governed by the general statutes and shall not be governed by the provisions of any county charter. [*New section adopted November 2, 1976.*]

[*County Boards of Education—Qualifications and Terms of Office*]

SEC. 3.3. Except as provided in Section 3.2 of this article, it shall be competent to provide in any charter framed for a county under any provision of this Constitution, or by the amendment of any such charter, for the election of the members of the county board of education of such county and for their qualifications and terms of office. [*As amended November 2, 1976.*]

SEC. 4. [*Repealed November 3, 1964.*]

[*Common School System*]

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

[*Public Schools—Salaries*]

SEC. 6. Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than twenty-four hundred dollars ($2,400) for a person serving full time, as defined by law.

[*Public School System*]

The Public School System shall include all kindergarten schools, elementary schools, secondary schools, technical schools, and state colleges, established in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.

[*Support of Public School System—State Aid*]

The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for apportionment in each fiscal year, an amount not less than one hundred eighty dollars ($180) per pupil in average daily attendance in the kindergarten schools, elementary schools, secondary schools, and technical schools in the Public School System during the next preceding fiscal year.

The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts

and other agencies maintaining such schools, for the support of, and aid to, kindergarten schools, elementary schools, secondary schools, and technical schools except that there shall be apportioned to each school district in each fiscal year not less than one hundred twenty dollars ($120) per pupil in average daily attendance in the district during the next preceding fiscal year and except that the amount apportioned to each school district in each fiscal year shall be not less than twenty-four hundred dollars ($2,400).

Solely with respect to any retirement system provided for in the charter of any county or city and county pursuant to the provisions of which the contributions of, and benefits to, certificated employees of a school district who are members of such system are based upon the proportion of the salaries of such certificated employees contributed by said county or city and county, all amounts apportioned to said county or city and county, or to school districts therein, pursuant to the provisions of this section shall be considered as though derived from county or city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of this section. [*As amended November 5, 1974.*]

[*School Districts—Bonds*]

SEC. 6½. Nothing in this Constitution contained shall forbid the formation of districts for school purposes situate in more than one county or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the Legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; *provided,* that all such bonds shall be issued subject to the limitations prescribed in section eighteen† of article eleven hereof. [*New section adopted November 7, 1922.*]

[*Boards of Education*]

SEC. 7. The Legislature shall provide for the appointment or election of the State Board of Education and a board of education in each county or for the election of a joint county board of education for two or more counties. [*As amended November 2, 1976.*]

[*Free Textbooks*]

SEC. 7.5. The State Board of Education shall adopt textbooks for use in grades one through eight throughout the State, to be furnished without cost as provided by statute. [*New section adopted June 2, 1970.*]

† Former Section 18 of Article XI added to Article XIII as Section 40, June 2, 1970 and repealed November 5, 1974.

[*Sectarian Schools—Public Money—Doctrines*]

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

[*University of California*]

SEC. 9. (a) The University of California shall constitute a public trust, to be administered by the existing corporation known as "The Regents of the University of California," with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Said corporation shall be in form a board composed of seven ex officio members, which shall be: the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university and the acting president of the university, and 18 appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring; provided, however that the present appointive members shall hold office until the expiration of their present terms.

(b) The terms of the members appointed prior to November 5, 1974, shall be 16 years; the terms of two appointive members to expire as heretofore on March 1st of every even-numbered calendar year, and two members shall be appointed for terms commencing on March 1, 1976, and on March 1 of each year thereafter; provided that no such appointments shall be made for terms to commence on March 1, 1979, or on March 1 of each fourth year thereafter, to the end that no appointment to the regents for a newly commencing term shall be made during the first year of any gubernatorial term of office. The terms of the members appointed for terms commencing on and after March 1, 1976, shall be 12 years. During the period of transition until the time when the appointive membership is comprised exclusively of persons serving for terms of 12 years, the total number of appointive members may exceed the numbers specified in the preceeding paragraph.

In case of any vacancy, the term of office of the appointee to fill such vacancy, who shall be appointed by the Governor and approved by the Senate, a majority of the membership concurring, shall be for the balance of the term for which such vacancy exists.

(c) The members of the board may, in their discretion, following procedures established by them and after consultation with representatives of faculty and students of the university, including appropriate officers of the academic senate and student governments, appoint to the board either or both of the following persons as members with all rights of participation: a member of the faculty at a campus of the university or of another institution of higher education; a person enrolled as a student at a campus of the university for each regular academic term during his service as a member of the board. Any person so appointed shall serve for not less than one year commencing on July 1.

(d) Regents shall be able persons broadly reflective of the economic, cultural, and social diversity of the State, including ethnic minorities and women. However, it is not intended that formulas or specific ratios be applied in the selection of regents.

(e) In the selection of the Regents, the Governor shall consult an advisory committee composed as follows: The Speaker of the Assembly and two public members appointed by the Speaker, the President Pro Tempore of the Senate and two public members appointed by the Rules Committee of the Senate, two public members appointed by the Governor, the chairman of the regents of the university, an alumnus of the university chosen by the alumni association of the university, a student of the university chosen by the Council of Student Body Presidents, and a member of the faculty of the university chosen by the academic senate of the university. Public members shall serve for four years, except that one each of the initially appointed members selected by the Speaker of the Assembly, the President Pro Tempore of the Senate, and the Governor shall be appointed to serve for two years; student, alumni, and faculty members shall serve for one year and may not be regents of the university at the time of their service on the advisory committee.

(f) The Regents of the University of California shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct; provided, however, that sales of university real property shall be subject to such competitive bidding procedures as may be provided by statute. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise. The Regents shall receive all funds derived from the sale of lands pursuant to the act of Congress of July 2, 1862, and any subsequent acts amendatory thereof. The university shall be entirely independent of all political or sec-

tarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of race, religion, ethnic heritage, or sex.

(g) Meetings of the Regents of the University of California shall be public, with exceptions and notice requirements as may be provided by statute. [*As amended November 2, 1976.*]

SEC. 10. [*Repealed November 5, 1974.*]

SEC. 11. [*Repealed November 5, 1974.*]

SEC. 12. [*Repealed November 5, 1974.*]

SEC. 13. [*Repealed November 5, 1974.*]

[*School District Incorporation and Organization—Governing Board Powers*]

SEC. 14. The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and community college districts, of every kind and class, and may classify such districts.

The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established. [*As amended November 7, 1972. Operative July 1, 1973.*]

SEC. 15. [*Repealed November 5, 1974.*]

[*Boards of Education—City Charter Provisions*]

SEC. 16. (a) It shall be competent, in all charters framed under the authority given by Section 5 of Article XI, to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

[*Charter Amendments—Approval by Voters*]

(b) Notwithstanding Section 3 of Article XI, when the boundaries of a school district or community college district extend beyond the limits of a city whose charter provides for any or all of the foregoing with respect to the members of its board of education, no charter amendment effecting a change in the manner in which, the times at which, or the terms for which the members of the board of education shall be elected or appointed, for their qualifications, compensation, or removal, or for the number which shall constitute such board, shall be adopted unless it is submitted to and approved by a majority of all the qualified electors of the school district or community college district voting on the question. Any such amendment,

and any portion of a proposed charter or a revised charter which would establish or change any of the foregoing provisions respecting a board of education, shall be submitted to the electors of the school district or community college district as one or more separate questions. The failure of any such separate question to be approved shall have the result of continuing in effect the applicable existing law with respect to that board of education. [*As amended June 6, 1978.*]

## ARTICLE X*

WATER

[*State's Right of Eminent Domain*]

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State. [*New section adopted June 8, 1976.*]

[*Conservation and Beneficial Use of Water—Riparian Rights*]

SEC. 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which the owner's land is riparian under reasonable methods of diversion and use, or as depriving any appropriator of water to which the appropriator is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained. [*New section adopted June 8, 1976.*]

* New Article X adopted June 8, 1976.

[*Tidelands*]

SEC. 3. All tidelands within two miles of any incorporated city, city and county, or town in this State, and fronting on the water of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations; provided, however, that any such tidelands, reserved to the State solely for street purposes, which the Legislature finds and declares are not used for navigation purposes and are not necessary for such purposes may be sold to any town, city, county, city and county, municipal corporations, private persons, partnerships or corporations subject to such conditions as the Legislature determines are necessary to be imposed in connection with any such sales in order to protect the public interest. [*New section adopted June 8, 1976.*]

[*Access to Navigable Waters*]

SEC. 4. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof. [*New section adopted June 8, 1976.*]

[*State Control of Water Use*]

SEC. 5. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law. [*New section adopted June 8, 1976.*]

[*Compensation for Water Use*]

SEC. 6. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law. [*New section adopted June 8, 1976.*]

[*Acquisition of Real Property—Conformance to California Water Laws*]

SEC. 7. Whenever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to

the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired. [*New section adopted June 8, 1976.*]

## ARTICLE X A*

### WATER RESOURCES DEVELOPMENT

[*Article X A has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982*]

[*Water Rights, Water Quality, and Fish and Wildlife Resources Guaranteed and Protected*]

SECTION 1. The people of the State hereby provide the following guarantees and protections in this article for water rights, water quality, and fish and wildlife resources. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Statutes for Protection of Fish and Wildlife Resources, Delta, Etc.*]

SEC. 2. No statute amending or repealing, or adding to, the provisions of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature which specify (1) the manner in which the State will protect fish and wildlife resources in the Sacramento-San Joaquin Delta, Suisun Marsh, and San Francisco Bay system westerly of the delta; (2) the manner in which the State will protect existing water rights in the Sacramento-San Joaquin Delta; and (3) the manner in which the State will operate the State Water Resources Development System to comply with water quality standards and water quality control plans, shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

* New Article X A adopted November 4, 1980.

† Chapter 632, Statutes of 1980.

[*Appropriations of Water—Components of California Wild and Scenic Rivers System*]

SEC. 3. No water shall be available for appropriation by storage in, or by direct diversion from, any of the components of the California Wild and Scenic Rivers System, as such system exists on January 1, 1981, where such appropriation is for export of water into another major hydrologic basin of the State, as defined in the Department of Water Resources Bulletin 160-74, unless such export is expressly authorized prior to such appropriation by: (a) an initiative statute approved by the electors, or (b) the Legislature, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Statutes Amending, Repealing, or Adding to Delta Protection Act*]

SEC. 4. No statute amending or repealing, or adding to, the provisions of Part 4.5 (commencing with Section 12200) of Division 6 of the Water Code (the Delta Protection Act) shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Eminent Domain Proceedings to Acquire Water Rights or Contract Rights for Water or Water Quality Maintenance in Delta Prohibited*]

SEC. 5. No public agency may utilize eminent domain proceedings to acquire water rights, which are held for uses within the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code, or any contract rights for water or water quality maintenance in the Delta for the purpose of exporting such water from the Delta. This provision shall not be construed to prohibit the utilization of eminent domain proceedings for the purpose of acquiring land or any other rights necessary for the construction of water facilities, including, but not limited to, facilities authorized in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Actions and Proceedings*]

SEC. 6. (a) The venue of any of the following actions or proceedings brought in a superior court shall be Sacramento County:

(1) An action or proceeding to attack, review, set aside, void, or annul any provision of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature.

(2) An action or proceeding to attack, review, set aside, void, or annul the determination made by the Director of Water Resources and the Director of Fish and Game pursuant to subdivision (a) of Section 11255 of the Water Code.

(3) An action or proceeding which would have the effect of attacking, reviewing, preventing, or substantially delaying the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code.

(4) An action or proceeding to require the State Water Resources Development System to comply with subdivision (b) of Section 11460 of the Water Code.

(5) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the permanent agreement specified in subdivision (a) of Section 11256 of the Water Code.

(6) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(b) An action or proceeding described in paragraph (1) of subdivision (a) shall be commenced within one year after the effective date of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature. Any other action or proceeding described in subdivision (a) shall be commenced within one year after the cause of action arises unless a shorter period is otherwise provided by statute.

(c) The superior court or a court of appeals shall give preference to the actions or proceedings described in this section over all civil actions or proceedings pending in the court. The superior court shall commence hearing any such action or proceeding within six months after the commencement of the action or proceeding, provided that any such hearing may be delayed by joint stipulation of the parties or at the discretion of the court for good cause shown. The provisions of this section shall supersede any provisions of law requiring courts to give preference to other civil actions or proceedings. The provisions of this subdivision may be enforced by mandamus.

(d) The Supreme Court shall, upon the request of any party, transfer to itself, before a decision in the court of appeal, any appeal or petition for extraordinary relief from an action or proceeding described in this section,

† Chapter 632, Statutes of 1980.

† Chapter 632, Statutes of 1980.

unless the Supreme Court determines that the action or proceeding is unlikely to substantially affect (1) the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code, (2) compliance with subdivision (b) of Section 11460 of the Water Code, (3) compliance with the permanent agreement specified in Section 11256 of the Water Code, or (4) compliance with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code. The request for transfer shall receive preference on the Supreme Court's calendar. If the action or proceeding is transferred to the Supreme Court, the Supreme Court shall commence to hear the matter within six months of the transfer unless the parties by joint stipulation request additional time or the court, for good cause shown, grants additional time.

(e) The remedy prescribed by the court for an action or proceeding described in paragraph (4), (5), or (6) of subdivision (a) shall include, but need not be limited to, compliance with subdivision (b) of Section 11460 of the Water Code, the permanent agreement specified in Section 11256 of the Water Code, or the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(f) The Board of Supervisors of the County of Sacramento may apply to the State Board of Control for actual costs imposed by the requirements of this section upon the county, and the State Board of Control shall pay such actual costs.

(g) Notwithstanding the provisions of this section, nothing in this Article shall be construed as prohibiting the Supreme Court from exercising the transfer authority contained in Article VI, Section 12 of the Constitution. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*State Agencies' Exercise of Authorized Powers*]

SEC. 7. State agencies shall exercise their authorized powers in a manner consistent with the protections provided by this article. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Force or Effect of Article*]

SEC. 8. This article shall have no force or effect unless Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature is enacted and takes effect. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

† Chapter 632, Statutes of 1980.

# ARTICLE X B*

MARINE RESOURCES PROTECTION ACT OF 1990

[*Title*]

SECTION 1. This article shall be known and may be cited as the Marine Resources Protection Act of 1990. [*New section adopted November 6, 1990. Initiative measure.*]

[*Definitions*]

SEC. 2. (a) ''District'' means a fish and game district as defined in the Fish and Game Code by statute on January 1, 1990.

(b) Except as specifically provided in this article, all references to Fish and Game Code sections, articles, chapters, parts, and divisions are defined as 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 Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, 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. [*New section adopted November 6, 1990. Initiative measure.*]

[*Gill and Trammel Nets—Usage*]

SEC. 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 of Fish and Game pursuant to Section 5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone. [*New section adopted November 6, 1990. Initiative measure.*]

[*Gill and Trammel Nets—Usage*]

SEC. 4. (a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

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* New Article X B adopted November 6, 1990. Initiative measure.

(b) In ocean waters north of Point Arguello on and after the effective date of this article, the use of gill nets and trammel nets shall be regulated by the provisions of 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 of the Fish and Game Code, 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) through (f), inclusive of Section 8681.5 of the Fish and Game Code, 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 and/or possession of gill nets or trammel nets. The Director of the Department of Fish and Game 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. [*New section adopted November 6, 1990. Initiative measure.*]

[*Gill and Trammel Nets—Usage*]

SEC. 5. The Department of Fish and Game shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850–7852.3 of the Fish and Game Code.

(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net. [*New section adopted November 6, 1990. Initiative measure.*]

[*Permit Fees*]

SEC. 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:

| Calendar Year | Fee |
|---|---|
| 1991 | $250 |
| 1992 | 500 |
| 1993 | 1,000 |

[*New section adopted November 6, 1990. Initiative measure.*]

[*Permitholder's Compensation for Discontinuing Fishing with Gill and Trammel Nets*]

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision

(b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90-day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.

(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in the zone, for which he or she shall receive, beginning on July 1, 1993, a one time compensation which shall be based upon 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 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. 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 Fish and Game Commission.

(c) 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.

(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993, no compensation shall be paid under this article. [*New section adopted November 6, 1990. Initiative measure.*]

[*Marine Resources Protection Account—Fees—Interest*]

SEC. 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 of Fish and Game 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 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 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 ar-

ticle shall remain in effect, until the compensation provided in Section 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.

(c) In addition to a valid California sportfishing license issued pursuant to Sections 7149, 7149.1 or 7149.2 of the Fish and Game Code and any applicable sport license stamp issued pursuant to the Fish and Game 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 of the Fish and Game Code, 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. [*New section adopted November 6, 1990. Inoperative January 1, 1995. Initiative measure.*]

[*Marine Resources Protection Account—Grants*]

SEC. 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 Fish and Game Commission, be used to provide grants to colleges, universities and other bonafide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 14 of this act. [*New section adopted November 6, 1990. Initiative measure.*]

[*Report to Legislature*]

SEC. 10. On or before December 31 of each year, the Director of Fish and Game shall prepare and submit a report to the Legislature regarding the implementation of this article including an accounting of all funds. [*New section adopted November 6, 1990. Initiative measure.*]

[*Violations*]

SEC. 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. [*New section adopted November 6, 1990. Initiative measure.*]

[*Commercial Fishing Daily Landings Monitoring and Evaluating Program*]

SEC. 12. To increase the State's scientific and biological information on the ocean fisheries of this State, the Department of Fish and Game 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. [*New section adopted November 6, 1990. Initiative measure.*]

[*Penalties for Violations—Probation—Fine*]

SEC. 13. (a) The penalty for a first violation of the provisions of Sections 3 and 4 of this article 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 the provisions of Sections 3 and 4 of this article 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 8 of this article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.

(c) If a person convicted of a violation of Section 3, 4, or 8 of this article 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. [*New section adopted November 6, 1990. Initiative measure.*]

[*New Ecological Reserves*]

SEC. 14. Prior to January 1, 1994, the Fish and Game 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. [*New section adopted November 6, 1990. Initiative measure.*]

[*Article not Preempting or Superseding Other Protective Closures*]

SEC. 15. This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds. [*New section adopted November 6, 1990. Initiative measure.*]

[*Severability*]

SEC. 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. [*New section adopted November 6, 1990. Initiative measure.*]

ARTICLE XI. [*Repealed June 2, 1970. See Article XI, below.*]

## ARTICLE XI*

LOCAL GOVERNMENT

[*Counties—Formation, Boundaries, County Seat, Officers, and Governing Body*]

SECTION 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

(b) The Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees. [*As amended June 7, 1988.*]

* New Article XI adopted June 2, 1970.

SEC. 2. [*Repealed June 2, 1970. See Section 2, below.*]

[*Cities—Formation, Powers*]

SEC. 2. (a) The Legislature shall prescribe uniform procedure for city formation and provide for city powers.

(b) Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another. [*New section adopted June 2, 1970.*]

[*County or City—Charters*]

SEC. 3. (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

(b) The governing body or charter commission of a county or city may propose a charter or revision. Amendment or repeal may be proposed by initiative or by the governing body.

(c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.

(d) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. [*As amended November 5, 1974.*]

[*County Charters—Provisions*]

SEC. 4. County charters shall provide for:

(a) A governing body of 5 or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.

(b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

(c) An elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attachés, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties. [*As amended June 7, 1988.*]

SEC. 5. [*Repealed June 2, 1970. See Section 5, below.*]

[*City Charters—Provisions*]

SEC. 5. (a) It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.

(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part of a city (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. [*New section adopted June 2, 1970.*]

SEC. 5.1. [*Repealed June 2, 1970.*]

SEC. 6. [*Repealed June 2, 1970. See Section 6, below.*]

[*Charter City and County*]

SEC. 6. (a) A county and all cities within it may consolidate as a charter city and county as provided by statute.

(b) A charter city and county is a charter city and a charter county. Its charter city powers supersede conflicting charter county powers. [*New section adopted June 2, 1970.*]

SEC. 7. [*Repealed June 2, 1970. See Section 7, below.*]

[*Local Ordinances and Regulations*]

SEC. 7. A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. [*New section adopted June 2, 1970.*]

SEC. 7½. [*Repealed June 2, 1970.*]

SEC. 7½b. [*Repealed June 2, 1970.*]

[*Ballot Measures—Application*]

SEC. 7.5. (a) A city or county measure proposed by the legislative body of a city, charter city, county, or charter county and submitted to the voters for approval may not do either of the following:

(1) Include or exclude any part of the city, charter city, county, or charter county from the application or effect of its provisions based upon approval or disapproval of the city or county measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city, charter city, county, charter county, or any part thereof.

(2) Contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

(b) ''City or county measure,'' as used in this section, means an advisory question, proposed charter or charter amendment, ordinance, proposition for the issuance of bonds, or other question or proposition submitted to the voters of a city, or to the voters of a county at an election held throughout an entire single county. [*New section adopted June 2, 1998.*]

SEC. 8. [*Repealed June 2, 1970. See Section 8, below.*]

[*Counties—Performance of Municipal Functions*]

SEC. 8. (a) The Legislature may provide that counties perform municipal functions at the request of cities within them.

(b) If provided by their respective charters, a county may agree with a city within it to assume and discharge specified municipal functions. [*New section adopted June 2, 1970.*]

SEC. 8½. [*Repealed June 2, 1970.*]

[*Local Utilities*]

SEC. 9. (a) A municipal corporation may establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communication. It may furnish those services outside its boundaries, except within another municipal corporation which furnishes the same service and does not consent.

(b) Persons or corporations may establish and operate works for supplying those services upon conditions and under regulations that the city may prescribe under its organic law. [*New section adopted June 2, 1970.*]

[*Local Government—Extra Compensation; City, County or District Employees—Residency*]

SEC. 10. (a) A local government body may not grant extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or pay a claim under an agreement made without authority of law.

(b) A city or county, including any chartered city or chartered county, or public district, may not require that its employees be residents of such city, county, or district; except that such employees may be required to reside within a reasonable and specific distance of their place of employment or other designated location. [*As amended June 8, 1976.*]

SEC. 10.5. [*Repealed June 8, 1976.*]

[*Private Control of County or Municipal Functions—Deposit and Investment of Public Moneys*]

SEC. 11. (a) The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

(b) The Legislature may, however, provide for the deposit of public moneys in any bank in this State or in any savings and loan association in this State or any credit union in this State or in any federally insured industrial loan company in this State and for payment of interest, principal, and redemption premiums of public bonds and other evidence of public indebtedness by banks within or without this State. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this State, acting as trustees or fiscal agents. [*As amended November 8, 1988.*]

SEC. 12. [*As amended June 27, 1933, added to Article XIII as Section 37, June 2, 1970. See Section 12, below.*]

[*Claims Against Counties or Cities, Etc.*]

SEC. 12. The Legislature may prescribe procedure for presentation, consideration, and enforcement of claims against counties, cities, their officers, agents, or employees. [*New section adopted June 2, 1970.*]

SEC. 13. [*Repealed June 2, 1970. See Section 13, below.*]

[*Distribution of Powers—Construction of Article*]

SEC. 13. The provisions of Sections 1(b) (except for the second sentence), 3(a), 4, and 5 of this Article relating to matters affecting the distribution of powers between the Legislature and cities and counties, including matters affecting supersession, shall be construed as a restatement of all related provisions of the Constitution in effect immediately prior to the effective date of this amendment, and as making no substantive change.

The terms general law, general laws, and laws, as used in this Article, shall be construed as a continuation and restatement of those terms as used in the Constitution in effect immediately prior to the effective date of this amendment, and not as effecting a change in meaning. [*New section adopted June 2, 1970.*]

SEC. 13½. [*As amended November 3, 1914, added to Article XIII as Section 37.5, June 2, 1970.*]

[*Local Government—Taxation*]

SEC. 14. A local government formed after the effective date of this section, the boundaries of which include all or part of two or more counties, shall not levy a property tax unless such tax has been approved by a majority vote of the qualified voters of that local government voting on the issue of the tax. [*New section adopted November 2, 1976.*]

[*Vehicle License Fee Allocations*]

SEC. 15. (a) From the revenues derived from taxes imposed pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code), or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, those revenues derived from that portion of the vehicle license fee rate that does not exceed 0.65 percent of the market value of the vehicle shall be allocated as follows:

(1) An amount shall be specified in the Vehicle License Fee Law, or the successor to that law, for deposit in the State Treasury to the credit of the

Local Revenue Fund established in Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code, or its successor, if any, for allocation to cities, counties, and cities and counties as otherwise provided by law.

(2) The balance shall be allocated to cities, counties, and cities and counties as otherwise provided by law.

(b) If a statute enacted by the Legislature reduces the annual vehicle license fee below 0.65 percent of the market value of a vehicle, the Legislature shall, for each fiscal year for which the reduced fee applies, provide by statue for the allocation of an additional amount of money that is equal to the decrease, resulting from the fee reduction, in the total amount of revenues that are otherwise required to be deposited and allocated under subdivision (a) for that same fiscal year. That amount shall be allocated to cities, counties, and cities and counties in the same pro rata amounts and for the same purposes as are revenues subject to subdivision (a). [*As amended November 2, 2004.*]

SEC. 16. [*Added to Article XIII as Section 38, June 2, 1970.*]

SEC. 16½. [*As amended November 8, 1932, added to Article XIII as Section 39, June 2, 1970.*]

SEC. 17. [*Repealed June 2, 1970.*]

SEC. 18. [*As amended November 8, 1949, added to Article XIII as Section 40, June 2, 1970.*]

SEC. 18¼. [*Repealed June 2, 1970.*]

SEC. 19. [*Repealed June 2, 1970.*]

SEC. 20. [*Repealed June 2, 1970.*]

## ARTICLE XII. [*Repealed November 5, 1974. See Article XII, below.*]

## ARTICLE XII*

### PUBLIC UTILITIES

[*Public Utilities Commission—Composition*]

SECTION 1. The Public Utilities Commission consists of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for staggered 6-year terms. A vacancy is filled for the remainder of the term. The Legislature may remove a member for in

* New Article XII adopted November 5, 1974.

competence, neglect of duty, or corruption, two thirds of the membership of each house concurring. [*New section adopted November 5, 1974.*]

[*Public Utilities Commission—Powers and Duties*]

SEC. 2. Subject to statute and due process, the commission may establish its own procedures. Any commissioner as designated by the commission may hold a hearing or investigation or issue an order subject to commission approval. [*New section adopted November 5, 1974.*]

[*Public Utilities—Legislative Control*]

SEC. 3. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities. [*New section adopted November 5, 1974.*]

[*Rates—Discrimination in Transportation Charges, Etc.*]

SEC. 4. The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies, prohibit discrimination, and award reparation for the exaction of unreasonable, excessive, or discriminatory charges. A transportation company may not raise a rate or incidental charge except after a showing to and a decision by the commission that the increase is justified, and this decision shall not be subject to judicial review except as to whether confiscation of property will result. [*New section adopted November 5, 1974.*]

[*Public Utilities Commission—Compensation in Eminent Domain Proceedings*]

SEC. 5. The Legislature has plenary power, unlimited by the other provisions of this constitution but consistent with this article, to confer additional authority and jurisdiction upon the commission, to establish the manner and scope of review of commission action in a court of record, and to enable it to fix just compensation for utility property taken by eminent domain. [*New section adopted November 5, 1974.*]

[*Public Utilities Commission—Powers and Duties*]

SEC. 6. The commission may fix rates, establish rules, examine records, issue subpenas, administer oaths, take testimony, punish for con-

tempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction. [*New section adopted November 5, 1974.*]

[*Free Passes, Public Officials—Conflict of Interest, Public Utilities Commissioner*]

SEC. 7. A transportation company may not grant free passes or discounts to anyone holding an office in this State; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office. A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission. [*New section adopted November 5, 1974.*]

[*Public Utilities—Regulation*]

SEC. 8. A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission. This section does not affect power over public utilities relating to the making and enforcement of police, sanitary, and other regulations concerning municipal affairs pursuant to a city charter existing on October 10, 1911, unless that power has been revoked by the city's electors, or the right of any city to grant franchises for public utilities or other businesses on terms, conditions, and in the manner prescribed by law. [*New section adopted November 5, 1974.*]

[*Restatement*]

SEC. 9. The provisions of this article restate all related provisions of the Constitution in effect immediately prior to the effective date of this amendment and make no substantive change. [*New section adopted November 5, 1974.*]

SEC. 10. [*Repealed November 5, 1974.*]

SEC. 17. [*Repealed November 5, 1974.*]

SEC. 18. [*Repealed November 5, 1974.*]

SEC. 19. [*Repealed November 5, 1974.*]

SEC. 20. [*Repealed November 5, 1974.*]

SEC. 21. [*Repealed November 5, 1974.*]

SEC. 22. [*Repealed November 5, 1974.*]

SEC. 23. [*Repealed November 5, 1974.*]

SEC. 23a. [*Repealed November 5, 1974.*]

ARTICLE XIII. [*Repealed November 5, 1974. See Article XIII, below.*]

## ARTICLE XIII*

TAXATION

SECTION 1. [*Repealed November 5, 1974. See Section 1, below.*]

[*Uniformity Clause*]

SECTION 1. Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value. [*New section adopted November 5, 1974.*]

SEC. 1a. [*Repealed November 5, 1974.*]

SEC. 1b. [*Repealed November 5, 1974.*]

SEC. 1c. [*Repealed November 5, 1974.*]

SEC. 1d. [*Repealed November 5, 1974.*]

SEC. 1¼. [*Repealed November 5, 1974.*]

SEC. 1¼a. [*Repealed November 5, 1974.*]

SEC. 1¼b. [*Repealed November 5, 1974.*]

SEC. 1½. [*Repealed November 5, 1974.*]

SEC. 1½a. [*Repealed November 5, 1974.*]

SEC. 1.60. [*Repealed November 5, 1974.*]

SEC. 1.61. [*Repealed November 5, 1974.*]

SEC. 1.62. [*Repealed November 5, 1974.*]

SEC. 1.63. [*Repealed November 5, 1974.*]

SEC. 1.64. [*Repealed November 5, 1974.*]

SEC. 1.65. [*Repealed November 5, 1974.*]

SEC. 1.66. [*Repealed November 5, 1974.*]

SEC. 1.67. [*Repealed November 5, 1974.*]

SEC. 1.68. [*Repealed November 5, 1974.*]

SEC. 1.69. [*Repealed November 5, 1974.*]

SEC. 1¾. [*Repealed November 5, 1974.*]

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* New Article XIII adopted November 5, 1974.

SEC. 2. [*Repealed November 5, 1974. See Section 2, below.*]

[*Personal Property Classification*]

SEC. 2. The Legislature may provide for property taxation of all forms of tangible personal property, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this article. The Legislature, two-thirds of the membership of each house concurring, may classify such personal property for differential taxation or for exemption. The tax on any interest in notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, or mortgages shall not exceed four-tenths of one percent of full value, and the tax per dollar of full value shall not be higher on personal property than on real property in the same taxing jurisdiction. [*New section adopted November 5, 1974.*]

SEC. 2.5. [*Repealed November 5, 1974.*]

SEC. 2.6. [*Repealed November 5, 1974.*]

SEC. 2.8. [*Repealed November 5, 1974.*]

[*Property Tax Exemptions*]

SEC. 3. The following are exempt from property taxation:

[*State Owned Property*]

(a) Property owned by the State.

[*Local Government Property*]

(b) Property owned by a local government, except as otherwise provided in Section 11(a).

[*Government Bonds*]

(c) Bonds issued by the State or a local government in the State.

[*Public Property*]

(d) Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.

[*Educational Property*]

(e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.

[*Church Property*]

(f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.

[*Cemetery Property*]

(g) Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessment.

[*Growing Crops*]

(h) Growing crops.

[*Fruit and Nut Trees*]

(i) Fruit and nut trees until 4 years after the season in which they were planted in orchard form and grape vines until 3 years after the season in which they were planted in vineyard form.

[*Timber Exemption*]

(j) Immature forest trees planted on lands not previously bearing merchantable timber or planted or of natural growth on lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed. Forest trees or timber shall be considered mature at such time after 40 years from the time of planting or removal of the original timber when so declared by a majority vote of a board consisting of a representative from the State Board of Forestry, a representative from the State Board of Equalization, and the assessor of the county in which the trees are located.

The Legislature may supersede the foregoing provisions with an alternative system or systems of taxing or exempting forest trees or timber, including a taxation system not based on property valuation. Any alternative system or systems shall provide for exemption of unharvested immature trees, shall encourage the continued use of timberlands for the production of trees for timber products, and shall provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Nothing in this paragraph shall be construed to exclude timberland from the provisions of Section 8 of this article.

[*Homeowners' Exemption*]

(k) $7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of $7,000 shall be effective for any fiscal year unless the Legislature increases the rate of state taxes in an amount sufficient to provide the subventions required by Section 25.

If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

[*Vessels*]

(*l*) Vessels of more than 50 tons burden in this State and engaged in the transportation of freight or passengers.

[*Household Furnishings—Personal Effects*]

(m) Household furnishings and personal effects not held or used in connection with a trade, profession, or business.

[*Debt Secured by Land*]

(n) Any debt secured by land.

[*Veterans' Exemptions*]

(o) Property in the amount of $1,000 of a claimant who—

(1) is serving in or has served in and has been discharged under honorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and—

(2) served either

(i) in time of war, or

(ii) in time of peace in a campaign or expedition for which a medal has been issued by Congress, or

(iii) in time of peace and because of a service-connected disability was released from active duty; and—

(3) resides in the State on the current lien date.

An unmarried person who owns property valued at $5,000 or more, or a married person, who, together with the spouse, owns property valued at $10,000 or more, is ineligible for this exemption.

If the claimant is married and does not own property eligible for the full amount of the exemption, property of the spouse shall be eligible for the unused balance of the exemption.

[*Veterans' Exemptions*]

(p) Property in the amount of $1,000 of a claimant who—

(1) is the unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) does not own property in excess of $10,000, and
(3) is a resident of the State on the current lien date.

[*Veterans' Exemptions*]

(q) Property in the amount of $1,000 of a claimant who—
(1) is the parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and
(2) receives a pension because of the veteran's service, and
(3) is a resident of the State on the current lien date.
Either parent of a deceased veteran may claim this exemption.
An unmarried person who owns property valued at $5,000 or more, or a married person, who, together with the spouse, owns property valued at $10,000 or more, is ineligible for this exemption.

[*Veterans' Exemptions*]

(r) No individual residing in the State on the effective date of this amendment who would have been eligible for the exemption provided by the previous section 1¼ of this article had it not been repealed shall lose eligibility for the exemption as a result of this amendment. [*As amended November 8, 1988.*]

[*Veterans' Exemptions—Change in Assessment Ratio—Adjustment*]

SEC. 3.5. In any year in which the assessment ratio is changed, the Legislature shall adjust the valuation of assessable property described in subdivisions (o), (p) and (q) of Section 3 of this article to maintain the same proportionate values of such property. [*New section adopted November 6, 1979.*]

[*Property Tax Exemption*]

SEC. 4. The Legislature may exempt from property taxation in whole or in part:

[*Home of Veteran or Surviving Spouse*]

(a) The home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, or if the person has, as a result of a service-connected injury or disease, died while on active duty in military service, unless the home is receiving another real property exemption.

[*Religious, Hospital and Charitable Property*]

(b) Property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (1) that

are organized and operating for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.

[*Specific College Exemptions*]

(c) Property owned by the California School of Mechanical Arts, California Academy of Sciences, or Cogswell Polytechnical College, or held in trust for the Huntington Library and Art Gallery, or their successors.

[*Church Parking Lots*]

(d) Real property not used for commercial purposes that is reasonably and necessarily required for parking vehicles of persons worshipping on land exempt by Section 3(f). [*As amended November 3, 1992.*]

[*Exemption of Buildings Under Construction*]

SEC. 5. Exemptions granted or authorized by Sections 3(e), 3(f), and 4(b) apply to buildings under construction, land required for their convenient use, and equipment in them if the intended use would qualify the property for exemption. [*New section adopted November 5, 1974.*]

SEC. 6. [*Repealed November 5, 1974. See Section 6, below.*]

[*Exemption Waivers*]

SEC. 6. The failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption or classification which reduces a property tax shall be deemed a waiver of the exemption or classification for that year. [*New section adopted November 5, 1974.*]

SEC. 7. [*Repealed November 5, 1974. See Section 7, below.*]

[*Real Property Taxes—Exemption by County Boards of Supervisors*]

SEC. 7. The Legislature, two-thirds of the membership of each house concurring, may authorize county boards of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. [*New section adopted November 5, 1974.*]

[*Open Space Land and Historical Property—Exemption*]

SEC. 8. To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses. [*As amended June 8, 1976.*]

[*Postponement of Property Taxes*]

SEC. 8.5. The Legislature may provide by law for the manner in which a person of low or moderate income who is 62 years of age or older may postpone ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature may also provide by law for the manner in which a disabled person may postpone payment of ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature shall have plenary power to define all terms in this section.

The Legislature shall provide by law for subventions to counties, cities and counties, cities and districts in an amount equal to the amount of revenue lost by each by reason of the postponement of taxes and for the reimbursement to the State of subventions from the payment of postponed taxes. Provision shall be made for the inclusion of reimbursement for the payment of interest on, and any costs to the State incurred in connection with, the subventions. [*As amended November 6, 1984.*]

SEC. 9. [*Repealed November 5, 1974. See Section 9, below.*]

[*Valuation of Certain Homes*]

SEC. 9. The Legislature may provide for the assessment for taxation only on the basis of use of a single-family dwelling, as defined by the Legislature, and so much of the land as is required for its convenient use and occupation, when the dwelling is occupied by an owner and located on land zoned exclusively for single-family dwellings or for agricultural purposes. [*New section adopted November 5, 1974.*]

SEC. 9a. [*Repealed November 5, 1974.*]

SEC. 9.5. [*Repealed November 5, 1974.*]

SEC. 10. [*Repealed November 5, 1974. See Section 10, below.*]

[*Golf Course Values*]

SEC. 10. Real property in a parcel of 10 or more acres which, on the lien date and for 2 or more years immediately preceding, has been used exclusively for nonprofit golf course purposes shall be assessed for taxation on the basis of such use, plus any value attributable to mines, quarries, hydrocarbon substances, or other minerals in the property or the right to extract hydrocarbons or other minerals from the property. [*New section adopted November 5, 1974.*]

SEC. 10½. [*Repealed November 5, 1974.*]

SEC. 11. [*Repealed November 5, 1974. See Section 11, below.*]

[*Taxation of Local Government Real Property*]

SEC. 11. (a) Lands owned by a local government that are outside its boundaries, including rights to use or divert water from surface or underground sources and any other interests in lands, are taxable if (1) they are located in Inyo or Mono County and (a) they were assessed for taxation to the local government in Inyo County as of the 1966 lien date, or in Mono County as of the 1967 lien date, whether or not the assessment was valid when made, or (b) they were acquired by the local government subsequent to that lien date and were assessed to a prior owner as of that lien date and each lien date thereafter, or (2) they are located outside Inyo or Mono County and were taxable when acquired by the local government. Improvements owned by a local government that are outside its boundaries are taxable if they were taxable when acquired or were constructed by the local government to replace improvements which were taxable when acquired.

(b) Taxable land belonging to a local government and located in Inyo County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1966 lien date and in an amount derived by multiplying its 1966 assessed value by the ratio of the statewide per capita assessed value of land as of the last lien date prior to the current lien date to $766, using civilian population only. Taxable land belonging to a local government and located in Mono County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1967 lien date and in an amount determined by the preceding formula except that the 1967 lien date, the 1967 assessed value, and the figure $856 shall be used in the formula. Taxable land belonging to a local government and located outside of Inyo and Mono counties shall be assessed at the place where located and in an amount that does not exceed the lower of (1) its fair market value times the prevailing percentage of fair market value at which other lands are assessed and (2) a figure derived in the manner specified in this Section for land located in Mono County.

If land acquired by a local government after the lien date of the base year specified in this Section was assessed in the base year as part of a larger parcel, the assessed value of the part in the base year shall be that fraction of the assessed value of the larger parcel that the area of the part is of the area of the larger parcel.

If a local government divests itself of ownership of land without water rights and this land was assessed in Inyo County as of the 1966 lien date or in Mono County as of the 1967 lien date, the divestment shall not diminish the quantity of water rights assessable and taxable at the place where assessed as of that lien date.

(c) In the event the Legislature changes the prevailing percentage of fair market value at which land is assessed for taxation, there shall be used in the computations required by Section 11(b) of this Article, for the first year for which the new percentage is applicable, in lieu of the statewide per capita assessed value of land as of the last lien date prior to the current lien date, the statewide per capita assessed value of land on the prior lien date times the ratio of the new prevailing percentage of fair market value to the previous prevailing percentage.

(d) If, after March 1954, a taxable improvement is replaced while owned by and in possession of a local government, the replacement improvement shall be assessed, as long as it is owned by a local government, as other improvements are except that the assessed value shall not exceed the product of (1) the percentage at which privately owned improvements are assessed times (2) the highest full value ever used for taxation of the improvement that has been replaced. For purposes of this calculation, the full value for any year prior to 1967 shall be conclusively presumed to be 4 times the assessed value in that year.

(e) No tax, charge, assessment, or levy of any character, other than those taxes authorized by Sections 11(a) to 11(d), inclusive, of this Article, shall be imposed upon one local government by another local government that is based or calculated upon the consumption or use of water outside the boundaries of the government imposing it.

(f) Any taxable interest of any character, other than a lease for agricultural purposes and an interest of a local government, in any land owned by a local government that is subject to taxation pursuant to Section 11(a) of this Article shall be taxed in the same manner as other taxable interests. The aggregate value of all the interests subject to taxation pursuant to Section 11(a), however, shall not exceed the value of all interests in the land less the taxable value of the interest of any local government ascertained as provided in Sections 11(a) to 11(e), inclusive, of this Article.

(g) Any assessment made pursuant to Sections 11(a) to 11(d), inclusive, of this Article shall be subject to review, equalization, and adjustment by the State Board of Equalization, but an adjustment shall conform to the provisions of these Sections. [*New section adopted November 5, 1974.*]

[*Unsecured Property Tax Rate*]

SEC. 12. (a) Except as provided in subdivision (b), taxes on personal property, possessory interests in land, and taxable improvements located on land exempt from taxation which are not a lien upon land sufficient in value to secure their payment shall be levied at the rates for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure their payment.

(b) In any year in which the assessment ratio is changed, the Legislature shall adjust the rate described in subdivision (a) to maintain equality between property on the secured and unsecured rolls. [*As amended November 2, 1976.*]

SEC. 12¾. [*Repealed November 5, 1974.*]

SEC. 13. [*Repealed November 5, 1974. See Section 13, below.*]

[*Separate Land and Improvements Assessment*]

SEC. 13. Land and improvements shall be separately assessed. [*New section adopted November 5, 1974.*]

SEC. 14. [*Repealed November 5, 1974. See Section 14, below.*]

[*Tax Situs*]

SEC. 14. All property taxed by local government shall be assessed in the county, city, and district in which it is situated. [*New section adopted November 5, 1974.*]

SEC. 14⅘. [*Repealed November 5, 1974.*]

SEC. 15. [*Repealed November 5, 1974. See Section 15, below.*]

[*Disaster Relief*]

SEC. 15. The Legislature may authorize local government to provide for the assessment or reassessment of taxable property physically damaged or destroyed after the lien date to which the assessment or reassessment relates. [*New section adopted November 5, 1974.*]

SEC. 16. [*Repealed November 5, 1974. See Section 16, below.*]

[*County Board of Equalization—Assessment Appeals Board*]

SEC. 16. The county board of supervisors, or one or more assessment appeals boards created by the county board of supervisors, shall constitute the county board of equalization for a county. Two or more county boards of supervisors may jointly create one or more assessment appeals boards which shall constitute the county board of equalization for each of the participating counties.

Except as provided in subdivision (g) of Section 11, the county board of equalization, under such rules of notice as the county board may prescribe, shall equalize the values of all property on the local assessment roll by adjusting individual assessments.

County boards of supervisors shall fix the compensation for members of assessment appeals boards, furnish clerical and other assistance for those boards, adopt rules of notice and procedures for those boards as may be required to facilitate their work and to insure uniformity in the processing and decision of equalization petitions, and may provide for their discontinuance.

The Legislature shall provide for: (a) the number and qualifications of members of assessment appeals boards, the manner of selecting, appointing, and removing them, and the terms for which they serve, and (b) the procedure by which two or more county boards of supervisors may jointly create one or more assessment appeals boards. [*New section adopted November 5, 1974.*]

[*Board of Equalization*]

SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The State shall be divided into four Board of Equalization districts with the voters of each district electing one member. No member may serve more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

SEC. 18. [*Repealed November 5, 1974. See Section 18, below.*]

[*Intercounty Equalization*]

SEC. 18. The Board shall measure county assessment levels annually and shall bring those levels into conformity by adjusting entire secured local assessment rolls. In the event a property tax is levied by the State, however, the effects of unequalized local assessment levels, to the extent any remain after such adjustments, shall be corrected for purposes of distributing this tax by equalizing the assessment levels of locally and state-assessed properties and varying the rate of the state tax inversely with the counties' respective assessment levels. [*New section adopted November 5, 1974.*]

SEC. 19. [*Repealed November 5, 1974. See Section 19, below.*]

[*State Assessment*]

SEC. 19. The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other property.

No other tax or license charge may be imposed on these companies which differs from that imposed on mercantile, manufacturing, and other business corporations. This restriction does not release a utility company from payments agreed on or required by law for a special privilege or franchise granted by a government body.

The Legislature may authorize Board assessment of property owned or used by other public utilities.

The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee. [*New section adopted November 5, 1974.*]

SEC. 20. [*Repealed November 5, 1974. See Section 20, below.*]

[*Maximum Tax Rates—Bonding Limits*]

SEC. 20. The Legislature may provide maximum property tax rates and bonding limits for local governments. [*New section adopted November 5, 1974.*]

SEC. 21. [*Repealed November 5, 1974. See Section 21, below.*]

[*School District Tax*]

SEC. 21. Within such limits as may be provided under Section 20 of this Article, the Legislature shall provide for an annual levy by county governing bodies of school district taxes sufficient to produce annual revenues for each district that the district's board determines are required for its schools and district functions. [*New section adopted November 5, 1974.*]

SEC. 21.5. [*Repealed November 5, 1974.*]

SEC. 22. [*Repealed November 5, 1974. See Section 22, below.*]

[*State Property Tax Limitations*]

SEC. 22. Not more than 25 percent of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof. [*New section adopted November 5, 1974.*]

SEC. 23. [*Repealed November 5, 1974. See Section 23, below.*]

[*State Boundary Change*]

SEC. 23. If state boundaries change, the Legislature shall determine how property affected shall be taxed. [*New section adopted November 5, 1974.*]

SEC. 24. [*Repealed November 5, 1974. See Section 24, below.*]

[*State Taxes for Local Purposes*]

SEC. 24. The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

[*State Funds for Local Purposes*]

Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

[*Subventions*]

Money subvened to a local government under Section 25 may be used for state or local purposes. [*New section adopted November 5, 1974.*]

SEC. 25. [*Repealed November 5, 1974. See Section 25, below.*]

[*Homeowners' Exemption, Reimbursement of Local Government*]

SEC. 25. The Legislature shall provide, in the same fiscal year, reimbursements to each local government for revenue lost because of Section 3(k). [*New section adopted November 5, 1974.*]

[*Ad Valorem Property Tax Revenue Allocations*]

SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:

(1) (A) Except as otherwise provided in subparagraph (B), modify the manner in which as valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. For purposes of this subparagraph, ''percentage'' does not include any property tax revenues referenced in paragraph (2).

(B) Beginning with the 2008–09 fiscal year and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for a fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.

(ii) The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.

(iii) No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the modification applies.

(C) (i) Subparagraph (A) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year for which subparagraph (A) is suspended.

(ii) Subparagraph (A) shall not be suspended during any fiscal year if the full repayment required by a statute enacted in accordance with clause (iii) of subparagraph (B) has not yet been completed.

(iii) Subparagraph (A) shall not be suspended during any fiscal year if the amount that was required to be paid to cities, counties, and cities and counties under Section 10754.11 of the Revenue and Taxation Code, as that section read on November 3, 2004, has not been paid in full prior to the effective date of the statute providing for that suspension as described in clause (ii) of subparagraph (B).

(iv) A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.

(2) (A) Except as otherwise provided in subparagraphs (B) and (C), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.

(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring.

(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(5) Reduce, during any period in which the rate authority suspension described in paragraph (4) is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.

(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.

(b) For purposes of this section, the following definitions apply:

(1) ''Ad valorem property tax revenues'' means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) ''Local agency'' has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004. [*New section adopted November 2, 2004.*]

[*Income Tax*]

SEC. 26. (a) Taxes on or measured by income may be imposed on persons, corporations, or other entities as prescribed by law.

(b) Interest on bonds issued by the State or a local government in the State is exempt from taxes on income.

(c) Income of a nonprofit educational institution of collegiate grade within the State of California is exempt from taxes on or measured by income if both of the following conditions are met:

(1) The income is not unrelated business income as defined by the Legislature.

(2) The income is used exclusively for educational purposes.

(d) A nonprofit organization that is exempted from taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, is exempt from any business license tax or fee measured by income or gross receipts that is levied by a county or city, whether charter or general law, a city and county, a school district, a special district, or any other local agency. [*As amended June 7, 1994.*]

[*Bank and Corporation Taxes*]

SEC. 27. The Legislature, a majority of the membership of each house concurring, may tax corporations, including state and national banks, and their franchises by any method not prohibited by this Constitution or the Constitution or laws of the United States. Unless otherwise provided by the Legislature, the tax on state and national banks shall be according to or measured by their net income and shall be in lieu of all other taxes and license fees upon banks or their shares, except taxes upon real property and vehicle registration and license fees. [*As amended June 8, 1976.*]

[*Taxation of Insurance Companies*]

SEC. 28. (a) ''Insurer,'' as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges together with their corporate or other attorneys in fact considered as a single unit, and the State Compensation Insurance Fund. As used in this paragraph, ''companies'' includes persons, partnerships, joint stock associations, companies and corporations.

(b) An annual tax is hereby imposed on each insurer doing business in this State on the base, at the rates, and subject to the deductions from the tax hereinafter specified.

(c) In the case of an insurer not transacting title insurance in this State, the ''basis of the annual tax'' is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State, other than premiums received for reinsurance and for ocean marine insurance.

In the case of an insurer transacting title insurance in this State, the ''basis of the annual tax'' is, in respect to each year, all income upon business done in this State, except:

(1) Interest and dividends.

(2) Rents from real property.

(3) Profits from the sale or other disposition of investments.

(4) Income from investments.

''Investments'' as used in this subdivision includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.

In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.

(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent.

(f) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state, county, and municipal, upon such insurers and their property, except:

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this State; so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).

The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration in determining the propriety and extent of retaliatory action under this paragraph (3) of subdivision (f).

For the purposes of this paragraph (3) of subdivision (f) the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.

In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

The provisions of this paragraph (3) of subdivision (f) shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.

(4) The tax on ocean marine insurance.

(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.

(6) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the State, other than taxes on income derived from its principal business as attorney in fact.

A corporate or other attorney in fact of each exchange shall annually compute the amount of tax that would be payable by it under prevailing law except for the provisions of this section, and any management fee due from each exchange to its corporate or other attorney in fact shall be reduced pro tanto by a sum equivalent to the amount so computed.

(g) Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. The Legislature shall define the terms ''ocean marine insurance'' and ''underwriting profit,'' and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.

(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.

(i) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words ''gross premiums, less return premiums, received'' as used in this article. [*As amended June 8, 1976.*]

[*Local Government Tax Sharing*]

SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them that is collected for them by the State. Before the contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) Notwithstanding subdivision (a), on and after the operative date of this subdivision, counties, cities and counties, and cities may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract. [*As amended November 3, 1998.*]

[*Tax Liens—Presumption of Payment of Taxes*]

SEC. 30. Every tax shall be conclusively presumed to have been paid after 30 years from the time it became a lien unless the property subject to the lien has been sold in the manner provided by the Legislature for the payment of the tax. [*New section adopted November 5, 1974.*]

[*Power to Tax*]

SEC. 31. The power to tax may not be surrendered or suspended by grant or contract. [*New section adopted November 5, 1974.*]

[*Proceedings Relating to Collection*]

SEC. 32. No legal or equitable process shall issue in any proceeding in any court against this State or any officer thereof to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, an action may be maintained to recover the tax paid, with interest, in such manner as may be provided by the Legislature. [*New section adopted November 5, 1974.*]

[*Legislature to Enact Laws*]

SEC. 33. The Legislature shall pass all laws necessary to carry out the provisions of this article. [*New section adopted November 5, 1974.*]

[*Food Products—Taxation*]

SEC. 34. Neither the State of California nor any of its political subdivisions shall levy or collect a sales or use tax on the sale of, or the storage, use or other consumption in this State of food products for human consumption except as provided by statute as of the effective date of this section. [*New section adopted November 3, 1992. Operative January 1, 1993. Initiative measure.*]

[*Local Public Safety Services*]

SEC. 35. (a) The people of the State of California find and declare all of the following:

(1) Public safety services are critically important to the security and well-being of the State's citizens and to the growth and revitalization of the State's economic base.

(2) The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.

(3) In order to assist local government in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.

(b) In addition to any sales and use taxes imposed by the Legislature, the following sales and use taxes are hereby imposed:

(1) For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 1994.

(2) An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 1994, for storage, use, or other consumption in this State at the rate of ½ percent of the sales price of the property.

(c) The Sales and Use Tax Law, including any amendments made thereto on or after the effective date of this section, shall be applicable to the taxes imposed by subdivision (b).

(d) (1) All revenues, less refunds, derived from the taxes imposed pursuant to subdivision (b) shall be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which either of the following occurs:

(A) The board of supervisors, by a majority vote of its membership, requests an allocation from the Local Public Safety Fund in a manner prescribed by statute.

(B) A majority of the county's voters voting thereon approve the addition of this section.

(2) Moneys in the Local Public Safety Fund shall be allocated for use exclusively for public safety services of local agencies.

(e) Revenues derived from the taxes imposed pursuant to subdivision (b) shall not be considered proceeds of taxes for purposes of Article XIII B or State General Fund proceeds of taxes within the meaning of Article XVI.

(f) Except for the provisions of Section 34, this section shall supersede any other provisions of this Constitution that are in conflict with the provisions of this section, including, but not limited to, Section 9 of Article II. [*New section adopted November 2, 1993.*]

SEC. 37. [*Repealed November 5, 1974.*]

SEC. 37.5. [*Repealed November 5, 1974.*]

SEC. 38. [*Repealed November 5, 1974.*]

SEC. 39. [*Repealed November 5, 1974.*]

SEC. 40. [*Repealed November 5, 1974.*]

SEC. 41. [*Repealed November 5, 1974.*]

SEC. 42. [*Repealed November 5, 1974.*]

SEC. 44. [*Repealed November 5, 1974.*]

## ARTICLE XIII A*

### TAX LIMITATION

[*Maximum Ad Valorem Tax on Real Property—Apportionment of Tax Revenues*]

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

[*Exceptions to Limitation*]

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters prior to July 1, 1978.

(2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

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* New Article XIII A adopted June 6, 1978. Initiative measure.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b). [*As amended November 7, 2000. Initiative measure.*]

[*Valuation of Real Property—Appraised Value After 1975 Assessment—Replacement Dwelling*]

SEC. 2. (a) The ''full cash value'' means the county assessor's valuation of real property as shown on the 1975–76 tax bill under ''full cash value'' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, ''newly constructed'' does not include real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term ''newly constructed'' does not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

However, the Legislature may provide that, under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, ''any person over the age of 55 years'' includes a married couple one member of

which is over the age of 55 years. For purposes of this section, ''replacement dwelling'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, ''local affected agency'' means any city, special district, school district, or community college district that receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.

[*Full Cash Value Reflecting Inflationary Rate*]

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction, or other factors causing a decline in value.

[*''Newly Constructed''*]

(c) For purposes of subdivision (a), the Legislature may provide that the term ''newly constructed'' does not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a

single- or multiple-family dwelling that is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, that are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements that qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

[*"Change in Ownership"*]

(d) For purposes of this section, the term "change in ownership" does not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property that occur after the provisions of this subdivision take effect.

[*Disasters—Replacement Property*]

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985–86 fiscal year and fiscal years thereafter.

(3) In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may au-

thorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this paragraph, ''affected local agency'' means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster, as declared by the Governor, occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property that it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

[*Real Property Transfers between Spouses*]

(g) For purposes of subdivision (a), the terms ''purchased'' and ''change in ownership'' do not include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:

(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

(2) Transfers to a spouse that take effect upon the death of a spouse.

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

(5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

[*Real Property Transfers between Family Members*]

(h) (1) For purposes of subdivision (a), the terms ''purchased'' and ''change in ownership'' do not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first one million dollars ($1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar ($1,000,000) full cash value limit specified in paragraph (1).

[*Contaminated Property*]

(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:

(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly

constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to a replacement real property located within another county if the board of supervisors of that other county has, after consultation with the affected local agencies within that county, adopted a resolution authorizing an intercounty transfer of base year value as so described.

(ii) This subparagraph applies only to replacement property that is acquired or newly constructed within five years after ownership in the qualified contaminated property is sold or otherwise transferred.

(B) In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure located on that property, the term ''new construction'' does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

(2) For purposes of this subdivision, ''qualified contaminated property'' means residential or nonresidential real property that is all of the following:

(A) In the case of residential real property, rendered uninhabitable, and in the case of nonresidential real property, rendered unusable, as the result of either environmental problems, in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems, except where the existence of the environmental problems was known to the owner, or to a related individual or entity as described in paragraph (3), at the time the real property was acquired or constructed. For purposes of this subparagraph, residential real property is ''uninhabitable'' if that property, as a result of health hazards caused by or associated with the environmental problems, is unfit for human habitation, and nonresidential real property is ''unusable'' if that property, as a result of health hazards caused by or associated with the environmental problems, is unhealthy and unsuitable for occupancy.

(B) Located on a site that has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.

(C) Real property that contains a structure or structures thereon prior to the completion of environmental cleanup activities, and that structure or structures are substantially damaged or destroyed as a result of those environmental cleanup activities.

(D) Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable, as applicable, as described in subparagraph (A), by any act or omission in which an owner of that real property participated or acquiesced.

(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if that owner is related to any individual or entity that committed that act or omission in any of the following ways:

(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.

(B) Is a corporate parent, subsidiary, or affiliate of that entity.

(C) Is an owner of, or has control of, that entity.

(D) Is owned or controlled by that entity.

If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1). The presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

[*Effectiveness of Amendments*]

(j) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment. [*As amended November 3, 1998.*]

[*Changes in State Taxes—Vote Requirement*]

SEC. 3. From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except

that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed. [*New section adopted June 6, 1978. Initiative measure.*]

[*Imposition of Special Taxes*]

SEC. 4. Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district. [*New section adopted June 6, 1978. Initiative measure.*]

[*Effective Date of Article*]

SEC. 5. This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article. [*New section adopted June 6, 1978. Initiative measure.*]

[*Severability*]

SEC. 6. If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect. [*New section adopted June 6, 1978. Initiative measure.*]

[*California Children and Families First Act of 1998*]

SEC. 7. Section 3 of this article does not apply to the California Children and Families First Act of 1998. [*New section adopted November 3, 1998. Initiative measure.*]

## ARTICLE XIII B*

GOVERNMENT SPENDING LIMITATION

[*Total Annual Appropriations*]

SECTION 1. The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit Annual Calculation—Review*]

SEC. 1.5. The annual calculation of the appropriations limit under this article for each entity of local government shall be reviewed as part of an annual financial audit. [*New section adopted June 5, 1990. Operative July 1, 1990.*]

* New Article XIII B adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.

[*Revenues in Excess of Limitation*]

SEC. 2. (a)(1) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be transferred and allocated, from a fund established for that purpose, pursuant to Section 8.5 of Article XVI.

(2) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

(b) All revenues received by an entity of government, other than the State, in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the entity in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit—Adjustments*]

SEC. 3. The appropriations limit for any fiscal year pursuant to Sec. 1 shall be adjusted as follows:

(a) In the event that the financial responsibility of providing services is transferred, in whole or in part, whether by annexation, incorporation or otherwise, from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount.

(b) In the event that the financial responsibility of providing services is transferred, in whole or in part, from an entity of government to a private entity, or the financial source for the provision of services is transferred, in whole or in part, from other revenues of an entity of government, to regulatory licenses, user charges or user fees, then for the year of such transfer the appropriations limit of such entity of government shall be decreased accordingly.

(c) (1) In the event an emergency is declared by the legislative body of an entity of government, the appropriations limit of the affected entity of government may be exceeded provided that the appropriations limits in the following three years are reduced accordingly to prevent an aggregate increase in appropriations resulting from the emergency.

(2) In the event an emergency is declared by the Governor, appropriations approved by a two-thirds vote of the legislative body of an affected entity of government to an emergency account for expenditures relating to that emergency shall not constitute appropriations subject to limitation. As used in this paragraph, ''emergency'' means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons and property within the State, or parts thereof, caused by such conditions as attack or probable or imminent attack by an enemy of the United States, fire, flood, drought, storm, civil disorder, earthquake, or volcanic eruption. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit—Establishment or Change*]

SEC. 4. The appropriations limit imposed on any new or existing entity of government by this Article may be established or changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Contingency, Emergency, Unemployment, Etc., Funds—Contributions—Withdrawals—Transfers*]

SEC. 5. Each entity of government may establish such contingency, emergency, unemployment, reserve, retirement, sinking fund, trust, or similar funds as it shall deem reasonable and proper. Contributions to any such fund, to the extent that such contributions are derived from the proceeds of taxes, shall for purposes of this Article constitute appropriations subject to limitation in the year of contribution. Neither withdrawals from any such fund, nor expenditures of (or authorizations to expend) such withdrawals, nor transfers between or among such funds, shall for purposes of this Article constitute appropriations subject to limitation. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Prudent State Reserve*]

SEC. 5.5. *Prudent State Reserve.* The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary. Contributions to, and withdrawals from, the fund shall be subject to the provisions of Section 5 of this Article. [*New section adopted November 8, 1988. Initiative measure.*]

[*Mandates of New Programs or Higher Levels of Service*]

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State

shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) (1) Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year may be paid over a term of years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility. [*As amended November 2, 2004.*]

[*Bonded Indebtedness*]

SEC. 7. Nothing in this Article shall be construed to impair the ability of the State or of any local government to meet its obligations with respect to existing or future bonded indebtedness. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Definitions*]

SEC. 8. As used in this article and except as otherwise expressly provided herein:

(a) ''Appropriations subject to limitation'' of the State means any authorization to expend during a fiscal year the proceeds of taxes levied by or for the State, exclusive of state subventions for the use and operation of local government (other than subventions made pursuant to Section 6) and further exclusive of refunds of taxes, benefit payments from retirement, unemployment insurance, and disability insurance funds.

(b) ''Appropriations subject to limitation'' of an entity of local government means any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes.

(c) ''Proceeds of taxes'' shall include, but not be restricted to, all tax revenues and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, ''proceeds of taxes'' shall include subventions received from the State, other than pursuant to Section 6, and, with respect to the State, proceeds of taxes shall exclude such subventions.

(d) ''Local government'' means any city, county, city and county, school district, special district, authority, or other political subdivision of or within the State.

(e) (1) ''Change in the cost of living'' for the State, a school district, or a community college district means the percentage change in California per capita personal income from the preceding year.

(2) ''Change in the cost of living'' for an entity of local government, other than a school district or a community college district, shall be either (A) the percentage change in California per capita personal income from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction. Each entity of local government shall select its change in the cost of living pursuant to this paragraph annually by a recorded vote of the entity's governing body.

(f) ''Change in population'' of any entity of government, other than the State, a school district, or a community college district, shall be determined by a method prescribed by the Legislature.

''Change in population'' of a school district or a community college district shall be the percentage change in the average daily attendance of the school district or community college district from the preceding fiscal year, as determined by a method prescribed by the Legislature.

''Change in population'' of the State shall be determined by adding (1) the percentage change in the State's population multiplied by the percentage of the State's budget in the prior fiscal year that is expended for other than educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges, and (2) the percentage change in the total statewide average daily attendance in kindergarten and grades one to 12, inclusive, and the community colleges, multiplied by the percentage of the State's budget in the prior fiscal year that is expended for educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges.

Any determination of population pursuant to this subdivision, other than that measured by average daily attendance, shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor department.

(g) ''Debt service'' means appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979, or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for that purpose.

(h) The ''appropriations limit'' of each entity of government for each fiscal year is that amount which total annual appropriations subject to limitation may not exceed under Sections 1 and 3. However, the ''appropriations limit'' of each entity of government for fiscal year 1978–79 is the total of the appropriations subject to limitation of the entity for that fiscal year. For fiscal year 1978–79, state subventions to local governments, exclusive of federal grants, are deemed to have been derived from the proceeds of state taxes.

(i) Except as otherwise provided in Section 5, ''appropriations subject to limitation'' do not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the State, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 9. ''Appropriations subject to limitation'' for each entity of government do not include:

(a) Appropriations for debt service.

(b) Appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly.

(c) Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977–78 fiscal year levy an ad valorem tax on property in excess of 12½ cents per $100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

(d) Appropriations for all qualified capital outlay projects, as defined by the Legislature.

(e) Appropriations of revenue which are derived from any of the following:

(1) That portion of the taxes imposed on motor vehicle fuels for use in motor vehicles upon public streets and highways at a rate of more than nine cents ($0.09) per gallon.

(2) Sales and use taxes collected on that increment of the tax specified in paragraph (1).

(3) That portion of the weight fee imposed on commercial vehicles which exceeds the weight fee imposed on those vehicles on January 1, 1990. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Effective Date of Article*]

SEC. 10. This Article shall be effective commencing with the first day of the fiscal year following its adoption. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Appropriations Limit on or after July 1, 1990*]

SEC. 10.5. For fiscal years beginning on or after July 1, 1990, the appropriations limit of each entity of government shall be the appropriations limit for the 1986–87 fiscal year adjusted for the changes made from that fiscal year pursuant to this article, as amended by the measure adding this section, adjusted for the changes required by Section 3. [*New section adopted June 5, 1990. Operative July 1, 1990.*]

[*Category Added or Removed from Appropriations Subject to Limitation—Severability*]

SEC. 11. If any appropriation category shall be added to or removed from appropriations subject to limitation, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the appropriations limit shall be adjusted accordingly. If any section, part, clause or phrase in this Article is for any reason held invalid or unconstitutional, the remaining portions of this Article shall not be affected but shall remain in full force and effect. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 12. ''Appropriations subject to limitation'' of each entity of government shall not include appropriations of revenue from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. [*New section adopted November 8, 1988. Initiative measure.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 13. ''Appropriations subject to limitation'' of each entity of government shall not include appropriations of revenue from the California Children and Families First Trust Fund created by the California Children and Families First Act of 1998. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Children and Families First Trust Fund. The surtax created by the California Children and Families First Act of 1998 shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI. [*New section adopted November 3, 1998. Initiative measure.*]

## ARTICLE XIII C *

VOTER APPROVAL FOR LOCAL TAX LEVIES

SECTION 1. Definitions. As used in this article:

(a) ''General tax'' means any tax imposed for general governmental purposes.

(b) ''Local government'' means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) ''Special district'' means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) ''Special tax'' means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund. [*New section adopted November 5, 1996. Initiative measure.*]

* New Article XIII C adopted November 5, 1996. Initiative measure.

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives. [*New section adopted November 5, 1996. Initiative measure.*]

## ARTICLE XIII D*

### ASSESSMENT AND PROPERTY-RELATED FEE REFORM

SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XIII C shall be construed to:

* New Article XIII D adopted November 5, 1996. Initiative measure.

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 2. Definitions. As used in this article:

(a) ''Agency'' means any local government as defined in subdivision (b) of Section 1 of Article XIII C.

(b) ''Assessment'' means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. ''Assessment'' includes, but is not limited to, ''special assessment,'' ''benefit assessment,'' ''maintenance assessment'' and ''special assessment tax.''

(c) ''Capital cost'' means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) ''District'' means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) ''Fee'' or ''charge'' means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property-related service.

(f) ''Maintenance and operation expenses'' means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) ''Property ownership'' shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

(h) ''Property-related service'' means a public service having a direct relationship to property ownership.

(i) ''Special benefit'' means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute ''special benefit.'' [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property-related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property-related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner re-

ceiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e). [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the as-

sessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 6. Property-Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property-related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property-related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section. [*New section adopted November 5, 1996. Initiative measure.*]

## ARTICLE XIV. [*Repealed June 8, 1976. See Article XIV, below.*]

## ARTICLE XIV*

### LABOR RELATIONS

SECTION 1. [*Repealed June 8, 1976. See Section 1, below.*]

[*Minimum Wages and General Welfare of Employees*]

SECTION 1. The Legislature may provide for minimum wages and for the general welfare of employees and for those purposes may confer on a commission legislative, executive, and judicial powers. [*New section adopted June 8, 1976.*]

* New Article XIV adopted June 8, 1976.

SEC. 2. [*Repealed June 8, 1976. See Section 2, below.*]

[*Eight-hour Workday*]

SEC. 2. Worktime of mechanics or workers on public works may not exceed eight hours a day except in wartime or extraordinary emergencies that endanger life or property. The Legislature shall provide for enforcement of this section. [*New section adopted June 8, 1976.*]

SEC. 3. [*Repealed June 8, 1976. See Section 3, below.*]

[*Mechanics' Liens*]

SEC. 3. Mechanics, persons furnishing materials, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens. [*New section adopted June 8, 1976.*]

SEC. 4. [*Repealed June 8, 1976. See Section 4, below.*]

[*Workers' Compensation*]

SEC. 4. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a state compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are ex-

pressly declared to be the social public policy of this State, binding upon all departments of the state government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

The Legislature shall have power to provide for the payment of an award to the State in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the state compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed. [*New section adopted June 8, 1976.*]

SEC. 5. [*Repealed November 6, 1990. See Section 5, below.*]

[*Inmate Labor*]

SECTION 5. (a) The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for profit organizations, entities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.

(b) No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Sec-

tion 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) Nothing in this section shall be interpreted as creating a right of inmates to work. [*New section adopted November 6, 1990. Initiative measure.*]

## ARTICLE XV. [*Repealed June 8, 1976. See Article XV, below.*]

## ARTICLE XV*

USURY

[*Rate of Interest*]

SECTION 1. The rate of interest upon the loan or forbearance of any money, goods, or things in action, or on accounts after demand, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:

(1) For any loan or forbearance of any money, goods, or things in action, if the money, goods, or things in action are for use primarily for personal, family, or household purposes, at a rate not exceeding 10 percent per annum; provided, however, that any loan or forbearance of any money, goods or things in action the proceeds of which are used primarily for the purchase, construction or improvement of real property shall not be deemed to be a use primarily for personal, family or household purposes; or

(2) For any loan or forbearance of any money, goods, or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

* New Article XV adopted June 8, 1976.

[*Charges*]

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than the interest authorized by this section upon any loan or forbearance of any money, goods or things in action.

[*Exemptions*]

However, none of the above restrictions shall apply to any obligations of, loans made by, or forbearances of, any building and loan association as defined in and which is operated under that certain act known as the ''Building and Loan Association Act,'' approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled ''An act defining industrial loan companies, providing for their incorporation, powers and supervision,'' approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled ''An act defining credit unions, providing for their incorporation, powers, management and supervision,'' approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any loans made or arranged by any person licensed as a real estate broker by the State of California and secured in whole or in part by liens on real property, or any bank as defined in and operating under that certain act known as the ''Bank Act,'' approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled ''Agricultural Credits Act of 1923,'' as amended in loaning or advancing credit so secured, or any other class of persons authorized by statute, or to any successor in interest to any loan or forbearance exempted under this article, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonuses, commissions, discounts or other compensation which all or any of

the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

[*Judgments Rendered in Court—Rate of Interest*]

The rate of interest upon a judgment rendered in any court of this State shall be set by the Legislature at not more than 10 percent per annum. Such rate may be variable and based upon interest rates charged by federal agencies or economic indicators, or both.

In the absence of the setting of such rate by the Legislature, the rate of interest on any judgment rendered in any court of the State shall be 7 percent per annum.

[*Scope of Section*]

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [*As amended November 6, 1979.*]

SEC. 2. [*Repealed June 8, 1976.*]

SEC. 3. [*Repealed June 8, 1976.*]

## ARTICLE XVI

### PUBLIC FINANCE

[*Heading as amended November 5, 1974.*]

[*State Indebtedness—Limitation—Two-thirds Vote to Submit Bond Law—Submission of Law to Electors*]

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars ($300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall

have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof.

Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

Notwithstanding any other provision of this constitution, or of any bond act to the contrary, if any general obligation bonds of the State heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the Legislature may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, by a statute passed by a two-thirds vote of all members elected to each house thereof.

The provisions of Senate Bill No. 763† of the 1969 Regular Session, which authorize an increase of the state general obligation bond maximum interest rate from 5 percent to an amount not in excess of 7 percent and eliminate the maximum rate of interest payable on notes given in anticipation of the sale of such bonds, are hereby ratified. [*As amended June 2, 1970.*]

[*Budget Deficits*]

SEC. 1.3. (a) For the purposes of Section 1, a ''single object or work,'' for which the Legislature may create a debt or liability in excess of three hundred thousand dollars ($300,000) subject to the requirements set forth in Section 1, includes the funding of an accumulated state budget deficit to the extent, and in the amount, that funding is authorized in a measure submitted to the voters at the March 2, 2004, statewide primary election.

† Chapter 740.

(b) As used in subdivision (a), ''accumulated state budget deficit'' means the aggregate of both of the following, as certified by the Director of Finance:

(1) The estimated negative balance of the Special Fund for Economic Uncertainties arising on or before June 30, 2004, not including the effect of the estimated amount of net proceeds of any bonds issued or to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000) of the Government Code) and any bonds issued or to be issued pursuant to the measure submitted to the voters at the March 2, 2004, statewide primary election as described in subdivision (a).

(2) Other General Fund obligations incurred by the State prior to June 30, 2004, to the extent not included in that negative balance.

(c) Subsequent to the issuance of any state bonds described in subdivision (a), the State may not obtain moneys to fund a year-end state budget deficit, as may be defined by statute, pursuant to any of the following: (1) indebtedness incurred pursuant to Section 1 of this article, (2) a debt obligation under which funds to repay that obligation are derived solely from a designated source of revenue, or (3) a bond or similar instrument for the borrowing of moneys for which there is no legal obligation of repayment. This subdivision does not apply to funding obtained through a short-term obligation incurred in anticipation of the receipt of tax proceeds or other revenues that may be applied to the payment of that obligation, for the purposes and not exceeding the amounts of existing appropriations to which the resulting proceeds are to be applied. For purposes of this subdivision, ''year-end state budget deficit'' does not include an obligation within the accumulated state budget deficit as defined by subdivision (b). [*New section adopted March 2, 2004.*]

[*General Obligation Bond Proceeds Fund*]

SEC. 1.5. The Legislature may create and establish a ''General Obligation Bond Proceeds Fund'' in the State Treasury, and may provide for the proceeds of the sale of general obligation bonds of the State heretofore or hereafter issued, including any sums paid as accrued interest thereon, under any or all acts authorizing the issuance of such bonds, to be paid into or transferred to, as the case may be, the ''General Obligation Bond Proceeds Fund.'' Accounts shall be maintained in the ''General Obligation Bond Proceeds Fund'' of all moneys deposited in the State Treasury to the credit of that fund and the proceeds of each bond issue shall be maintained as a separate and distinct account and shall be paid out only in accordance with the law authorizing the issuance of the particular bonds from which the proceeds were derived. The Legislature may abolish, subject to the conditions of this section, any fund in the State Treasury heretofore or hereafter created by any act for the purpose of having deposited therein the

proceeds from the issuance of bonds if such proceeds are transferred to or paid into the ''General Obligation Bond Proceeds Fund'' pursuant to the authority granted in this section; provided, however, that nothing in this section shall prevent the Legislature from re-establishing any bond proceeds fund so abolished and transferring back to its credit all proceeds in the ''General Obligation Bond Proceeds Fund'' which constitute the proceeds of the particular bond fund being re-established. [*New section adopted November 6, 1962.*]

SEC. 2. [*Repealed November 6, 1962. See Section 2, below.*]

[*Bond Issues—Submission by Constitutional Amendment Prohibited—Repeal of Certain Constitutional Provisions*]

SEC. 2. (a) No amendment to this Constitution which provides for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution hereafter submitted to or approved by the electors become effective for any purpose.

Each measure providing for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors in the form of a bond act or statute.

(b) The provisions of this Constitution enumerated in subdivision (c) of this section are repealed and such provisions are continued as statutes which have been approved, adopted, legalized, ratified, validated, and made fully and completely effective, by means of the adoption by the electorate of a ratifying constitutional amendment, except that the Legislature, in addition to whatever powers it possessed under such provisions, may amend or repeal such provisions when the bonds issued thereunder have been fully retired and when no rights thereunder will be damaged.

(c) The enumerated provisions of this Constitution are: Article XVI, Sections 2, 3, 4, 4½, 5, 6, 8, 8½, 15, 16, 16.5, 17, 18, 19, 19.5, 20 and 21. [*New section adopted November 6, 1962.*]

[*Appropriations*]

SEC. 3. No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:

[*Federal Funds*]

(1) Whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized

to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities.

[*Institution for Support of Orphans or Aged Indigents*]

(2) The Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions.

[*Needy Blind*]

(3) The Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, and no person concerned with the administration of aid to needy blind persons shall dictate how any applicant or recipient shall expend such aid granted him, and all money paid to a recipient of such aid shall be intended to help him meet his individual needs and is not for the benefit of any other person, and such aid when granted shall not be construed as income to any person other than the blind recipient of such aid, and the State Department of Social Welfare shall take all necessary action to enforce the provisions relating to aid to needy blind persons as heretofore stated.

[*Physically Handicapped Persons*]

(4) The Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State.

[*Management of Institutions*]

(5) The State shall have at any time the right to inquire into the management of such institutions.

[*Orphans, Aged Indigents, Needy Blind—County Support*]

(6) Whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage

that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control.

[*Receipts and Expenditures of Public Moneys*]

An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature. [*New section adopted November 5, 1974.*]

[*Loan Guarantees re Nonprofit Corporations and Public Agencies*]

SEC. 4. The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient facility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.

No provision of this Constitution, including but not limited to, Section 1 of Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section. [*New section adopted November 5, 1974.*]

SEC. 4½. [*Repealed November 6, 1962.*]

[*Religious Institutions—Grants Prohibited*]

SEC. 5. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI. [*New section adopted November 5, 1974.*]

[*Gifts or Loans of Public Moneys or Pledging of Credit Prohibited—Stock of Corporations*]

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

[*Insurance Pooling Arrangements*]

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly-owned nonprofit corporation or other public agency as may be authorized by the Legislature; and

[*Aid to Veterans*]

Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settle-

ment projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

[*Disaster Assistance*]

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

[*Temporary Transfers of Funds to Political Subdivisions*]

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue. [*As amended November 2, 1982.*]

[*Controller's Warrants*]

SEC. 7. Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant. [*New section adopted November 5, 1974.*]

[*School Funding Priority*]

SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.

(b) Commencing with the 1990–91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capital General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or 3 of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, ''changes in enrollment'' shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(h) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV. [*As amended June 5, 1990. Operative July 1, 1990.*]

SEC. 8½. [*Repealed November 6, 1962.*]

[*Allocations to State School Fund*]

SEC. 8.5. (a) In addition to the amount required to be applied for the support of school districts and community college districts pursuant to Section 8, the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to paragraph 1 of subdivision (a) of Section 2 of Article XIII B to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.

(1) With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the 10 states with the lowest class size for elementary and high schools.

(2) With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Chancellor of the California Community Colleges mutually determine that current annual expenditures per student for community colleges in this State equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditure per student for community colleges.

(b) Notwithstanding the provisions of Article XIII B, funds allocated pursuant to this section shall not constitute appropriations subject to limitation.

(c) From any funds transferred to the State School Fund pursuant to subdivision (a), the Controller shall each year allocate to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.

(d) All revenues allocated pursuant to subdivision (a) shall be expended solely for the purposes of instructional improvement and accountability as required by law.

(e) Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Fish and Game*]

SEC. 9. Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto. [*New section adopted November 5, 1974.*]

[*Aged Aid—Federal-State Co-operation*]

SEC. 10. Whenever the United States government or any officer or agency thereof shall provide pensions or other aid for the aged, co-operation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law.

The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under Section 20† of Article XI of this Constitution independent of the vote of the electors or authorization by the State Board of Equalization. [*As amended November 6, 1962.*]

[*Relief Administration*]

SEC. 11. The Legislature has plenary power to provide for the administration of any constitutional provisions or laws heretofore or hereafter enacted concerning the administration of relief, and to that end may modify, transfer, or enlarge the powers vested in any state agency or officer concerned with the administration of relief or laws appertaining thereto. The Legislature, or the people by initiative, shall have power to amend, alter, or repeal any law relating to the relief of hardship and destitution, whether such hardship and destitution results from unemployment or from other causes, or to provide for the administration of the relief of hardship and destitution, whether resulting from unemployment or from other causes, either directly by the State or through the counties of the State, and to grant such aid to the counties therefor, or make such provision for reimbursement of the counties by the State, as the Legislature deems proper. [*As amended November 6, 1962.*]

SEC. 12. [*Repealed November 6, 1962.*]

[*Legislative Power to Release Encumbrances Taken as Security for Aid to Aged*]

SEC. 13. Notwithstanding any other provision of this Constitution, the Legislature shall have power to release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the state government, of aid lawfully granted to and received by aged persons. [*As amended November 6, 1962.*]

† Section 20, Article XI, repealed June 2, 1970.

[*Bonds—Environmental Pollution Control Facilities*]

SEC. 14. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities, including the acquisition of all technological facilities necessary or convenient for pollution control, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by either house, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Section 25 of Article XIII and Sections 1 and 2 of Article XVI, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing herein contained shall authorize any public agency to operate any industrial or commercial enterprise. [*New section adopted November 7, 1972.*]

[*Energy Alternative Sources Facilities—Acquisition, Construction, Etc.—Revenue Bond Issuance*]

SEC. 14.5. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of facilities utilizing cogeneration technology, solar power, biomass, or any other alternative source the Legislature may deem appropriate, including the acquisition of all technological facilities necessary or convenient for the use of alternative sources, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by both houses, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Sections 1, 2, and 6, of this article, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing contained herein shall authorize any public agency to operate any industrial or commercial enterprise. [*New section adopted June 3, 1980.*]

[*Parking Meter Revenues*]

SEC. 15. A public body authorized to issue securities to provide public parking facilities and any other public body whose territorial area includes such facilities are authorized to make revenues from street parking meters available as additional security. [*New section adopted November 5, 1974.*]

[*Taxation of Redevelopment Projects*]

SEC. 16. All property in a redevelopment project established under the Community Redevelopment Law as now existing or hereafter amended, except publicly owned property not subject to taxation by rea-

son of that ownership, shall be taxed in proportion to its value as provided in Section 1 of this article, and those taxes (the word ''taxes'' as used herein includes, but is not limited to, all levies on an ad valorem basis upon land or real property) shall be levied and collected as other taxes are levied and collected by the respective taxing agencies.

The Legislature may provide that any redevelopment plan may contain a provision that the taxes, if any, so levied upon the taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called ''taxing agencies'') after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies as taxes by or for those taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after the ordinance's effective date, the assessment roll of the county last equalized on the effective date of that ordinance shall be used in determining the assessed valuation of the taxable property in the project on that effective date); and

(b) Except as provided in subdivision (c), that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in the project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, then all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes identified in subdivision (b) which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This paragraph shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

The Legislature may also provide that in any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed, or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes identified in subdivision (b), exclusive of that portion identified in subdivision (c), may be irrevocably pledged for the payment of the principal of and interest on those loans, advances, or indebtedness.

It is intended by this section to empower any redevelopment agency, city, county, or city and county under any law authorized by this section to exercise the provisions hereof separately or in combination with powers granted by the same or any other law relative to redevelopment agencies. This section shall not affect any other law or laws relating to the same or a similar subject but is intended to authorize an alternative method of procedure governing the subject to which it refers.

The Legislature shall enact those laws as may be necessary to enforce the provisions of this section. [*As amended November 8, 1988.*]

SEC. 16.5. [*Repealed November 6, 1962.*]

[*State's Credit—Investment of Public Pension or Retirement Funds*]

SEC. 17. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.

Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.

(c) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

(e) The retirement board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.

(f) With regard to the retirement board of a public pension or retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

(g) The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this section.

(h) As used in this section, the term ''retirement board'' shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees' pension or retirement system; provided, however, that the term ''retirement board'' shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees' pension or retirement system. [*As amended November 3, 1992. Initiative measure.*]

[*Municipal Debt Exceeding Income*]

SEC. 18. (a) No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness.

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a ma-

jority or 55 percent of the voters, as the case may be, voting on any one of those propositions, vote in favor thereof, the proposition shall be deemed adopted. [*As amended November 7, 2000. Initiative measure.*]

[*Public Improvement Proceedings by Chartered City or County*]

SEC. 19. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor; (b) determination of a basis for the valuation of any such property; (c) payment of the cost in excess of such limitations; (d) avoidance of such limitations; (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest, and particularly in accordance with such provisions as contained in Sections 10, 11 and 13a of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, reenactment or restatement thereof.

Notwithstanding any provisions for debt limitation or majority protest as in this section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the public convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.

Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both. [*New section adopted November 5, 1974.*]

SEC. 19.5. [*Repealed November 6, 1962.*]

[*Budget Stabilization Account*]

SEC. 20. (a) The Budget Stabilization Account is hereby created in the General Fund.

(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Account the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006–07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007–08 fiscal year.

(3) No later than September 30, 2008, and annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the account would exceed 5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted, or eight billion dollars ($8,000,000,000), whichever is greater. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the account amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Account shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) The transfer of moneys from the General Fund to the Budget Stabilization Account may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.

(f) (1) Of the moneys transferred to the account in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars ($5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the account for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any finds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the account, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the account in a fiscal year shall not be deposited in the sinking fund subaccount and may, by statute, be transferred to the General Fund. [*New section adopted March 2, 2004.*]

SEC. 21. [*Repealed November 6, 1962.*]

ARTICLE XVII. [*Repealed June 8, 1976.*]

ARTICLE XVIII. [*Repealed November 3, 1970. See Article XVIII, below.*]

## ARTICLE XVIII*

AMENDING AND REVISING THE CONSTITUTION

SECTION 1. [*Repealed November 3, 1970. See Section 1, below.*]

[*By Legislature*]

SECTION 1. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may propose an amendment or revision of the Constitution and in the same manner may amend or withdraw its proposal. Each amendment shall be so prepared and submitted that it can be voted on separately. [*New section adopted November 3, 1970.*]

SEC. 2. [*Repealed November 3, 1970. See Section 2, below.*]

[*Constitutional Convention*]

SEC. 2. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable. [*New section adopted November 3, 1970.*]

[*Initiatives*]

SEC. 3. The electors may amend the Constitution by initiative. [*New section adopted November 3, 1970.*]

[*Effective Date—Conflict*]

SEC. 4. A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. [*New section adopted November 3, 1970.*]

* New Article XVIII adopted November 3, 1970.

# ARTICLE XIX*

MOTOR VEHICLE REVENUES

SECTION 1. [*Repealed June 4, 1974. See Section 1, below.*]

[*Use of Fuel Taxes*]

SECTION 1. Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the adminstrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services. [*New section adopted June 4, 1974.*]

SEC. 2. [*Repealed June 4, 1974. See Section 2, below.*]

[*Use of Motor Vehicle Fees and Taxes*]

SEC. 2. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section 1 of this article. [*New section adopted June 4, 1974.*]

SEC. 3. [*Repealed June 4, 1974. See Section 3, below.*]

[*Appropriations by the Legislature—Regulation of Expenditures, Etc.*]

SEC. 3. The Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a

* Former Article XXVI, as renumbered June 8, 1976.

manner which ensures the continuance of existing statutory allocation formulas for cities, counties, and areas of the State, until it determines that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall provide for the allocation of these revenues, together with other similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan. [*New section adopted June 4, 1974.*]

SEC. 4. [*Repealed June 4, 1974. See Section 4, below.*]

[*Authorization and Approval for Expenditures*]

SEC. 4. Revenues allocated pursuant to Section 3 may not be expended for the purposes specified in subdivision (b) of Section 1, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 1. [*New section adopted June 4, 1974.*]

[*Expenditures for Payment of Bonds*]

SEC. 5. The Legislature may authorize up to 25 percent of the revenues available for expenditure by any city or county, or by the State, for the purposes specified in subdivision (a) of Section 1 of this article to be pledged or used for the payment of principal and interest on voter-approved bonds issued for such purposes. [*New section adopted June 4, 1974.*]

SEC. 6. [*Repealed November 3, 1998. See Section 6, below.*]

[*Loans to State General Fund*]

SEC. 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:

(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was

made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.

(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:

(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.

(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.

(c) Nothing in this section prohibits the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made. [*New section adopted November 3, 1998.*]

[*Scope of Article*]

SEC. 7. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes. [*New section adopted June 4, 1974.*]

[*Use of Excess Lands for Parks and Recreation*]

SEC. 8. Notwithstanding Sections 1 and 2 of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes. [*New section adopted June 8, 1976.*]

[*Transfer of Surplus State Property Located in Coastal Zone*]

SEC. 9. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections 1 and 2 and located in the coastal zone, may authorize the transfer of such property, for a con-

sideration at least equal to the acquisition cost paid by the state to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

As used in this section, ''coastal zone'' means ''coastal zone'' as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977. [*New section adopted November 7, 1978.*]

## ARTICLE XIX A*

LOANS FROM THE PUBLIC TRANSPORTATION ACCOUNT OR LOCAL TRANSPORTATION FUNDS

[*Loans to State General Fund*]

SECTION 1. The funds in the Public Transportation Account in the State Transportation Fund, or any successor to that account, may be loaned to the General Fund only if one of the following conditions is imposed:

(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.

(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:

(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.

(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year. [*New section adopted November 3, 1998.*]

[*''Local Transportation Fund''*]

SEC. 2. (a) As used in this section, a ''local transportation fund'' is a fund created under Section 29530 of the Government Code, or any successor to that statute.

(b) All local transportation funds are hereby designated trust funds.

(c) A local transportation fund that has been created pursuant to law may not be abolished.

* New Article XIX A adopted November 3, 1998.

(d) Money in a local transportation fund shall be allocated only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision. [*New section adopted November 3, 1998.*]

## ARTICLE XIX B*

MOTOR VEHICLE FUEL SALES TAX REVENUES AND TRANSPORTATION IMPROVEMENT FUNDING

[*Transfer and Allocation of Funds*]

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

* New Article XIX B adopted November 5, 2002.

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:

(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.

(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues required by subdivision (a) and the bill does not contain any other unrelated provision.

(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.

(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.

(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

(f) (1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but ex-

cluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b). [*As amended November 7, 2006.*]

## ARTICLE XX

### MISCELLANEOUS SUBJECTS

[*Sacramento County Consolidation With City or Cities*]

SECTION 1. Notwithstanding the provisions of Section 6 of Article XI, the County of Sacramento and all or any of the cities within the County of Sacramento may be consolidated as a charter city and county as provided by statute, with the approval of a majority of the electors of the county voting on the question of such consolidation and upon such other vote as the Legislature may prescribe in such statute. The charter City and County of Sacramento shall be a charter city and a charter county. Its charter city powers supersede conflicting charter county powers. [*New section adopted June 4, 1974.*]

[*Protection of Homesteads*]

SEC. 1.5. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families. [*New section adopted June 8, 1976.*]

[*Leland Stanford Junior University—Henry E. Huntington Library and Art Gallery*]

SEC. 2. Except for tax exemptions provided in Article XIII, the rights, powers, privileges, and confirmations conferred by Sections 10† and 15† of Article IX in effect on January 1, 1973, relating to Stanford University and the Huntington Library and Art Gallery, are continued in effect. [*Former Section 6, as renumbered June 8, 1976.*]

† Sections 10 and 15 of Article IX repealed November 5, 1974.

[*Oath of Office*]

SEC. 3. Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

''I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

''And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows:

_____

(If no affiliations, write in the words ''No Exceptions'')

and that during such time as I hold the office of_____

(name of office)

I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means.''

And no other oath, declaration, or test, shall be required as a qualification for any public office or employment.

''Public officer and employee'' includes every officer and employee of the State, including the University of California, every county, city, city and county, district, and authority, including any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing. [*As amended November 4, 1952.*]

SEC. 3.5. [*Repealed November 3, 1970.*]

[*Franchises*]

SEC. 4. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee, or

grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges. [*Former Section 7, as renumbered June 8, 1976.*]

SEC. 5. [*Repealed June 8, 1976. See Section 5, below.*]

[*Laws Concerning Corporations*]

SEC. 5. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed. [*Former Section 24, as renumbered June 8, 1976.*]

SEC. 6. [*Renumbered Section 2 June 8, 1976. See Section 6, below.*]

[*Reduction in Legislator's Term of Office—Retirement Benefits, Etc.*]

SEC. 6. Any legislator whose term of office is reduced by operation of the amendment to subdivision (a) of Section 2 of Article IV adopted by the people in 1972 shall, notwithstanding any other provision of this Constitution, be entitled to retirement benefits and compensation as if the term of office had not been so reduced. [*Former Section 25, as renumbered June 8, 1976.*]

[*Constitutional Officers—Number of Terms*]

SEC. 7. The limitations on the number of terms prescribed by Section 2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and Section 17 of Article XIII apply only to terms to which persons are elected or appointed on or after November 6, 1990, except that an incumbent Senator whose office is not on the ballot for the general election on that date may serve only one additional term. Those limitations shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the term is less than half of the full term. [*New section adopted November 6, 1990. Initiative measure.*]

SEC. 8. [*Renumbered Section 21 of Article I and amended November 5, 1974.*]

SEC. 9. [*Repealed November 3, 1970.*]

SEC. 10. [*Repealed June 8, 1976.*]

SEC. 11. [*Repealed June 8, 1976.*]

SEC. 12. [*Repealed November 3, 1970.*]

SEC. 13. [*Repealed November 3, 1970.*]

SEC. 14. [*Repealed November 3, 1970.*]

SEC. 15. [*Repealed June 8, 1976.*]

SEC. 16. [*Repealed November 7, 1972.*]

SEC. 17. [*Repealed June 8, 1976.*]

SEC. 17½. [*Repealed June 8, 1976.*]

SEC. 18. [*Renumbered Section 8 of Article I and amended November 5, 1974.*]

SEC. 19. [*Repealed June 8, 1976.*]

SEC. 20. [*Repealed June 8, 1976.*]

SEC. 21. [*Repealed June 8, 1976.*]

[*Liquor Control*]

SEC. 22. The State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the importation into and exportation from the State, of alcoholic beverages. In the exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.

[*Licensed Premises—Types of Licenses*]

All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic beverages specified in the licenses may be sold and served for consumption upon the premises:

(a) For bona fide public eating places, as defined by the Legislature.

(b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.

(c) For public premises for the sale and service of beers alone.

(d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.

[*Service or Sale to Minors*]

The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell, furnish, give, or cause to be

sold, furnished, or given away any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

[*Director of Alcoholic Beverage Control*]

The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.

[*Department of Alcoholic Beverage Control—Powers—Duties*]

The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.

[*Alcoholic Beverage Control Appeals Board*]

The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.

[*Appeals—Reviews—Reversals*]

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or

sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded without or in excess of its jurisdiction, whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board 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 the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.

[*Removal of Director or Board Members*]

A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.

[*Licenses—Regulation—Fees*]

Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of alcoholic beverages in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.

The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.

This amendment shall become operative on January 1, 1957. [*As amended November 6, 1956. Operative January 1, 1957.*]

[*State Colleges—Speaker, Member of Governing Body*]

SEC. 23. Notwithstanding any other provision of this Constitution, the Speaker of the Assembly shall be an ex officio member, having equal rights and duties with the nonlegislative members, of any state agency created by the Legislature in the field of public higher education which is charged with the management, administration, and control of the State College System of California. [*New section adopted November 3, 1970.*]

SEC. 24. [*Renumbered Section 5 June 8, 1976.*]

SEC. 25. [*Renumbered Section 6 June 8, 1976.*]

## ARTICLE XXI*

REDISTRICTING OF SENATE, ASSEMBLY, CONGRESSIONAL, AND BOARD OF EQUALIZATION DISTRICTS

[*Heading as amended November 4, 2008. Initiative measure.*]

[*Redistricting Following National Census*]

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade,

* New Article XXI adopted June 3, 1980.

the Legislature shall adjust the boundary lines of congressional districts in conformance with the following standards and process:

(a) Each member of Congress shall be elected from a single-member district.

(b) The population of all congressional districts shall be reasonably equal. After following this criterion, the Legislature shall adjust the boundary lines according to the criteria set forth and prioritized in paragraphs (2), (3), (4), and (5) of subdivision (d) of Section 2. The Legislature shall issue, with its final map, a report that explains the basis on which it made its decisions in achieving compliance with these criteria and shall include definitions of the terms and standards used in drawing its final map.

(c) Congressional districts shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(d) The Legislature shall coordinate with the Citizens Redistricting Commission established pursuant to Section 2 to hold concurrent hearings, provide access to redistricting data and software, and otherwise ensure full public participation in the redistricting process. The Legislature shall comply with the open hearing requirements of paragraphs (1), (2), (3), and (7) of subdivision (a) of, and subdivision (b) of, Section 8253 of the Government Code, or its successor provisions of statute. [*As amended November 4, 2008. Initiative measure.*]

[*The Citizens Redistricting Commission*]

SEC. 2. (a) The Citizens Redistricting Commission shall draw new district lines (also known as ''redistricting'') for State Senate, Assembly, and Board of Equalization districts. This commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.

(b) The Citizens Redistricting Commission (hereinafter the ''commission'') shall: (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves with integrity and fairness.

(c) (1) The selection process is designed to produce a Citizens Redistricting Commission that is independent from legislative influence and reasonably representative of this State's diversity.

(2) The Citizens Redistricting Commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.

(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.

(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The three final maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.

(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.

(d) The commission shall establish single-member districts for the Senate, Assembly, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution. Senate, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.

(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any city, county, city and county, neighborhood, or community of interest shall be respected to the extent possible without violating the requirements of any of the preceding subdivisions. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.

(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.

(e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

(f) Districts for the Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(g) By September 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve three final maps that separately set forth the district boundary lines for the Senate, Assembly, and State Board of Equalization districts. Upon approval, the commission shall certify the three final maps to the Secretary of State.

(h) The commission shall issue, with each of the three final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.

(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.

(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district. [*New section adopted November 4, 2008. Initiative measure.*]

[*Defense of Certified Final Map*]

SEC. 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if

it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.

(b) (1) The Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged.

(2) Any registered voter in this state may file a petition for a writ of mandate or writ of prohibition, within 45 days after the commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute.

(3) The Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to paragraph (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate. [*New section adopted November 4, 2008. Initiative measure.*]

## ARTICLE XXII*

### ARCHITECTURAL AND ENGINEERING SERVICES

[*Authority of Government to Contract for Architectural and Engineering Services*]

SECTION 1. The State of California and all other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local and regional agencies and joint power agencies, shall be allowed to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract shall extend to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. The choice and authority shall exist without regard to funding sources whether federal, state, regional, local or private, whether or not the project is programmed by a state, regional or local governmental entity, and whether or not the completed project is a part of any state owned or state operated system or facility. [*New section adopted November 7, 2000. Initiative measure.*]

[*Construction of Article VII*]

SEC. 2. Nothing contained in Article VII of this Constitution shall be construed to limit, restrict or prohibit the State or any other governmental

* New Article XXII adopted November 7, 2000. Initiative measure.

entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local with regional agencies and joint power agencies, from contracting and private entities for the performance of architectural and engineering services. [*New section adopted November 7, 2000. Initiative measure.*]

ARTICLE XXIII. [*Repealed June 8, 1976.*]

ARTICLE XXIV. [*Repealed June 8, 1976.*]

ARTICLE XXV. [*Repealed November 8, 1949. Initiative measure.*]

ARTICLE XXVI. [*Renumbered Article XIX June 8, 1976.*]

ARTICLE XXVII. [*Repealed November 3, 1970.*]

ARTICLE XXVIII. [*Repealed November 5, 1974.*]

## ARTICLE XXXIV*

PUBLIC HOUSING PROJECT LAW

[*Approval of Low Rent Housing Projects by Electors*]

SECTION 1. No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.

[*''Low Rent Housing Project''*]

For the purposes of this article the term ''low rent housing project'' shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. For the purposes of this Article only there shall be excluded

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* New Article XXXIV adopted November 7, 1950. Initiative measure.

from the term ''low rent housing project'' any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.

[*''Persons of Low Income''*]

For the purposes of this Article only ''persons of low income'' shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

[*''State Public Body''*]

For the purposes of this Article the term ''state public body'' shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.

[*''Federal Government''*]

For the purposes of this Article the term ''Federal Government'' shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America. [*New section adopted November 7, 1950. Initiative measure.*]

[*Self-executing Provisions*]

SEC. 2. The provisions of this Article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation. [*New section adopted November 7, 1950. Initiative measure.*]

[*Constitutionality of Article*]

SEC. 3. If any portion, section or clause of this Article, or the application thereof to any person or circumstance, shall for any reason be declared unconstitutional or held invalid, the remainder of this Article, or the application of such portion, section or clause to other persons or circumstances, shall not be affected thereby. [*New section adopted November 7, 1950. Initiative measure.*]

[*Scope of Article*]

SEC. 4. The provisions of this Article shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [*New section adopted November 7, 1950. Initiative measure.*]

# ARTICLE XXXV*

## MEDICAL RESEARCH

[*California Institute for Regenerative Medicine*]

SECTION 1. There is hereby established the California Institute for Regenerative Medicine. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Purposes*]

SEC. 2. The institute shall have the following purposes:

(a) To make grants and loans for stem cell research, for research facilities, and for other vital research opportunities to realize therapies, protocols, and/or medical procedures that will result in, as speedily as possible, the cure for, and/or substantial mitigation of, major diseases, injuries, and orphan diseases.

(b) To support all stages of the process of developing cures, from laboratory research through successful clinical trials.

(c) To establish the appropriate regulatory standards and oversight bodies for research and facilities development. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Use of Funds for Cloning Research*]

SEC. 3. No funds authorized for, or made available to, the institute shall be used for research involving human reproductive cloning. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Funds*]

SEC. 4. Funds authorized for, or made available to, the institute shall be continuously appropriated without regard to fiscal year, be available and used only for the purposes provided in this article, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose. [*New section adopted November 2, 2004. Initiative measure.*]

[*Right to Conduct Stem Cell Research*]

SEC. 5. There is hereby established a right to conduct stem cell research which includes research involving adult stem cells, cord blood stem cells, pluripotent stem cells, and/or progenitor cells. Pluripotent stem cells are cells that are capable of self-renewal, and have broad potential to differentiate into multiple adult cell types. Pluripotent stem cells may be derived from somatic cell nuclear transfer or from surplus products of in vitro fertilization treatments when such products are donated under appropriate informed consent procedures. Progenitor cells are multipotent or

* New Article XXXV adopted November 2, 2004. Initiative measure.

precursor cells that are partially differentiated, but retain the ability to divide and give rise to differentiated cells. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Utilization of Bonds*]

SEC. 6. Notwithstanding any other provision of this Constitution or any law, the institute, which is established in state government, may utilize state issued tax-exempt and taxable bonds to fund its operations, medical and scientific research, including therapy development through clinical trials, and facilities. [*New section adopted November 2, 2004. Initiative measure.*]

[*California Institute for Regenerative Medicine—Civil Service Exemption*]

SEC. 7. Notwithstanding any other provision of this Constitution, including Article VII, or any law, the institute and its employees are exempt from civil service. [*New section adopted November 2, 2004. Initiative measure.*]

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95. **Referendum on Amendment to Indian Gaming Compact.**
96. **Referendum on Amendment to Indian Gaming Compact.**
97. **Referendum on Amendment to Indian Gaming Compact.**

## MEASURES DEFEATED

### INITIATIVE CONSTITUTIONAL AMENDMENTS

*Number on ballot*

91. **Transportation Funds.**
93. **Limits on Legislators' Terms in Office.**

### INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE

92. **Community Colleges. Funding. Governance. Fees.**

# MEASURES SUBMITTED TO VOTE OF ELECTORS

## Statewide Direct Primary Election, June 3, 2008

## MEASURES ADOPTED

### INITIATIVE CONSTITUTIONAL AMENDMENT

| *Number on ballot* | |
|---|---|
| 99. | **Eminent Domain. Limits on Government Acquisition of Owner-Occupied Residence.** |

## MEASURES DEFEATED

### INITIATIVE CONSTITUTIONAL AMENDMENT

| *Number on ballot* | |
|---|---|
| 98. | **Eminent Domain. Limits on Government Authority.** |

# MEASURES SUBMITTED TO VOTE OF ELECTORS*
## General Election, November 4, 2008

## MEASURES ADOPTED

### INITIATIVE CONSTITUTIONAL AMENDMENT

*Number on ballot*

8. **Eliminates Right of Same-Sex Couples to Marry.**

### INITIATIVE CONSTITUTIONAL AMENDMENTS AND STATUTES

9. **Criminal Justice System. Victims' Rights. Parole.**
11. **Redistricting.**

### INITIATIVE STATUTES

2. **Standards for Confining Farm Animals.**
3. **Children's Hospital Bond Act. Grant Program.**

### BOND ACTS SUBMITTED BY LEGISLATURE

1A. **Safe, Reliable High-Speed Passenger Train Bond Act.** (Statutes 2008, Chapter 267, AB 3034)

12. **Veterans' Bond Act of 2008.** (Statutes 2008, Chapter 122, SB 1572)

## MEASURES DEFEATED

### INITIATIVE CONSTITUTIONAL AMENDMENT

*Number on ballot*

4. **Waiting Period and Parental Notification Before Termination of Minor's Pregnancy.**

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***1. High Speed Rail Bonds.** (Statutes 2002, Chapter 697, SB 1856 and Statutes 2006, Chapter 44, AB 713) **[Removed from ballot by Statutes 2008, Chapter 267, AB 3034.]**

## INITIATIVE STATUTES

5. **Nonviolent Drug Offenses. Sentencing, Parole and Rehabilitation.**
6. **Police and Law Enforcement Funding. Criminal Penalties and Laws.**
7. **Renewable Energy Generation.**
10. **Alternative Fuel Vehicles and Renewable Energy. Bonds.**

State of California

# SECRETARY OF STATE

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify, based on the records on file in my office:

That pursuant to Government Code section 12167, the following are the results of all elections upon any initiative or referendum measures submitted to the voters of the State within calendar year 2008.

**The following proposed laws were approved by voters at the Presidential Primary Election held on Tuesday, February 5, 2008:**

Referendum on Amendment to Indian Gaming Compact.

Referendum on Amendment to Indian Gaming Compact.

Referendum on Amendment to Indian Gaming Compact.

Referendum on Amendment to Indian Gaming Compact.

**The following proposed laws were defeated by voters at the Presidential Primary Election held on Tuesday, February 5, 2008:**

Transportation Funds. Initiative Constitutional Amendment.

Community Colleges. Funding. Governance. Fees. Initiative Constitutional Amendment and Statute.

Limits on Legislators' Terms in Office. Initiative Constitutional Amendment.

**The following proposed law was approved by voters at the Statewide Direct Primary Election held on Tuesday, June 3, 2008:**

Eminent Domain. Limits on Government Acquisition of Owner-Occupied Residence. Initiative Constitutional Amendment.

**The following proposed law was defeated by voters at the Statewide Direct Primary Election held on Tuesday, June 3, 2008:**

Eminent Domain. Limits on Government Authority. Initiative Constitutional Amendment.

**The following proposed laws were approved by voters at the General Election held on Tuesday, November 4, 2008:**

Safe, Reliable High-Speed Passenger Train Bond Act. (Assembly Bill 3034, Chapter 267, Statutes of 2008)

Standards for Confining Farm Animals. Initiative Statute.

Children's Hospital Bond Act. Grant Program. Initiative Statute.

Eliminates Right of Same-Sex Couples to Marry. Initiative Constitutional Amendment.

Criminal Justice System. Victims' Rights. Parole. Initiative Constitutional Amendment and Statute.

Redistricting. Initiative Constitutional Amendment and Statute.

Veterans' Bond Act of 2008. (Senate Bill 1572, Chapter 122, Statutes of 2008)

**The following proposed laws were defeated by voters at the General Election held on Tuesday, November 4, 2008:**

Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. Initiative Constitutional Amendment.

Nonviolent Drug Offenses. Sentencing, Parole and Rehabilitation. Initiative Statute.

Police and Law Enforcement Funding. Criminal Penalties and Laws. Initiative Statute.

Renewable Energy Generation. Initiative Statute.

Alternative Fuel Vehicles and Renewable Energy. Bonds. Initiative Statute.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of California, at Sacramento, this 13th day of December, 2008.

DEBRA BOWEN
Secretary of State

# PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS

## Presidential Primary Election, February 5, 2008

## MEASURES ADOPTED

### REFERENDUM STATUTES

*Number on ballot*

94. **Referendum on Amendment to Indian Gaming Compact.**

[Submitted by the referendum and approved by electors February 5, 2008.]

### PROPOSED LAW

SECTION 1. Section 12012.49 is added to the Government Code, to read:

*12012.49. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Pechanga Band of Luiseño Mission Indians, executed on August 28, 2006, is hereby ratified.*

*(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):*

*(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.*

*(B) The execution of the amended tribal-state gaming compact ratified by this section.*

*(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.*

*(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.*

*(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.*

*(c) Revenue contributions made to the state by the tribe pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund.*

*Number on ballot*

95. **Referendum on Amendment to Indian Gaming Compact.**

[Submitted by the referendum and approved by electors February 5, 2008.]

## PROPOSED LAW

SECTION 1. Section 12012.48 is added to the Government Code, to read:

*12012.48. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Morongo Band of Mission Indians, executed on August 29, 2006, is hereby ratified.*

*(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):*

*(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.*

*(B) The execution of the amended tribal-state gaming compact ratified by this section.*

*(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.*

*(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.*

*(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.*

*(c) Revenue contributions made to the state by tribes pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund.*

*Number on ballot*

96. **Referendum on Amendment to Indian Gaming Compact.**

[Submitted by the referendum and approved by electors February 5, 2008.]

## PROPOSED LAW

SECTION 1. Section 12012.51 is added to the Government Code, to read:

*12012.51. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C.*

*Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Sycuan Band of the Kumeyaay Nation, executed on August 30, 2006, is hereby ratified.*

*(b) The terms of the amended compact ratified by this section shall apply only to the State of California and the tribe that has signed it, and shall not bind any tribe that is not a signatory to the amended compact. The Legislature acknowledges the right of federally recognized tribes to exercise their sovereignty to negotiate and enter into compacts with the state that are materially different from the amended compact ratified pursuant to subdivision (a).*

*(c) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):*

*(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.*

*(B) The execution of the amended tribal-state gaming compact ratified by this section.*

*(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.*

*(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.*

*(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.*

*(d) Revenue contributions made to the state by the tribe pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund, or as otherwise provided in the amended compact.*

*Number on ballot*

97. **Referendum on Amendment to Indian Gaming Compact.**

[Submitted by the referendum and approved by electors February 5, 2008.]

## PROPOSED LAW

SECTION 1. Section 12012.46 is added to the Government Code, to read:

*12012.46. (a) The amendment to the tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Agua Caliente Band of Cahuilla Indians, executed on August 8, 2006, is hereby ratified.*

*(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):*

*(A) The execution of an amendment to the amended tribal-state gaming compact ratified by this section.*

*(B) The execution of the amended tribal-state gaming compact ratified by this section.*

*(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(D) The execution of an intergovernmental agreement between a tribe and the California Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the amended tribal-state gaming compact ratified by this section.*

*(E) The on-reservation impacts of compliance with the terms of the amended tribal-state gaming compact ratified by this section.*

*(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.*

*(2) Except as expressly provided herein, nothing in this subdivision shall be construed to exempt a city, county, or city and county, or the California Department of Transportation, from the requirements of the California Environmental Quality Act.*

*(c) Revenue contributions made to the state by tribes pursuant to the amended tribal-state gaming compact ratified by this section shall be deposited in the General Fund.*

# MEASURES DEFEATED

## INITIATIVE CONSTITUTIONAL AMENDMENTS

*Number on ballot*

91. **Transportation Funds.**

[Submitted by the initiative and rejected by electors February 5, 2008.]

## PROPOSED LAW

SECTION 1. TITLE.

This act shall be known, and may be cited as, The Transportation Funding Protection Act of 2006.

SECTION 2. FINDINGS AND DECLARATIONS.

The people find and declare as follows:

(a) California's roads and highways are deteriorating at a rapid pace.

(b) The cause of this deterioration is the annual diversion by the Legislature of state gasoline and diesel taxes for purposes other than transportation.

(c) The purpose of this Act is to halt the diversions, preserve these revenues for the transportation purposes to which they are dedicated, and require repayment of transportation funds previously diverted for non-transportation purposes.

(d) If a catastrophic natural disaster or other grave emergency causes serious damage to California's transportation system, sufficient funds will be immediately available to repair the damage and rebuild the transportation system.

SECTION 3. Section 6 of Article XIX of the California Constitution is amended to read:

SEC. 6. ~~The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

~~(c) Nothing in this section prohibits the Legislature from authorizing~~ *The Legislature may*, by statute, *authorize* loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this ~~subdivision~~ *section* shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.

SECTION 4. Section 1 of Article XIX A of the California Constitution is repealed.

~~SECTION 1. The funds in the Public Transportation Account in the State Transportation Fund, or any successor to that account, may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

SECTION 5. Section 1 of Article XIX B of the California Constitution is amended to read:

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) ~~(1) Except as otherwise provided by paragraph (2), the~~ *The* transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for ~~a~~ *any fiscal year preceding the 2007–08* fiscal year if ~~all~~ *both* of the following conditions are met:

~~(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.~~

*(1) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.*

~~(B)~~ *(2)* The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues ~~required by~~ *pursuant to* subdivision (a) ~~and~~*, provided that* the bill does not contain any other unrelated provision.

~~(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.~~

~~(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.~~

~~(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.~~

*(e) (1) The total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund because of a suspension pursuant to subdivision (d) shall be repaid to the Transportation Fund no later than June 30, 2017. Until this total amount has been repaid, the amount of that repayment to be made in each fiscal year shall not be less than 1/10 of the total amount due.*

*(2) The Legislature may provide by statute for the issuance of bonds by the State or local agencies, as applicable, that are secured by the payments required by paragraph (1). Proceeds of the sale of the bonds shall be applied for purposes consistent with this article, and for costs associated with the issuance and sale of bonds.*

~~(e)~~ *(f)* The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

~~(f) (1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.~~

~~(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).~~

SECTION 6. Article XIX C is added to the California Constitution, to read:

*SECTION 1. Tax revenues designated in Articles XIX and XIX B, and funds designated in Article XIX A may be loaned to the General Fund to meet the short*

*term cash flow needs of the State only if the loan is to be repaid in full to the fund or account from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year. In no event shall any loan authorized herein impede in any manner the transportation purpose for which the revenues are generated and exist.*

SECTION 7. CONFLICTING BALLOT MEASURES.

In the event that this measure and another measure or measures relating to the disposition of transportation revenues shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

*Number on ballot*

93. **Limits on Legislators' Terms in Office.**

[Submitted by the initiative and rejected by electors February 5, 2008.]

## PROPOSED LAW

TERM LIMITS AND LEGISLATIVE REFORM ACT

SECTION 1. TITLE.

This measure shall be known as the "Term Limits and Legislative Reform Act."

SECTION 2. FINDINGS AND DECLARATIONS.

The People of California find and declare the following:

A. Under a law enacted in 1990, a Member of the Legislature may serve a total of 14 years, consisting of no more than six years in the Assembly and no more than eight years in the Senate.

B. A variety of academic and public policy groups, some of which once supported term limits, have studied the effect of term limits in California and have concluded that our law is in need of reform to make government work for the people.

C. California faces many complex and critical issues ranging from underperforming schools to global warming to inadequate healthcare. The legislation required to solve these problems can take years to develop and pass, and Members of the Legislature must spend substantial amounts of time obtaining the kind of support among their colleagues necessary to address these urgent issues.

D. Currently, term limits produce a rapid turnover of lawmakers, some of whom never get enough time to build leadership skills or gain expertise in making public policy, and our most knowledgeable and experienced legislators are forced to leave the Assembly or the Senate prematurely, thus depriving Californians of their policy expertise.

E. When legislators lack the skills, the only ones who have the skills are the lobbyists.

F. We have to reform term limits to reduce partisanship, put an end to the constant campaign cycle, and work more effectively together across partisan lines.

G. We need to increase the flexibility of legislative terms to enable members to build necessary policy and process expertise, and slow the current whirlwind rotation by elected representatives from one elected office to another, which compromises public policy.

H. It is critical that we permit legislators to remain in a single house of the Legislature for a longer period of time in order to acquire the knowledge and expertise necessary to tackle the tough issues facing the State of California.

I. The National Conference of State Legislatures, Council of State Governments, and State Legislative Leaders Forum issued a report concluding that "[t]he effects of [term limits] on Sacramento's policymaking processes have been more profound," including "a widespread sense in Sacramento that something needs to be done soon to provide more stability and expertise to the Legislature's policymaking process."

J. We need to reform California's term limits law to permit members to remain in a single house for a longer period of time while reducing the total number of years that new members may serve.

SECTION 3. PURPOSE AND INTENT.

It is the intent of the people of California in enacting this measure to:

A. Provide greater stability and expertise to the Legislature's policymaking process.

B. Reduce the number of years that new members may serve in the Legislature from 14 to 12 to prevent members from becoming entrenched and to promote the opportunity for others to serve.

C. Permit legislators to gain the knowledge and experience necessary to tackle the critical issues facing our state.

D. Afford current members of the Senate and the Assembly the same opportunity to serve 12 years in a single house as newly elected members and preserve existing law regarding uncompleted terms.

SECTION 4. Section 2 of Article IV of the California Constitution is hereby amended to read:

SEC. 2. (a) *(1)* The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. ~~No Senator may serve more than 2 terms.~~

*(2)* The Assembly has a membership of 80 members elected for 2-year terms. ~~No member of the Assembly may serve more than 3 terms.~~

~~Their terms~~

*(3) The term of a Senator or a Member of the Assembly* shall commence on the first Monday in December next following ~~their~~ *his or her* election.

*(4) During his or her lifetime, a person may serve no more than 12 years in the Senate, the Assembly, or both, in any combination of terms.*

*(b) Notwithstanding paragraph (4) of subdivision (a), a Member of the Senate or the Assembly who is in office on the effective date of this subdivision may serve 12 years in the house in which he or she is currently serving. The 12-year limit in this subdivision shall include those years already served in the house in which the Member is currently serving and any additional years served in that house must be served consecutively.*

~~(b)~~

*(c)* ~~Election of members~~ *Members* of the Assembly shall be *elected* on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as ~~members~~ *Members* of the Assembly.

~~(c)~~

*(d)* A person is ineligible to be a ~~member~~ *Member* of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election*, and service of the full term of office to which the person is seeking to be elected would not exceed the maximum years of service permitted by subdivisions (a) and (b) of this section*.

~~(d)~~

*(e)* When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.

SECTION 5. Section 7 of Article XX of the California Constitution is hereby amended to read:

SEC. 7. The limitations ~~on the number of terms~~ prescribed by Section 2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and Section 17 of Article XIII apply only to terms *or years of service* to which persons are elected or appointed on or after November 6, 1990~~, except that an incumbent Senator whose office is not on the ballot for the general election on that date may serve only one additional term~~. Those limitations *on terms and years of service* shall not apply to any unexpired term to which a person is elected or appointed*, or to any years served as part of an unexpired term,* if the remainder of the term is less than half of the full term.

SECTION 6. SEVERABILITY.

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 7. CONFLICTING INITIATIVES.

In the event that this measure and another initiative measure or measures that address the number of years or terms that a Member of the Legislature may serve shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

## INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE

*Number on ballot*

92. **Community Colleges. Funding. Governance. Fees.**

[Submitted by the initiative and rejected by electors February 5, 2008.]

## PROPOSED LAW

SECTION 1. Title

This measure shall be known and may be cited as the "Community College Governance, Funding Stabilization, and Student Fee Reduction Act."

SECTION 2. Findings and Declarations of Purpose

The people of the State of California find and declare that:

1. California's community colleges enroll over 2.5 million students each year, providing opportunities for higher education and the skills to be competitive in California's workforce.

2. California's community colleges are affordable. Low student fees and financial aid have made community colleges a gateway to a better life for millions of Californians.

3. Business leaders call California's community colleges a vital component of our state's workforce development, contributing to a healthy economy.

4. The state can fund community college enrollment growth without raising taxes or taking funds from K–12 schools. A dual-funding mechanism under Proposition 98 will achieve both.

5. This initiative will lower student fees and prevent fees from increasing at a rate faster than the growth in personal incomes.

6. Community colleges should be accountable to taxpayers through the election of local boards facing regular election.

Therefore, the people of the State of California hereby adopt the Community College Governance, Funding Stabilization, and Student Fee Reduction Act.

SECTION 3. Section 4 of Article VII of the California Constitution is amended to read:

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State ~~Colleges~~ *University and executive officers of the Board of Governors of the California Community Colleges.*

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(*l*) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.

SECTION 4. Section 17 is added to Article IX of the California Constitution, to read:

*SEC. 17. The Legislature shall provide for an independent public postsecondary education system of local community college districts as part of the Public School System.*

SECTION 5. Section 18 is added to Article IX of the California Constitution, to read:

*SEC. 18. Each local community college district within the system shall be established in accordance with law and governed by a locally elected board whose functions shall be delineated in law.*

SECTION 6. Section 19 is added to Article IX of the California Constitution, to read:

*SEC. 19. (a) The independent postsecondary education system of local community college districts shall be coordinated by a system office governed by a Board of Governors of the California Community Colleges composed of 19 members appointed by the Governor.*

*(b) The membership of the Board of Governors of the California Community Colleges shall include 12 public members, at least three of whom are, or have been, elected local community college district board members, who shall serve six-year terms. In addition there shall be two current or former community college employees, three current or former community college faculty members, who shall serve three-year terms, and two community college students, who shall serve one-year terms.*

*(c) The Board of Governors of the California Community Colleges shall have full power to employ and set the compensation for executive officers of the system office exempt from civil service pursuant to Section 4 of Article VII and to determine expenditures within the system office budget established by law.*

*(d) The work of the Board of Governors of the California Community Colleges at all times shall be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the governance and administration of the local community college districts and system.*

*(e) The Legislature shall provide through the annual budget act sufficient funding for state operations to provide accountability and leadership of the system of local community college districts.*

*(f) No provisions of the Community College Governance, Funding Stabilization, and Student Fee Reduction Act shall be interpreted or applied to exempt the Board of Governors, or the community colleges, from obligations imposed by law with respect to matters other than those imposed by that act. Nor shall any provision of that act be construed or applied to authorize the Board of Governors, or any board officer or agent, to exercise authority with respect to the wages, hours or working conditions of employees of any community college district. Nor shall any provision of that act be construed or applied to alter the rights of the state employees of the Chancellor's Office Community Colleges System Office with respect to the state civil service or collective bargaining as set forth in applicable law. In adopting the Community College Governance, Funding Stabilization, and Student Fee Reduction Act, the people do not intend to establish the community colleges, the Board of Governors, or any individual college or district, as a "constitutional agency" as that term is used in the decisional law of this State, or to divest any community college employee or labor organization, or any community college district or governing board, of any previously accrued right, nor to affect the standards of judicial review applicable to actions of the Board of Governors, the community colleges, or any individual college or district, as to any matter other than those which affect the Board of Governors internal organization as set forth in the Community College Governance, Funding Stabilization, and Student Fee Reduction Act.*

SECTION 7. Section 8 of Article XVI of the California Constitution is amended to read:

SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.

(b) Commencing with the 1990–91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or ~~3~~*(3)* of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision ~~(h)~~*(i)*, they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph

had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated for school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

*(f) Commencing with the 2007–08 fiscal year, in determining the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes pursuant to paragraph (2) of subdivision (b), paragraph (3) of subdivision (b), or in the calculation of the maintenance factor created under subdivision (d), the amount shall be separately calculated and appropriated by the Legislature to school districts and community college districts.*

~~(f)~~ *(g)* For purposes of *calculating the total allocations to school districts pursuant to* this section, "changes in enrollment" shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

*(h) For the purposes of calculating the total allocations to community college districts pursuant to this section, "changes in enrollment" shall be measured by the change in the population served by the independent system of public community colleges and other appropriate factors determined pursuant to statute.*

~~(h)~~ *(i)* Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.

SECTION 8. Section 41210 is added to the Education Code, to read:

*41210. Notwithstanding any other provision of law, "total allocations to school districts and community college districts" shall not include any of the following:*

*(a) Any program that was funded by the General Fund and local property taxes in the 2004–05 fiscal year, but not considered as total allocations to school*

*districts and community college districts for the purposes of this section in the 2004–05 fiscal year.*

*(b) Repayment of bonded indebtedness issued pursuant to 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) or its successors or issued after the effective date of this statute pursuant to Chapter 3.7 (commencing with Section 15820.30) or Chapter 3.8 (commencing with Section 15820.50) of Part 10b of Division 3 of Title 2 of the Government Code or its successors.*

SECTION 9. Section 41211 is added to the Education Code, to read:

*41211. (a) "Changes in enrollment" pursuant to subdivision (h) of Section 8 of Article XVI of the California Constitution shall be the greater of:*

*(1) The percentage change in population from the second preceding year to the preceding year of the population of residents of the state between age 17 and age 21, inclusive, or*

*(2) The percentage change in population from the second preceding year to the preceding year of the population of residents of the state between age 22 and age 25, inclusive.*

*(b) The amount calculated for "changes in enrollment" in subdivision (a) shall be increased by the positive difference of the percentage rate of unemployment of California residents from the third quarter of the preceding year less 5 percent.*

*(c) If the amount calculated for "changes in enrollment" pursuant to subdivisions (a) and (b) is less than 1 percent and the percentage of residents of the state enrolled in community colleges is less than the average percentage of residents enrolled in community colleges in the preceding 20 years, "changes in enrollment" shall be 1 percent.*

*(d) Notwithstanding subdivisions (a) and (b), in no year shall "changes in enrollment" pursuant to subdivision (h) of Section 8 of Article XVI of the California Constitution exceed 5 percent.*

SECTION 10. Section 41212 is added to the Education Code, to read:

*41212. Notwithstanding any other provision of law, 10.46 percent of any funds allocated as repayment of the maintenance factor pursuant to subdivision (e) of Section 8 of Article XVI of the California Constitution existing on the effective date of this section shall be allocated to community colleges.*

SECTION 11. Section 41213 is added to the Education Code, to read:

*41213. (a) For the purposes of determining the amount required to be appropriated for community colleges pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution, the amount calculated and appropriated for community colleges shall be not less than the greater of the following amounts:*

*(1) The total General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes appropriated for the support of community colleges in the 2005–06 fiscal year, adjusted by subdivision (b) of Section 8 of Article XVI of the California Constitution for each subsequent year until the effective date of this section.*

*(2) The total General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes appropriated for the support of community colleges in the 2006–07 fiscal year, adjusted by subdivision (b) of Section 8 of Article XVI of the California Constitution for each subsequent year until the effective date of this section.*

SECTION 12. Section 70901.5 of the Education Code is amended to read:

70901.5. (a) The ~~board of governors~~ *Board of Governors of the California Community Colleges* shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

(1) Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(3) The ~~board of governors~~ *Board of Governors of the California Community Colleges* shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.

(4) Prior to the adoption of regulations, the ~~board of governors~~ *Board of Governors of the California Community Colleges* shall consider and respond to all written and oral comments received during the comment period.

(5) The effective date for a regulation shall be suspended if, within ~~30~~ *60* days after adoption by the ~~board of governors~~ *Board of Governors of the California Community Colleges*, at least two-thirds of all *local district* governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the ~~board of governors~~ *Board of Governors of the California Community Colleges* shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

(B) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly adopted regulation, and shall go into effect in accordance with those procedures.

(C) Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed necessary to clarify the intent of the original regulation. If the ~~board of governors~~ *Board of Governors of the California Community Colleges* decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any further appeal within the California Community Colleges.

~~(6) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the board of governors shall not adopt~~

~~the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.~~

~~(7)~~ *(6)* Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the ~~board of governors~~ *Board of Governors of the California Community Colleges*, the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the ~~board of governors~~ *Board of Governors of the California Community Colleges.*

SECTION 13. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of ~~16~~ *19* voting members ~~and one nonvoting member~~, appointed by the Governor, as follows:

(a) Twelve *public* members, each appointed with the advice and consent of two-thirds of the membership of the Senate to six-year staggered terms. ~~Two~~ *Three* of these members shall be current or former elected members of local community college district governing boards*, appointed from a list of at least three persons submitted to the Governor by the statewide organization representing locally elected community college trustees recognized to participate in the consultation process established by subdivision (e) of Section 70901*.

(b) (1) ~~(A) One~~ *Two* voting student ~~member,~~ *members, who shall serve one-year terms.* ~~and one nonvoting student member, who exercise their duties in accordance with the procedure set forth in paragraph (3).~~

~~(B)~~ *(2)* These students shall be enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of their terms, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester prior to his or her appointment, and shall meet and maintain the minimum standards of scholarship prescribed for community college students.

~~(C)~~ *(3)* Each student member shall be appointed from a list of names of at least three persons submitted to the Governor by the ~~California Student Association of Community Colleges~~ *statewide organizations representing community college student governments recognized to participate in the consultation process established by subdivision (e) of Section 70901*.

~~(2) The term of office of one student member of the board shall commence on July 1 of an even-numbered year, and expire on June 30 two years thereafter. The term of office of the other student member of the board shall commence on July 1 of an odd-numbered year, and expire on June 30 two years thereafter. Notwithstanding paragraph (1), a student member who graduates from his or her college on or after January 1 of the second year of his or her term of office may serve the remainder of the term.~~

~~(3) During the first year of a student member's term, a student member shall be a member of the board and may attend all meetings of the board and its committees. At these meetings, a student member may fully participate in discussion and debate, but may not vote. During the second year of a student member's term, a student member may exercise the same right to attend meetings of the board, and its committees, and shall have the same right to vote as the members appointed pursuant to subdivisions (a) and (c).~~

~~(4) Notwithstanding paragraph (3), if a student member resigns from office or a vacancy is otherwise created in that office during the second year of a student~~

~~member's term, the remaining student member shall immediately assume the office created by the vacancy and all of the participation privileges of the second-year student member, including the right to vote, for the remainder of that term of office.~~

(c) ~~Two~~ *Three* voting *current or former* ~~tenured~~ faculty members from a community college, who shall be appointed for ~~two~~ *three*-year terms. The Governor shall appoint each faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. ~~Each seat designated as a tenured faculty member seat shall be filled by a tenured faculty member from a community college pursuant to this section and Section 71003.~~

(d) ~~One~~ *Two* voting ~~classified~~ *current or former* ~~employee,~~ *employees,* who shall be appointed by the Governor for *three-year terms* ~~a two-year term~~. The Governor shall appoint *one of the employees* ~~the classified employee member~~ from a list of at least three *current classified employees* ~~persons~~ furnished by the exclusive representatives of classified employees of the California Community Colleges. *The Governor shall appoint one of the employees from a list of at least three persons submitted to the Governor by the statewide organization representing community college chief executive officers recognized to participate in the consultation process established by subdivision (e) of Section 70901.*

SECTION 14. Section 71003 of the Education Code is amended to read:

71003. (a) Except for the student members, the faculty members, and the ~~classified~~ employee ~~member~~ *members* appointed by the Governor, any vacancy in an appointed position on the board shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the membership of the Senate. A vacancy in the office of a student member, a faculty member, or ~~the classified~~ *an* employee member shall be filled by appointment by the Governor.

(b) ~~The~~ *Except in the case of the student members, the* appointee to fill a vacancy shall hold office only for the balance of the unexpired term. *Vacancies in the student member positions shall be filled by an appointment by the Governor for a full one-year term.*

SECTION 15. Section 71090.5 of the Education Code is amended to read:

71090.5. ~~In addition to the position authorized by~~ *Pursuant to* subdivision (e) of Section 4 of Article VII of the California Constitution, ~~the Governor, with the recommendation of the board of governors,~~ *the Board of Governors of the California Community Colleges* shall appoint *a Chancellor and* up to six deputy *chancellors* and vice chancellors, who shall be exempt from state civil service. The appointments shall not exceed an aggregate total of ~~six~~ *seven*, for ~~both~~ the positions *appointed pursuant to this section.* ~~of deputy and vice chancellor.~~

SECTION 16. Section 76301 is added to the Education Code, to read:

*76301. (a) Notwithstanding any other provision of law, the fee prescribed by Section 76300 shall be fifteen dollars ($15) per unit per semester or the fee existing on the effective date of this section, whichever is lower.*

*(b) The fee prescribed by Section 76300 and this section shall not be increased in any year by an amount exceeding the lesser of:*

*(1) The percentage change in per capita personal income of California residents from the second preceding year to the immediate preceding year, rounded down to the nearest whole dollar; or*

*(2) Ten percent.*

*(c) This section shall be effective with the first full fall academic term commencing at least 60 days following the effective date of this section.*

SECTION 17. Section 76301.5 is added to the Education Code, to read:

*76301.5. (a) The Legislature shall allocate to any community college district that does not receive General Fund revenues through the community college apportionment because the district's local property tax and student fee revenue exceeds the general revenue calculated for the district in the annual Budget Act an amount equal to the total revenue that would have been generated by the district if the fee otherwise had remained at the level on the day preceding the effective date of this section.*

*(b) This section shall be effective only in years in which the fee prescribed by this chapter is less than the fee existing on the day preceding the effective date of this section.*

SECTION 18. Section 84754 is added to the Education Code, to read:

*84754. (a) Notwithstanding any other provision of law, decreases in FTES shall result in revenue reductions made evenly over a three-year period beginning in the year following the initial year of decrease in FTES.*

*(b) Districts shall be entitled to the restoration of any reductions in apportionment revenue due to decreases in FTES during the three years following the initial year of decrease in FTES if there is a subsequent increase in FTES.*

*(c) No district shall be entitled to revenue stability pursuant to subdivision (a) for more than 10 percent of its pre-decline total FTES, unless the Chancellor issues a finding that the decline was the consequence of a natural or man-made disaster or a regionalized financial calamity.*

*(d) By enacting this section, the people intend to maintain access for students and provide fiscal stability for community college districts and their employees during periods of enrollment instability.*

SECTION 19. GENERAL PROVISIONS

(a) Conflicting Measures:

(1) This measure is intended to be comprehensive. It is the intent of the people that in the event that this measure and another initiative measure or measures relating to the same issue shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(2) If this measure is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

(b) Severability: The provisions of this act are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(c) Amendment: The provisions of Sections 8 through 15, inclusive, and Section 17 of this act may be amended by a statute that is passed by a vote of four-fifths of the membership of each house of the Legislature and signed by the Governor. All amendments to Sections 8 through 15, inclusive, of this act shall be to further the act and shall be consistent with its purposes. The per-unit fee level set by subdivision (a) of Section 16 of this act may be increased pursuant to subdivision (b) of Section 16 of this act by a statute specifically and exclusively for that purpose that is passed by a vote of two-thirds of the membership of each house and signed by the Governor. The per-unit fee level set by subdivision (a) of Section 16 of this act may be reduced by a statute that is passed by a majority vote of each house and signed by the Governor.

# PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS

## Statewide Direct Primary Election, June 3, 2008

## MEASURES ADOPTED

### INITIATIVE CONSTITUTIONAL AMENDMENT

*Number on ballot*

99. **Eminent Domain. Limits on Government Acquisition of Owner-Occupied Residence.**

[Submitted by the initiative and approved by electors June 3, 2008.]

### PROPOSED LAW

SECTION 1. PURPOSE AND INTENT

By enacting this measure, the people of California hereby express their intent to:

(a) Protect their homes from eminent domain abuse.

(b) Prohibit government agencies from using eminent domain to take an owner-occupied home to transfer it to another private owner or developer.

(c) Amend the California Constitution to respond specifically to the facts and the decision of the U.S. Supreme Court in Kelo v. City of New London, in which the Court held that it was permissible for a city to use eminent domain to take the home of a Connecticut woman for the purpose of economic development.

(d) Respect the decision of the voters to reject Proposition 90 in November 2006, a measure that included eminent domain reform but also included unrelated provisions that would have subjected taxpayers to enormous financial liability from a wide variety of traditional legislative and administrative actions to protect the public welfare.

(e) Provide additional protection for property owners without including provisions, such as those in Proposition 90, which subjected taxpayers to liability for the enactment of traditional legislative and administrative actions to protect the public welfare.

(f) Maintain the distinction in the California Constitution between Section 19, Article I, which establishes the law for eminent domain, and Section 7, Article XI, which establishes the law for legislative and administrative action to protect the public health, safety and welfare.

(g) Provide a comprehensive and exclusive basis in the California Constitution to compensate property owners when property is taken or damaged by state or local governments, without affecting legislative and administrative actions taken to protect the public health, safety and welfare.

SECTION 2. AMENDMENT TO THE CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is amended to read:

SEC. 19. *(a)* Private property may be taken or damaged for *a* public use *and* only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide

for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

*(b) The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person.*

*(c) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.*

*(d) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of acquiring private property for a public work or improvement.*

*(e) For the purpose of this section:*

*1. "Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.*

*2. "Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.*

*3. "Owner-occupied residence" means real property that is improved with a single-family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single-family residence which provides complete independent living facilities for one or more persons.*

*4. "Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.*

*5. "Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the public work or improvement.*

*6. "State" means the State of California and any of its agencies or departments.*

SECTION 3. By enacting this measure, the voters do not intend to change the meaning of the terms in subdivision (a) of Section 19, Article I of the California Constitution, including, without limitation, "taken," "damaged," "public use," and "just compensation," and deliberately do not impose any restrictions on the exercise of power pursuant to Section 19, Article I, other than as expressly provided for in this measure.

SECTION 4. The provisions of Section 19, Article I, together with the amendments made by this initiative, constitute the exclusive and comprehensive authority in the California Constitution for the exercise of the power of eminent domain and for the payment of compensation to property owners when private property is taken or damaged by state or local government. Nothing in this initiative shall limit the ability of the Legislature to provide compensation in addition to that

which is required by Section 19 of Article I to property owners whose property is taken or damaged by eminent domain.

SECTION 5. The amendments made by this initiative shall not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before the date on which this initiative becomes effective, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before 180 days after that date.

SECTION 6. The words and phrases used in the amendments to Section 19, Article I of the California Constitution made by this initiative which are not defined in subdivision (e), shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007, and as that law may be amended or interpreted thereafter.

SECTION 7. The provisions of this measure shall be liberally construed in furtherance of its intent to provide homeowners with protection against exercises of eminent domain in which an owner-occupied residence is subsequently conveyed to a private person.

SECTION 8. The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 9. In the event that this measure appears on the same statewide election ballot as another initiative measure or measures that seek to affect the rights of property owners by directly or indirectly amending Section 19, Article I of the California Constitution, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and each and every provision of the other measure or measures shall be null and void.

# MEASURES DEFEATED

## INITIATIVE CONSTITUTIONAL AMENDMENT

*Number on ballot*

98. **Eminent Domain. Limits on Government Authority.**

[Submitted by the initiative and rejected by electors June 3, 2008.]

## PROPOSED LAW

SECTION 1. STATEMENT OF FINDINGS

(a) Our state Constitution, while granting government the power of eminent domain, also provides that the people have an inalienable right to own, possess, and protect private property. It further provides that no person may be deprived of property without due process of law, and that private property may not be taken or damaged by eminent domain except for public use and only after just compensation has been paid to the property owner.

(b) Notwithstanding these clear constitutional guarantees, the courts have not protected the people's rights from being violated by state and local governments through the exercise of their power of eminent domain.

(c) For example, the U.S. Supreme Court, in Kelo v. City of New London, held that the government may use eminent domain to take property from its owner for the purpose of transferring it to a private developer. In other cases, the courts have allowed the government to set the price an owner can charge to sell or rent his or her property, and have allowed the government to take property for the purpose of seizing the income or business assets of the property.

(d) Farmland is especially vulnerable to these types of eminent domain abuses.

SECTION 2. STATEMENT OF PURPOSE

(a) State and local governments may use eminent domain to take private property only for public uses, such as roads, parks, and public facilities.

(b) State and local governments may not use their power to take or damage property for the benefit of any private person or entity.

(c) State and local governments may not take private property by eminent domain to put it to the same use as that made by the private owner.

(d) When state or local governments use eminent domain to take or damage private property for public uses, the owner shall receive just compensation for what has been taken or damaged.

(e) Therefore, the people of the state of California hereby enact the "California Property Owners and Farmland Protection Act."

SECTION 3. AMENDMENT TO CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is amended to read:

SEC. 19. *(a)* Private property may be taken or damaged *only* for *a stated* public use ~~only~~ *and* when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation. *Private property may not be taken or damaged for private use.*

*(b) For purposes of this section:*

*(1) "Taken" includes transferring the ownership, occupancy, or use of property from a private owner to a public agency or to any person or entity other than a public agency, or limiting the price a private owner may charge another person to purchase, occupy or use his or her real property.*

*(2) "Public use" means use and ownership by a public agency or a regulated public utility for the public use stated at the time of the taking, including public facilities, public transportation, and public utilities, except that nothing herein prohibits leasing limited space for private uses incidental to the stated public use; nor is the exercise of eminent domain prohibited to restore utilities or access to a public road for any private property which is cut off from utilities or access to a public road as a result of a taking for public use as otherwise defined herein.*

*(3) "Private use" means:*

*(i) transfer of ownership, occupancy or use of private property or associated property rights to any person or entity other than a public agency or a regulated public utility;*

*(ii) transfer of ownership, occupancy or use of private property or associated property rights to a public agency for the consumption of natural resources or for the same or a substantially similar use as that made by the private owner; or*

*(iii) regulation of the ownership, occupancy or use of privately owned real property or associated property rights in order to transfer an economic benefit to one or more private persons at the expense of the property owner.*

*(4) "Public agency" means the state, special district, county, city, city and county, including a charter city or county, and any other local or regional governmental entity, municipal corporation, public agency-owned utility or utility district, or the electorate of any public agency.*

*(5) "Just compensation" means:*

*(i) for property or associated property rights taken, its fair market value;*

*(ii) for property or associated property rights damaged, the value fixed by a jury, or by the court if a jury is waived;*

*(iii) an award of reasonable costs and attorney fees from the public agency if the property owner obtains a judgment for more than the amount offered by a public agency as defined herein; and*

*(iv) any additional actual and necessary amounts to compensate the property owner for temporary business losses, relocation expenses, business reestablishment costs, other actual and reasonable expenses incurred and other expenses deemed compensable by the Legislature.*

*(6) "Prompt release" means that the property owner can have immediate possession of the money deposited by the condemnor without prejudicing his or her right to challenge the determination of fair market value or his or her right to challenge the taking as being for a private use.*

*(7) "Owner" includes a lessee whose property rights are taken or damaged.*

*(8) "Regulated public utility" means any public utility as described in Article XII, Section 3, that is regulated by the California Public Utilities Commission and is not owned or operated by a public agency. Regulated public utilities are private property owners for purposes of this article.*

*(c) In any action by a property owner challenging a taking or damaging of his or her property, the court shall consider all relevant evidence and exercise its independent judgment, not limited to the administrative record and without deference to the findings of the public agency. The property owner shall be entitled to an award of reasonable costs and attorney fees from the public agency if the court finds that the agency's actions are not in compliance with this section. In addition to other legal and equitable remedies that may be available, an owner whose property is taken or damaged for private use may bring an action for an injunction, a writ of mandate, or a declaration invalidating the action of the public agency.*

*(d) Nothing in this section prohibits a public agency or regulated public utility from entering into an agreement with a private property owner for the voluntary sale of property not subject to eminent domain, or a stipulation regarding the payment of just compensation.*

*(e) If property is acquired by a public agency through eminent domain, then before the agency may put the property to a use substantially different from the stated public use, or convey the property to another person or unaffiliated agency, the condemning agency must make a good faith effort to locate the private owner from whom the property was taken, and make a written offer to sell the property to him at the price which the agency paid for the property, increased only by the fair market value of any improvements, fixtures, or appurtenances added by the public agency, and reduced by the value attributable to any removal, destruction or waste of improvements, fixtures or appurtenances that had been acquired with the property. If property is repurchased by the former owner under this subdivision, it shall be taxed based on its pre-condemnation enrolled value, increased or decreased only as allowed herein, pIus any inflationary adjustments authorized by subdivision (b) of Section 2 of Article XIII A. The right to repurchase shall apply only to the owner from which the property was taken, and does not apply to heirs or successors of the owner or, if the owner was not a natural person, to an entity which ceases to legally exist.*

*(f) Nothing in this section prohibits a public agency from exercising its power of eminent domain to abate public nuisances or criminal activity.*

*(g) Nothing in this section shall be construed to prohibit or impair voluntary agreements between a property owner and a public agency to develop or rehabilitate affordable housing.*

*(h) Nothing in this section prohibits the California Public Utilities Commission from regulating public utility rates.*

*(i) Nothing in this section shall restrict the powers of the Governor to take or damage private property in connection with his or her powers under a declared state of emergency.*

SECTION 4. IMPLEMENTATION AND AMENDMENT

This act shall be self-executing. The Legislature may adopt laws to further the purposes of this act and aid in its implementation. No amendment to this act may be made except by a vote of the people pursuant to Article II or Article XVIII of the California Constitution.

SECTION 5. SEVERABILITY

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 6. EFFECTIVE DATE

The provisions of this act shall become effective on the day following the election ("effective date"); except that any statute, charter provision, ordinance, or regulation by a public agency enacted prior to January 1, 2007, that limits the price a rental property owner may charge a tenant to occupy a residential rental unit ("unit") or mobile home space ("space") may remain in effect as to such unit or space after the effective date for so long as, but only so long as, at least one of the tenants of such unit or space as of the effective date ("qualified tenant") continues to live in such unit or space as his or her principal place of residence. At such time as a unit or space no longer is used by any qualified tenant as his or her principal place of residence because, as to such unit or space, he or she has: (a) voluntarily vacated; (b) assigned, sublet, sold or transferred his or her tenancy rights either voluntarily or by court order; (c) abandoned; (d) died; or he or she has (e) been evicted pursuant to paragraph (2), (3), (4) or (5) of Section 1161 of the Code of Civil Procedure or Section 798.56 of the Civil Code as in effect on January 1, 2007; then, and in such event, the provisions of this act shall be effective immediately as to such unit or space.

# PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS*

## General Election, November 4, 2008

## MEASURES ADOPTED

### INITIATIVE CONSTITUTIONAL AMENDMENT

*Number on ballot*

8. **Eliminates Right of Same-Sex Couples to Marry.**

[Submitted by the initiative and approved by electors November 4, 2008.]

SECTION 1. Title

This measure shall be known and may be cited as the "California Marriage Protection Act."

SECTION 2. Section 7.5 is added to Article I of the California Constitution, to read:

*SEC. 7.5. Only marriage between a man and a woman is valid or recognized in California.*

### INITIATIVE CONSTITUTIONAL AMENDMENTS AND STATUTES

*Number on ballot*

9. **Criminal Justice System. Victims' Rights. Parole.**

[Submitted by the initiative and approved by electors November 4, 2008.]

### PROPOSED LAW

VICTIMS' BILL OF RIGHTS ACT OF 2008: MARSY'S LAW

SECTION 1. TITLE

This act shall be known, and may be cited as, the "Victims' Bill of Rights Act of 2008: Marsy's Law."

SECTION 2. FINDINGS AND DECLARATIONS

The People of the State of California hereby find and declare all of the following:

1. Crime victims are entitled to justice and due process. Their rights include, but are not limited to, the right to notice and to be heard during critical stages of the justice system; the right to receive restitution from the criminal wrongdoer; the right to be reasonably safe throughout the justice process; the right to expect the government to properly fund the criminal justice system, so that the rights of crime victims stated in these Findings and Declarations and justice itself are not eroded by inadequate resources; and, above all, the right to an expeditious and just punishment of the criminal wrongdoer.

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*1. High Speed Rail Bonds. (Statutes 2002, Chapter 697, SB 1856 and Statutes 2006, Chapter 44, AB 713) [Removed from ballot by Statutes 2008, Chapter 267, AB 3034.]

2. The People of the State of California declare that the "Victims' Bill of Rights Act of 2008: Marsy's Law" is needed to remedy a justice system that fails to fully recognize and adequately enforce the rights of victims of crime. It is named after Marsy, a 21-year-old college senior at U.C. Santa Barbara who was preparing to pursue a career in special education for handicapped children and had her whole life ahead of her. She was murdered on November 30, 1983. Marsy's Law is written on behalf of her mother, father, and brother, who were often treated as though they had no rights, and inspired by hundreds of thousands of victims of crime who have experienced the additional pain and frustration of a criminal justice system that too often fails to afford victims even the most basic of rights.

3. The People of the State of California find that the "broad reform" of the criminal justice system intended to grant these basic rights mandated in the Victims' Bill of Rights initiative measure passed by the electorate as Proposition 8 in 1982 has not occurred as envisioned by the people. Victims of crime continue to be denied rights to justice and due process.

4. An inefficient, overcrowded, and arcane criminal justice system has failed to build adequate jails and prisons, has failed to efficiently conduct court proceedings, and has failed to expeditiously finalize the sentences and punishments of criminal wrongdoers. Those criminal wrongdoers are being released from custody after serving as little as 10 percent of the sentences imposed and determined to be appropriate by judges.

5. Each year hundreds of convicted murderers sentenced to serve life in prison seek release on parole from our state prisons. California's "release from prison parole procedures" torture the families of murdered victims and waste millions of dollars each year. In California convicted murderers are appointed attorneys paid by the tax dollars of its citizens, and these convicted murderers are often given parole hearings every year. The families of murdered victims are never able to escape the seemingly unending torture and fear that the murderer of their loved one will be once again free to murder.

6. "Helter Skelter" inmates Bruce Davis and Leslie Van Houghton, two followers of Charles Manson convicted of multiple brutal murders, have had 38 parole hearings during the past 30 years.

7. Like most victims of murder, Marsy was neither rich nor famous when she was murdered by a former boyfriend who lured her from her parents' home by threatening to kill himself. Instead he used a shotgun to brutally end her life when she entered his home in an effort to stop him from killing himself. Following her murderer's arrest, Marsy's mother was shocked to meet him at a local supermarket, learning that he had been released on bail without any notice to Marsy's family and without any opportunity for her family to state their opposition to his release.

8. Several years after his conviction and sentence to "life in prison," the parole hearings for his release began. In the first parole hearing, Marsy's mother suffered a heart attack fighting against his release. Since then Marsy's family has endured the trauma of frequent parole hearings and constant anxiety that Marsy's killer would be released.

9. The experiences of Marsy's family are not unique. Thousands of other crime victims have shared the experiences of Marsy's family, caused by the failure of our criminal justice system to notify them of their rights, failure to give them notice of important hearings in the prosecutions of their criminal wrongdoers, failure to provide them with an opportunity to speak and participate,

failure to impose actual and just punishment upon their wrongdoers, and failure to extend to them some measure of finality to the trauma inflicted upon them by their wrongdoers.

SECTION 3. STATEMENT OF PURPOSES AND INTENT

It is the purpose of the People of the State of California in enacting this initiative measure to:

1. Provide victims with rights to justice and due process.

2. Invoke the rights of families of homicide victims to be spared the ordeal of prolonged and unnecessary suffering, and to stop the waste of millions of taxpayer dollars, by eliminating parole hearings in which there is no likelihood a murderer will be paroled, and to provide that a convicted murderer can receive a parole hearing no more frequently than every three years, and can be denied a follow-up parole hearing for as long as 15 years.

SECTION 4. VICTIMS' BILL OF RIGHTS

SECTION 4.1. Section 28 of Article I of the California Constitution is amended to read:

SEC. 28. (a) The People of the State of California find and declare *all of the following:*

*(1) Criminal activity has a serious impact on the citizens of California. The rights of victims of crime and their families in criminal prosecutions are a subject of grave statewide concern.*

*(2) Victims of crime are entitled to have the criminal justice system view criminal acts as serious threats to the safety and welfare of the people of California.* ~~that the~~ *The* enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safeguards in the criminal justice system ~~to~~ fully ~~protect~~ *protecting* those rights *and ensuring that crime victims are treated with respect and dignity*, is a matter of ~~grave statewide concern~~ *high public importance. California's victims of crime are largely dependent upon the proper functioning of government, upon the criminal justice system and upon the expeditious enforcement of the rights of victims of crime described herein, in order to protect the public safety and to secure justice when the public safety has been compromised by criminal activity.*

*(3)* The rights of victims pervade the criminal justice system~~, encompassing not only the right to restitution from the wrongdoers for financial losses suffered as a result of criminal acts, but also the more basic expectation~~. *These rights include personally held and enforceable rights described in paragraphs (1) through (17) of subdivision (b).*

*(4) The rights of victims also include broader shared collective rights that are held in common with all of the People of the State of California and that are enforceable through the enactment of laws and through good-faith efforts and actions of California's elected, appointed, and publicly employed officials. These rights encompass the expectation shared with all of the people of California* that persons who commit felonious acts causing injury to innocent victims will be appropriately *and thoroughly investigated, appropriately* detained in custody, *brought before the courts of California even if arrested outside the State,* tried by the courts *in a timely manner, sentenced*, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance.

*(5) Victims of crime have a collectively shared right to expect that persons convicted of committing criminal acts are sufficiently punished in both the manner and the length of the sentences imposed by the courts of the State of California. This right includes the right to expect that the punitive and deterrent*

*effect of custodial sentences imposed by the courts will not be undercut or diminished by the granting of rights and privileges to prisoners that are not required by any provision of the United States Constitution or by the laws of this State to be granted to any person incarcerated in a penal or other custodial facility in this State as a punishment or correction for the commission of a crime.*

*(6) Victims of crime are entitled to finality in their criminal cases. Lengthy appeals and other post-judgment proceedings that challenge criminal convictions, frequent and difficult parole hearings that threaten to release criminal offenders, and the ongoing threat that the sentences of criminal wrongdoers will be reduced, prolong the suffering of crime victims for many years after the crimes themselves have been perpetrated. This prolonged suffering of crime victims and their families must come to an end.*

*(7)* ~~Such~~ *Finally, the People find and declare that the right to* public safety extends to public *and private* primary, elementary, junior high, and senior high school*, and community college, California State University, University of California, and private college and university* campuses, where students and staff have the right to be safe and secure in their persons.

*(8)* To accomplish ~~these~~ *the* goals *it is necessary that the laws of California relating to the criminal justice process be amended in order to protect the legitimate rights of victims of crime*. ~~, broad reforms in the procedural treatment of accused persons and the disposition and sentencing of convicted persons are necessary and proper as deterrents to criminal behavior and to serious disruption of people's lives.~~

(b) *In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:*

*(1) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.*

*(2) To be reasonably protected from the defendant and persons acting on behalf of the defendant.*

*(3) To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.*

*(4) To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.*

*(5) To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.*

*(6) To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.*

*(7) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.*

*(8) To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.*

*(9) To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.*

*(10) To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.*

*(11) To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.*

*(12) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.*

*(13) To* ~~Restitution~~ *restitution.*

*(A)* It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to *seek and secure* restitution from the persons convicted of the crimes ~~for~~ *causing the* losses they suffer.

*(B)* Restitution shall be ordered from the convicted ~~persons~~ *wrongdoer* in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss~~, unless compelling and extraordinary reasons exist to the contrary. The Legislature shall adopt provisions to implement this section during the calendar year following adoption of this section~~.

*(C) All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.*

*(14) To the prompt return of property when no longer needed as evidence.*

*(15) To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.*

*(16) To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.*

*(17) To be informed of the rights enumerated in paragraphs (1) through (16).*

(c) *(1) A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the rights enumerated in subdivision (b) in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request.*

*(2) This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.*

*(d) The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. The court in its discretion may extend the right to be heard at sentencing to any person harmed by the defendant. The parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.*

*(e) As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term "victim" also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term "victim" does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim.*

*(f) In addition to the enumerated rights provided in subdivision (b) that are personally enforceable by victims as provided in subdivision (c), victims of crime have additional rights that are shared with all of the People of the State of California. These collectively held rights include, but are not limited to, the following:*

*(1)* Right to Safe Schools. All students and staff of public primary, elementary, junior high, and senior high schools*, and community colleges, colleges, and universities* have the inalienable right to attend campuses which are safe, secure and peaceful.

~~(d)~~ *(2)* Right to Truth-in-Evidence. Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code~~,~~ Sections 352, 782 or 1103. Nothing in this section shall affect any existing statutory or constitutional right of the press.

~~(e)~~ *(3)* Public Safety Bail. A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, *the safety of the victim,* the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety *and the safety of the victim* shall be the primary ~~consideration~~ *considerations*.

A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail. ~~However, no person charged with the commission of any serious felony shall be released on his or her own recognizance.~~

Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney *and the victim* shall be given notice and reasonable opportunity to be heard on the matter.

When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.

~~(f)~~ *(4)* Use of Prior Convictions. Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.

*(5) Truth in Sentencing. Sentences that are individually imposed upon convicted criminal wrongdoers based upon the facts and circumstances*

*surrounding their cases shall be carried out in compliance with the courts' sentencing orders, and shall not be substantially diminished by early release policies intended to alleviate overcrowding in custodial facilities. The legislative branch shall ensure sufficient funding to adequately house inmates for the full terms of their sentences, except for statutorily authorized credits which reduce those sentences.*

*(6) Reform of the parole process. The current process for parole hearings is excessive, especially in cases in which the defendant has been convicted of murder. The parole hearing process must be reformed for the benefit of crime victims.*

(g) As used in this article, the term "serious felony" is any crime defined in *subdivision (c) of* ~~Penal Code,~~ Section 1192.7~~(c)~~ *of the Penal Code, or any successor statute.*

SECTION 5. VICTIMS' RIGHTS IN PAROLE PROCEEDINGS

SECTION 5.1. Section 3041.5 of the Penal Code is amended to read:

3041.5. (a) At all hearings for the purpose of reviewing a prisoner's parole suitability, or the setting, postponing, or rescinding of parole dates, the following shall apply:

(1) At least 10 days prior to any hearing by the Board of ~~Prison Terms~~ *Parole Hearings*, the prisoner shall be permitted to review his or her file which will be examined by the board and shall have the opportunity to enter a written response to any material contained in the file.

(2) The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his or her own behalf. *Neither the prisoner nor the attorney for the prisoner shall be entitled to ask questions of any person appearing at the hearing pursuant to subdivision (b) of Section 3043.*

(3) Unless legal counsel is required by some other provision of law, a person designated by the Department of Corrections shall be present to insure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures.

(4) The prisoner *and any person described in subdivision (b) of Section 3043* shall be permitted to request and receive a stenographic record of all proceedings.

(5) If the hearing is for the purpose of postponing or rescinding of parole dates, the prisoner shall have rights set forth in paragraphs (3) and (4) of subdivision (c) of Section 2932.

*(6) The board shall set a date to reconsider whether an inmate should be released on parole that ensures a meaningful consideration of whether the inmate is suitable for release on parole.*

(b) (l) Within 10 days following any meeting where a parole date has been set, the board shall send the prisoner a written statement setting forth his or her parole date, the conditions he or she must meet in order to be released on the date set, and the consequences of failure to meet those conditions.

(2) Within 20 days following any meeting where a parole date has not been set ~~for the reasons stated in subdivision (b) of Section 3041~~, the board shall send the prisoner a written statement setting forth the reason or reasons for refusal to set a parole date, and suggest activities in which he or she might participate that will benefit him or her while he or she is incarcerated.

*(3)* The board shall ~~hear each case annually thereafter, except the board may~~ schedule the next hearing ~~no later than the following~~*, after considering the views and interests of the victim, as follows*:

(A) ~~Two years after any hearing at which parole is denied if the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following year and states the bases for the finding.~~ *Fifteen years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the setting of parole release dates enumerated in subdivision (a) of Section 3041 are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the prisoner than 10 additional years.*

(B) ~~Up to five years after any hearing at which parole is denied if the prisoner has been convicted of murder, and the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following years and states the bases for the finding in writing. If the board defers a hearing five years, the prisoner's central file shall be reviewed by a deputy commissioner within three years at which time the deputy commissioner may direct that a hearing be held within one year. The prisoner shall be notified in writing of the deputy commissioner's decision. The board shall adopt procedures that relate to the criteria for setting the hearing between two and five years.~~ *Ten years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the setting of parole release dates enumerated in subdivision (a) of Section 3041 are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the prisoner than seven additional years.*

*(C) Three years, five years, or seven years after any hearing at which parole is denied, because the criteria relevant to the setting of parole release dates enumerated in subdivision (a) of Section 3041 are such that consideration of the public and victim's safety requires a more lengthy period of incarceration for the prisoner, but does not require a more lengthy period of incarceration for the prisoner than seven additional years.*

*(4) The board may in its discretion, after considering the views and interests of the victim, advance a hearing set pursuant to paragraph (3) to an earlier date, when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the prisoner provided in paragraph (3).*

~~(3)~~ *(5)* Within 10 days of any board action resulting in the postponement of a previously set parole date, the board shall send the prisoner a written statement setting forth a new date and the reason or reasons for that action and shall offer the prisoner an opportunity for review of that action.

~~(4)~~ *(6)* Within 10 days of any board action resulting in the rescinding of a previously set parole date, the board shall send the prisoner a written statement setting forth the reason or reasons for that action, and shall schedule the prisoner's next hearing ~~within 12 months and~~ in accordance with paragraph ~~(2)~~ *(3)*.

*(c) The board shall conduct a parole hearing pursuant to this section as a de novo hearing. Findings made and conclusions reached in a prior parole hearing shall be considered in but shall not be deemed to be binding upon subsequent parole hearings for an inmate, but shall be subject to reconsideration based upon changed facts and circumstances. When conducting a hearing, the board shall admit the prior recorded or memorialized testimony or statement of a victim or witness, upon request of the victim or if the victim or witness has died or become unavailable. At each hearing the board shall determine the appropriate action to be taken based on the criteria set forth in paragraph (3) of subdivision (a) of Section 3041.*

*(d) (1) An inmate may request that the board exercise its discretion to advance a hearing set pursuant to paragraph (3) of subdivision (b) to an earlier date, by submitting a written request to the board, with notice, upon request, and a copy to the victim which shall set forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate.*

*(2) The board shall have sole jurisdiction, after considering the views and interests of the victim to determine whether to grant or deny a written request made pursuant to paragraph (1), and its decision shall be subject to review by a court or magistrate only for a manifest abuse of discretion by the board. The board shall have the power to summarily deny a request that does not comply with the provisions of this subdivision or that does not set forth a change in circumstances or new information as required in paragraph (1) that in the judgment of the board is sufficient to justify the action described in paragraph (4) of subdivision (b).*

*(3) An inmate may make only one written request as provided in paragraph (1) during each three-year period. Following either a summary denial of a request made pursuant to paragraph (1), or the decision of the board after a hearing described in subdivision (a) to not set a parole date, the inmate shall not be entitled to submit another request for a hearing pursuant to subdivision (a) until a three-year period of time has elapsed from the summary denial or decision of the board.*

SECTION 5.2. Section 3043 of the Penal Code is amended to read:

3043. (a) *(1)* Upon request, notice of any hearing to review or consider the parole suitability or the setting of a parole date for any prisoner in a state prison shall be sent by the Board of ~~Prison Terms~~ *Parole Hearings* at least ~~30~~ *90* days before the hearing to any victim of ~~a~~ *any* crime committed by the prisoner, or to the next of kin of the victim if the victim has died*, to include the commitment crimes, determinate term commitment crimes for which the prisoner has been paroled, and any other felony crimes or crimes against the person for which the prisoner has been convicted*. The requesting party shall keep the board apprised of his or her current mailing address.

*(2) No later than 30 days prior to the date selected for the hearing, any person, other than the victim, entitled to attend the hearing shall inform the board of his or her intention to attend the hearing and the name and identifying information of any other person entitled to attend the hearing who will accompany him or her.*

*(3) No later than 14 days prior to the date selected for the hearing, the board shall notify every person entitled to attend the hearing confirming the date, time, and place of the hearing.*

(b) *(1)* The victim, next of kin, ~~two~~ members of the victim's ~~immediate~~ family, ~~or~~ *and* two representatives designated ~~for a particular hearing by the victim or, in the event the victim is deceased or incapacitated, by the next of kin in writing prior to the hearing~~ *as provided in paragraph (2) of this subdivision* have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the *prisoner and the case, including, but not limited to the commitment crimes, determinate term commitment crimes for which the prisoner has been paroled, any other felony crimes or crimes against the person for which the prisoner has been convicted, the effect of the enumerated crimes on the victim and the family of the victim,* ~~crime and~~ the

person responsible *for these enumerated crimes, and the suitability of the prisoner for parole.* ~~, except that~~

*(2)* ~~any~~ *Any* statement provided by a representative designated by the victim or next of kin *may cover any subject about which the victim or next of kin has the right to be heard including any recommendation regarding the granting of parole.* ~~shall be limited to comments concerning the effect of the crime on the victim.~~ *The representatives shall be designated by the victim or, in the event that the victim is deceased or incapacitated, by the next of kin. They shall be designated in writing for the particular hearing prior to the hearing.*

(c) A representative designated by the victim or the victim's next of kin for purposes of this section *may be any adult person selected by the victim or the family of the victim* ~~must be either a family or household member of the victim~~. The board ~~may not~~ *shall* permit a representative designated by the victim or the victim's next of kin to *attend a particular hearing, to* provide testimony at a hearing, ~~or~~ *and* to submit a statement to be included in the hearing as provided in Section 3043.2, *even though* ~~if~~ the victim, next of kin, or a member of the victim's immediate family is present at the hearing, ~~or if~~ *and even though* the victim, next of kin, or a member of the victim's immediate family has submitted a statement as described in Section 3043.2.

(d) ~~Nothing in this section is intended to allow the board to permit a victim's representative to attend a particular hearing if the victim, next of kin, or a member of the victim's immediate family is present at any hearing covered in this section, or if the victim, next of kin, or member of the victim's immediate family has submitted a written, audiotaped, or videotaped statement.~~

~~(e)~~ The board, in deciding whether to release the person on parole, shall consider the *entire and uninterrupted* statements of the victim or victims, next of kin, immediate family members of the victim, and the designated representatives of the victim or next of kin, if applicable, made pursuant to this section and shall include in its report a statement ~~of~~ whether the person would pose a threat to public safety if released on parole.

~~In~~

*(e) In* those cases where there are more than two immediate family members of the victim who wish to attend any hearing covered in this section, the board ~~may, in its discretion,~~ *shall* allow attendance of additional immediate family members ~~or limit attendance to the following order of preference~~ *to include the following*: spouse, children, parents, siblings, grandchildren, and grandparents.

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

SECTION 5.3. Section 3044 is added to the Penal Code, to read:

*3044. (a) Notwithstanding any other law, the Board of Parole Hearings or its successor in interest shall be the state's parole authority and shall be responsible for protecting victims' rights in the parole process. Accordingly, to protect a victim from harassment and abuse during the parole process, no person paroled from a California correctional facility following incarceration for an offense committed on or after the effective date of this act shall, in the event his or her parole is revoked, be entitled to procedural rights other than the following:*

*(1) A parolee shall be entitled to a probable cause hearing no later than 15 days following his or her arrest for violation of parole.*

*(2) A parolee shall be entitled to an evidentiary revocation hearing no later than 45 days following his or her arrest for violation of parole.*

*(3) A parolee shall, upon request, be entitled to counsel at state expense only if, considering the request on a case-by-case basis, the board or its hearing officers determine:*

*(A) The parolee is indigent; and*

*(B) Considering the complexity of the charges, the defense, or because the parolee's mental or educational capacity, he or she appears incapable of speaking effectively in his or her own defense.*

*(4) In the event the parolee's request for counsel, which shall be considered on a case-by-case basis, is denied, the grounds for denial shall be stated succinctly in the record.*

*(5) Parole revocation determinations shall be based upon a preponderance of evidence admitted at hearings including documentary evidence, direct testimony, or hearsay evidence offered by parole agents, peace officers, or a victim.*

*(6) Admission of the recorded or hearsay statement of a victim or percipient witness shall not be construed to create a right to confront the witness at the hearing.*

*(b) The board is entrusted with the safety of victims and the public and shall make its determination fairly, independently, and without bias and shall not be influenced by or weigh the state cost or burden associated with just decisions. The board must accordingly enjoy sufficient autonomy to conduct unbiased hearings, and maintain an independent legal and administrative staff. The board shall report to the Governor.*

SECTION 6. NOTICE OF VICTIMS' BILL OF RIGHTS

SECTION 6.1. Section 679.026 is added to the Penal Code, to read:

*679.026. (a) It is the intent of the people of the State of California in enacting this section to implement the rights of victims of crime established in Section 28 of Article I of the California Constitution to be informed of the rights of crime victims enumerated in the Constitution and in the statutes of this state.*

*(b) Every victim of crime has the right to receive without cost or charge a list of the rights of victims of crime recognized in Section 28 of Article I of the California Constitution. These rights shall be known as "Marsy Rights."*

*(c) (1) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a "Marsy Rights" card described in paragraphs (3) and (4).*

*(2) The victim disclosures required under this section shall be available to the public at a state funded and maintained Web site authorized pursuant to Section 14260 of the Penal Code to be known as "Marsy's Page."*

*(3) The Attorney General shall design and make available in ".pdf" or other imaging format to every agency listed in paragraph (1) a "Marsy Rights" card, which shall contain the rights of crime victims described in subdivision (b) of Section 28 of Article I of the California Constitution, information on the means by which a crime victim can access the web page described in paragraph (2), and a toll-free telephone number to enable a crime victim to contact a local victim's assistance office.*

*(4) Every law enforcement agency which investigates criminal activity shall, if provided without cost to the agency by any organization classified as a*

*nonprofit organization under paragraph (3) of subdivision (c) of Section 501 of the Internal Revenue Code, make available and provide to every crime victim a "Victims' Survival and Resource Guide" pamphlet and/or video that has been approved by the Attorney General. The "Victims' Survival and Resource Guide" and video shall include an approved "Marsy Rights" card, a list of government agencies, nonprofit victims' rights groups, support groups, and local resources that assist crime victims, and any other information which the Attorney General determines might be helpful to victims of crime.*

*(5) Any agency described in paragraph (1) may in its discretion design and distribute to each victim of a criminal act its own Victims' Survival and Resource Guide and video, the contents of which have been approved by the Attorney General, in addition to or in lieu of the materials described in paragraph (4).*

SECTION 7. CONFLICTS WITH EXISTING LAW

It is the intent of the People of the State of California in enacting this act that if any provision in this act conflicts with an existing provision of law which provides for greater rights of victims of crime, the latter provision shall apply.

SECTION 8. SEVERABILITY

If any provision of this act, or part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SECTION 9. AMENDMENTS

The statutory provisions of this act shall not be amended by the Legislature except by a statute passed in each house by roll-call vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters. However, the Legislature may amend the statutory provisions of this act to expand the scope of their application, to recognize additional rights of victims of crime, or to further the rights of victims of crime by a statute passed by a majority vote of the membership of each house.

SECTION 10. RETROACTIVITY

The provisions of this act shall apply in all matters which arise and to all proceedings held after the effective date of this act.

*Number on ballot*

11. **Redistricting.**

[Submitted by the initiative and approved by electors November 4, 2008.]

## PROPOSED LAW

Section 1. Title.

This act shall be known and may be cited as the "Voters FIRST Act."

SEC. 2. Findings and Purpose.

The People of the State of California hereby make the following findings and declare their purpose in enacting this act is as follows:

(a) Under current law, California legislators draw their own political districts. Allowing politicians to draw their own districts is a serious conflict of interest that harms voters. That is why 99 percent of incumbent politicians were reelected in the districts they had drawn for themselves in the recent elections.

(b) Politicians draw districts that serve their interests, not those of our communities. For example, cities such as Long Beach, San Jose and Fresno are divided into multiple oddly shaped districts to protect incumbent legislators. Voters in many communities have no political voice because they have been split into as many as four different districts to protect incumbent legislators. We need reform to keep our communities together so everyone has representation.

(c) This reform will make the redistricting process open so it cannot be controlled by the party in power. It will give us an equal number of Democrats and Republicans on the commission, and will ensure full participation of independent voters—whose voices are completely shut out of the current process. In addition, this reform requires support from Democrats, Republicans, and independents for approval of new redistricting plans.

(d) The independent Citizens Redistricting Commission will draw districts based on strict, nonpartisan rules designed to ensure fair representation. The reform takes redistricting out of the partisan battles of the Legislature and guarantees redistricting will be debated in the open with public meetings, and all minutes will be posted publicly on the Internet. Every aspect of this process will be open to scrutiny by the public and the press.

(e) In the current process, politicians are choosing their voters instead of voters having a real choice. This reform will put the voters back in charge.

SEC. 3. Amendment of Article XXI of the California Constitution.

SEC. 3.1. The heading of Article XXI of the California Constitution is amended to read:

ARTICLE XXI.

~~REAPPORTIONMENT~~ *REDISTRICTING* OF SENATE, ASSEMBLY, CONGRESSIONAL AND BOARD OF EQUALIZATION DISTRICTS.

SEC. 3.2. Section 1 of Article XXI of the California Constitution is amended to read:

Section 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of ~~the Senatorial, Assembly, Congressional, and Board of Equalization~~ *congressional* districts in conformance with the following standards *and process*:

(a) Each member of ~~the Senate, Assembly,~~ Congress~~, and the Board of Equalization~~ shall be elected from a single-member district.

(b) The population of all *congressional* districts ~~of a particular type~~ shall be reasonably equal. *After following this criterion, the Legislature shall adjust the boundary lines according to the criteria set forth and prioritized in paragraphs (2), (3), (4), and (5) of subdivision (d) of Section 2. The Legislature shall issue, with its final map, a report that explains the basis on which it made its decisions in achieving compliance with these criteria and shall include definitions of the terms and standards used in drawing its final map.*

~~(c) Every district shall be contiguous.~~

~~(d)~~ *(c)* ~~Districts of each type~~ *Congressional districts* shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

~~(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section.~~

*(d) The Legislature shall coordinate with the Citizens Redistricting Commission established pursuant to Section 2 to hold concurrent hearings,*

*provide access to redistricting data and software, and otherwise ensure full public participation in the redistricting process. The Legislature shall comply with the open hearing requirements of paragraphs (1), (2), (3), and (7) of subdivision (a) of, and subdivision (b) of, Section 8253 of the Government Code, or its successor provisions of statute.*

SEC. 3.3. Section 2 is added to Article XXI of the California Constitution, to read:

*SEC. 2. (a) The Citizens Redistricting Commission shall draw new district lines (also known as "redistricting") for State Senate, Assembly, and Board of Equalization districts. This commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.*

*(b) The Citizens Redistricting Commission (hereinafter the "commission") shall: (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves with integrity and fairness.*

*(c) (1) The selection process is designed to produce a Citizens Redistricting Commission that is independent from legislative influence and reasonably representative of this State's diversity.*

*(2) The Citizens Redistricting Commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.*

*(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.*

*(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.*

*(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The three final maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.*

*(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.*

*(d) The commission shall establish single-member districts for the Senate, Assembly, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:*

*(1) Districts shall comply with the United States Constitution. Senate, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.*

*(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).*

*(3) Districts shall be geographically contiguous.*

*(4) The geographic integrity of any city, county, city and county, neighborhood, or community of interest shall be respected to the extent possible without violating the requirements of any of the preceding subdivisions. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.*

*(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.*

*(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.*

*(e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.*

*(f) Districts for the Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.*

*(g) By September 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve three final maps that separately set forth the district boundary lines for the Senate, Assembly, and State Board of Equalization districts. Upon approval, the commission shall certify the three final maps to the Secretary of State.*

*(h) The commission shall issue, with each of the three final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.*

*(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.*

*(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.*

SEC. 3.4. Section 3 is added to Article XXI of the California Constitution, to read:

*SEC. 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines*

*that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.*

*(b) (1) The Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged.*

*(2) Any registered voter in this state may file a petition for a writ of mandate or writ of prohibition, within 45 days after the commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute.*

*(3) The Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to paragraph (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate.*

SEC. 4. Amendment of Government Code.

SEC. 4.1. Chapter 3.2 (commencing with Section 8251) is added to Division 1 of Title 2 of the Government Code, to read:

*CHAPTER 3.2. CITIZENS REDISTRICTING COMMISSION*

*8251. Citizens Redistricting Commission General Provisions.*

*(a) This chapter implements Article XXI of the California Constitution by establishing the process for the selection and governance of the Citizens Redistricting Commission.*

*(b) For purposes of this chapter, the following terms are defined:*

*(1) "Commission" means the Citizens Redistricting Commission.*

*(2) "Day" means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.*

*(3) "Panel" means the Applicant Review Panel.*

*(4) "Qualified independent auditor" means an auditor who is currently licensed by the California Board of Accountancy and has been a practicing independent auditor for at least 10 years prior to appointment to the Applicant Review Panel.*

*(c) The Legislature may not amend this chapter unless all of the following are met:*

*(1) By the same vote required for the adoption of the final set of maps, the commission recommends amendments to this chapter to carry out its purpose and intent.*

*(2) The exact language of the amendments provided by the commission is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor.*

*(3) The bill containing the amendments provided by the commission is in print for 10 days before final passage by the Legislature.*

*(4) The amendments further the purposes of this act.*

*(5) The amendments may not be passed by the Legislature in a year ending in 0 or 1.*

*8252. Citizens Redistricting Commission Selection Process.*

*(a) (1) By January 1 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall initiate an application process, open to all*

*registered California voters in a manner that promotes a diverse and qualified applicant pool.*

*(2) The State Auditor shall remove from the applicant pool individuals with conflicts of interest including:*

*(A) Within the 10 years immediately preceding the date of application, neither the applicant, nor a member of his or her immediate family, may have done any of the following:*

*(i) Been appointed to, elected to, or have been a candidate for federal or state office.*

*(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal or state office.*

*(iii) Served as an elected or appointed member of a political party central committee.*

*(iv) Been a registered federal, state, or local lobbyist.*

*(v) Served as paid congressional, legislative, or Board of Equalization staff.*

*(vi) Contributed two thousand dollars ($2,000) or more to any congressional, state, or local candidate for elective public office in any year, which shall be adjusted every 10 years by the cumulative change in the California Consumer Price Index, or its successor.*

*(B) Staff and consultants to, persons under a contract with, and any person with an immediate family relationship with the Governor, a Member of the Legislature, a member of Congress, or a member of the State Board of Equalization, are not eligible to serve as commission members. As used in this subdivision, a member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, siblings, and in-laws.*

*(b) The State Auditor shall establish an Applicant Review Panel, consisting of three qualified independent auditors, to screen applicants. The State Auditor shall randomly draw the names of three qualified independent auditors from a pool consisting of all auditors employed by the state and licensed by the California Board of Accountancy at the time of the drawing. The State Auditor shall draw until the names of three auditors have been drawn including one who is registered with the largest political party in California based on party registration, one who is registered with the second largest political party in California based on party registration, and one who is not registered with either of the two largest political parties in California. After the drawing, the State Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors decline to serve on the panel, the State Auditor shall resume the random drawing until three qualified independent auditors who meet the requirements of this subdivision have agreed to serve on the panel. A member of the panel shall be subject to the conflict of interest provisions set forth in paragraph (2) of subdivision (a).*

*(c) Having removed individuals with conflicts of interest from the applicant pool, the State Auditor shall no later than August 1 in 2010, and in each year ending in the number zero thereafter, publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.*

*(d) From the applicant pool, the Applicant Review Panel shall select 60 of the most qualified applicants, including 20 who are registered with the largest political party in California based on registration, 20 who are registered with the second largest political party in California based on registration, and 20 who*

*are not registered with either of the two largest political parties in California based on registration. These subpools shall be created on the basis of relevant analytical skills, ability to be impartial, and appreciation for California's diverse demographics and geography. The members of the panel shall not communicate with any State Board of Equalization member, Senator, Assembly Member, congressional member, or their representatives, about any matter related to the nomination process or applicants prior to the presentation by the panel of the pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly.*

*(e) By October 1 in 2010, and in each year ending in the number zero thereafter, the Applicant Review Panel shall present its pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly. No later than November 15 in 2010, and in each year ending in the number zero thereafter, the President pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the Assembly, and the Minority Floor Leader of the Assembly may each strike up to two applicants from each subpool of 20 for a total of eight possible strikes per subpool. After all legislative leaders have exercised their strikes, the Secretary of the Senate and the Chief Clerk of the Assembly shall jointly present the pool of remaining names to the State Auditor.*

*(f) No later than November 20 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall randomly draw eight names from the remaining pool of applicants as follows: three from the remaining subpool of applicants registered with the largest political party in California based on registration, three from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. These eight individuals shall serve on the Citizens Redistricting Commission.*

*(g) No later than December 31 in 2010, and in each year ending in the number zero thereafter, the eight commissioners shall review the remaining names in the pool of applicants and appoint six applicants to the commission as follows: two from the remaining subpool of applicants registered with the largest political party in California based on registration, two from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. The six appointees must be approved by at least five affirmative votes which must include at least two votes of commissioners registered from each of the two largest parties and one vote from a commissioner who is not affiliated with either of the two largest political parties in California. The six appointees shall be chosen to ensure the commission reflects this state's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial.*

*8252.5. Citizens Redistricting Commission Vacancy, Removal, Resignation, Absence.*

*(a) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission may be removed by the Governor with the concurrence of two-thirds of the Members of the Senate after having been served written notice and provided with an*

*opportunity for a response. A finding of substantial neglect of duty or gross misconduct in office may result in referral to the Attorney General for criminal prosecution or the appropriate administrative agency for investigation.*

*(b) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled within the 30 days after the vacancy occurs, from the pool of applicants of the same voter registration category as the vacating nominee that was remaining as of November 20 in the year in which that pool was established. If none of those remaining applicants are available for service, the State Auditor shall fill the vacancy from a new pool created for the same voter registration category in accordance with Section 8252.*

*8253. Citizens Redistricting Commission Miscellaneous Provisions.*

*(a) The activities of the Citizens Redistricting Commission are subject to all of the following:*

*(1) The commission shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), or its successor. The commission shall provide not less than 14 days' public notice for each meeting, except that meetings held in September in the year ending in the number one may be held with three days' notice.*

*(2) The records of the commission pertaining to redistricting and all data considered by the commission are public records that will be posted in a manner that ensures immediate and widespread public access.*

*(3) Commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission that is otherwise permitted by the Bagley-Keene Open Meeting Act or its successor outside of a public hearing.*

*(4) The commission shall select by the voting process prescribed in paragraph (5) of subdivision (c) of Section 2 of Article XXI of the California Constitution one of their members to serve as the chair and one to serve as vice chair. The chair and vice chair shall not be of the same party.*

*(5) The commission shall hire commission staff, legal counsel, and consultants as needed. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in paragraph (2) of subdivision (a) of Section 8252 to the hiring of staff to the extent applicable. The Secretary of State shall provide support functions to the commission until its staff and office are fully functional. Any individual employed by the commission shall be exempt from the civil service requirements of Article VII of the California Constitution. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes including at least three votes of members registered from each of the two largest parties and three votes from members who are not registered with either of the two largest political parties in California.*

*(6) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's attendance or scheduled attendance at any meeting of the commission.*

*(7) The commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall include hearings to receive public input before the commission draws any maps and hearings following the drawing and display of any commission maps. In addition, hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process. The commission shall display the maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment shall be taken for at least 14 days from the date of public display of any map.*

*(b) The Legislature shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps. Upon the commission's formation and until its dissolution, the Legislature shall coordinate these efforts with the commission.*

*8253.5. Citizens Redistricting Commission Compensation.*

*Members of the commission shall be compensated at the rate of three hundred dollars ($300) for each day the member is engaged in commission business. For each succeeding commission, the rate of compensation shall be adjusted in each year ending in nine by the cumulative change in the California Consumer Price Index, or its successor. Members of the panel and the commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed pursuant to this act. A member's residence is deemed to be the member's post of duty for purposes of reimbursement of expenses.*

*8253.6. Citizens Redistricting Commission Budget, Fiscal Oversight.*

*(a) In 2009, and in each year ending in nine thereafter, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution amounts of funding for the State Auditor, the Citizens Redistricting Commission, and the Secretary of State that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process required by this act for a three-year period, including, but not limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process. The Governor shall also make adequate office space available for the operation of the commission. The Legislature shall make the necessary appropriation in the Budget Act, and the appropriation shall be available during the entire three-year period. The appropriation made shall be equal to the greater of three million dollars ($3,000,000), or the amount expended pursuant to this subdivision in the immediately proceeding redistricting process, as each amount is adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this subdivision. The Legislature may make additional appropriations in any year in which it determines that the commission requires additional funding in order to fulfill its duties.*

*(b) The commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants, exempt from the civil service requirements of Article*

*VII of the California Constitution, for the purposes of this act, including legal representation.*

SEC. 5. Conflicting Ballot Propositions.

(a) In the event that this measure and another measure(s) relating to the redistricting of Senate, Assembly, congressional, or Board of Equalization districts are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and given full force of law.

SEC. 6. Severability.

The provisions of this act are severable. If any provision of this act or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

## INITIATIVE STATUTES

*Number on ballot*

2. **Standards for Confining Farm Animals.**

[Submitted by the initiative and approved by electors November 4, 2008.]

## PROPOSED LAW

SECTION 1. SHORT TITLE

This act shall be known and may be cited as the Prevention of Farm Animal Cruelty Act.

SECTION 2. PURPOSE

The purpose of this act is to prohibit the cruel confinement of farm animals in a manner that does not allow them to turn around freely, lie down, stand up, and fully extend their limbs.

SECTION 3. FARM ANIMAL CRUELTY PROVISIONS

Chapter 13.8 (commencing with Section 25990) is added to Division 20 of the Health and Safety Code, to read:

*CHAPTER 13.8. FARM ANIMAL CRUELTY*

*25990. PROHIBITIONS. In addition to other applicable provisions of law, a person shall not tether or confine any covered animal, on a farm, for all or the majority of any day, in a manner that prevents such animal from:*

*(a) Lying down, standing up, and fully extending his or her limbs; and*

*(b) Turning around freely.*

*25991. DEFINITIONS. For the purposes of this chapter, the following terms have the following meanings:*

*(a) "Calf raised for veal" means any calf of the bovine species kept for the purpose of producing the food product described as veal.*

*(b) "Covered animal" means any pig during pregnancy, calf raised for veal, or egg-laying hen who is kept on a farm.*

*(c) "Egg-laying hen" means any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of egg production.*

*(d) "Enclosure" means any cage, crate, or other structure (including what is commonly described as a "gestation crate" for pigs; a "veal crate" for calves; or a "battery cage" for egg-laying hens) used to confine a covered animal.*

*(e) "Farm" means the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food or fiber; and does not include live animal markets.*

*(f) "Fully extending his or her limbs" means fully extending all limbs without touching the side of an enclosure, including, in the case of egg-laying hens, fully spreading both wings without touching the side of an enclosure or other egg-laying hens.*

*(g) "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate.*

*(h) "Pig during pregnancy" means any pregnant pig of the porcine species kept for the primary purpose of breeding.*

*(i) "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.*

*25992. Exceptions. This chapter shall not apply:*

*(a) During scientific or agricultural research.*

*(b) During examination, testing, individual treatment or operation for veterinary purposes.*

*(c) During transportation.*

*(d) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions.*

*(e) During the slaughter of a covered animal in accordance with the provisions of Chapter 6 (commencing with Section 19501) of Part 3 of Division 9 of the Food and Agricultural Code, relating to humane methods of slaughter, and other applicable law and regulations.*

*(f) To a pig during the seven-day period prior to the pig's expected date of giving birth.*

*25993. Enforcement. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days or by both such fine and imprisonment.*

*25994. Construction of Chapter.*

*The provisions of this chapter are in addition to, and not in lieu of, any other laws protecting animal welfare, including the California Penal Code. This chapter shall not be construed to limit any state law or regulations protecting the welfare of animals, nor shall anything in this chapter prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.*

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATES

The provisions of Sections 25990, 25991, 25992, 25993, and 25994 shall become operative on January 1, 2015.

*Number on ballot*

3. **Children's Hospital Bond Act. Grant Program.**

[Submitted by the initiative and approved by electors November 4, 2008.]

## PROPOSED LAW

SECTION 1. Part 6.1 (commencing with Section 1179.50) is added to Division 1 of the Health and Safety Code, to read:

*PART 6.1. CHILDREN'S HOSPITAL BOND ACT OF 2008*

*CHAPTER 1. GENERAL PROVISIONS*

*1179.50. (a) This part shall be known and may be cited as the Children's Hospital Bond Act of 2008.*

*(b) California's network of regional children's hospitals provide vital health care services to children facing life-threatening illness or injury. Over one million times each year, children are cared for at these hospitals without regard to their family's ability to pay.*

*(c) Children's hospitals also provide specialized treatment and care that has increased the survival of children suffering from serious diseases and illnesses such as childhood leukemia, cancer, heart defects, diabetes, sickle cell anemia, and cystic fibrosis.*

*(d) Children's hospitals also provide essential training for pediatricians, pediatric specialists and others who treat children, and they conduct critically important medical research that benefits all of California's children.*

*(e) However, the burden of providing uncompensated care and the increasing costs of health care seriously impair our children's hospitals' ability to modernize and expand their facilities and to purchase the latest medical technologies and special medical equipment necessary to take care of sick children.*

*(f) Therefore, the people desire to provide a steady and ready source of funds for capital improvement programs for children's hospitals to improve the health, welfare, and safety of California's children.*

*1179.51. As used in this part, the following terms have the following meanings:*

*(a) "Authority" means the California Health Facilities Financing Authority established pursuant to Section 15431 of the Government Code.*

*(b) "Children's hospital" means either of the following:*

*(1) A University of California general acute care hospital described below:*

*(A) University of California, Davis Children's Hospital.*

*(B) Mattel Children's Hospital at University of California, Los Angeles.*

*(C) University Children's Hospital at University of California, Irvine.*

*(D) University of California, San Francisco Children's Hospital.*

*(E) University of California, San Diego Children's Hospital.*

*(2) A general acute care hospital that is, or is an operating entity of, a California nonprofit corporation incorporated prior to January 1, 2003, whose mission of clinical care, teaching, research, and advocacy focuses on children, and that provides comprehensive pediatric services to a high volume of children eligible for governmental programs and to children with special health care*

*needs eligible for the California Children's Services program and that meets all of the following:*

*(A) The hospital had at least 160 licensed beds in the categories of pediatric acute, pediatric intensive care and neonatal intensive care in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to the Office of Statewide Health Planning and Development on or before July 1, 2003.*

*(B) The hospital provided over 30,000 total pediatric patient (census) days, excluding nursery acute days, in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to the Office of Statewide Health Planning and Development on or before July 1, 2003.*

*(C) The hospital provided medical education to at least eight, rounded to the nearest whole integer, full-time equivalent pediatric or pediatric subspecialty residents in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to the Office of Statewide Health Planning and Development on or before July 1, 2003.*

*(c) "Committee" means the Children's Hospital Bond Act Finance Committee created pursuant to Section 1179.61.*

*(d) "Fund" means the Children's Hospital Bond Act Fund created pursuant to Section 1179.53.*

*(e) "Grant" means the distribution of money in the fund by the authority to children's hospitals for projects pursuant to this part.*

*(f) "Program" means the Children's Hospital Program established pursuant to this part.*

*(g) "Project" means constructing, expanding, remodeling, renovating, furnishing, equipping, financing, or refinancing of a children's hospital to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include reimbursement for the costs of constructing, expanding, remodeling, renovating, furnishing, equipping, financing, or refinancing of a children's hospital where these costs are incurred after January 31, 2008. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating children's hospital that qualifies under this part.*

*CHAPTER 2. THE CHILDREN'S HOSPITAL PROGRAM*

*1179.53. The proceeds of bonds issued and sold pursuant to this part shall be deposited in the Children's Hospital Bond Act Fund, which is hereby created.*

*1179.54. The purpose of the Children's Hospital Program is to improve the health and welfare of California's critically ill children, by providing a stable and ready source of funds for capital improvement projects for children's hospitals. The program provided for in this part is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the citizens of the state.*

*1179.55. The authority is authorized to award grants to any children's hospital for purposes of funding projects, as defined in subdivision (g) of Section 1179.51.*

*1179.56. (a) Twenty percent of the total funds available for grants pursuant to this part shall be awarded to children's hospitals as defined in paragraph (1) of subdivision (b) of Section 1179.51.*

*(b) Eighty percent of the total funds available for grants pursuant to this part shall be awarded to children's hospitals as defined in paragraph (2) of subdivision (b) of Section 1179.51.*

*1179.57. (a) The authority shall develop a written application for the awarding of grants under this part within 90 days of the adoption of this act.*

*The authority shall award grants to eligible children's hospitals, subject to the limitations of this part and to further the purposes of this part based on the following factors:*

*(1) The grant will contribute toward expansion or improvement of health care access by children eligible for governmental health insurance programs and indigent, underserved, and uninsured children.*

*(2) The grant will contribute toward the improvement of child health care or pediatric patient outcomes.*

*(3) The children's hospital provides uncompensated or undercompensated care to indigent or public pediatric patients.*

*(4) The children's hospital provides services to vulnerable pediatric populations.*

*(5) The children's hospital promotes pediatric teaching or research programs.*

*(6) Demonstration of project readiness and project feasibility.*

*(b) (1) An application for funds shall be submitted to the authority for approval as to its conformity with the requirements of this part.*

*(2) The authority shall process and award grants in a timely manner, not to exceed 60 days.*

*(c) A children's hospital identified in paragraph (1) of subdivision (b) of Section 1179.51 shall not apply for, and the authority shall not award to that children's hospital, a grant that would cause the total amount of grants awarded to that children's hospital to exceed one-fifth of the total funds available for grants to all children's hospitals pursuant to subdivision (a) of Section 1179.56. Notwithstanding this grant limitation, any funds available under subdivision (a) of Section 1179.56 that have not been exhausted by June 30, 2018, shall become available for an application from any children's hospital identified in paragraph (1) of subdivision (b) of Section 1179.51.*

*(d) A children's hospital identified in paragraph (2) of subdivision (b) of Section 1179.51 shall not apply for, and the authority shall not award to that children's hospital, a grant that would cause the total amount of grants awarded to that children's hospital to exceed ninety-eight million dollars ($98,000,000) from funds available for grants to all children's hospitals pursuant to subdivision (b) of Section 1179.56. Notwithstanding this grant limitation, any funds available under subdivision (b) of Section 1179.56 that have not been exhausted by June 30, 2018, shall become available for an application from any children's hospital defined in paragraph (2) of subdivision (b) of Section 1179.51.*

*(e) In no event shall a grant to finance a project exceed the total cost of the project, as determined by the children's hospital and approved by the authority.*

*(f) All projects that are awarded grants shall be completed within a reasonable period of time. If the authority determines that the children's hospital has failed to complete the project under the terms specified in awarding the grant, the authority may require remedies, including the return of all or a portion of the grant. A children's hospital receiving a grant under this part shall submit certification of project completion to the authority.*

*(g) Grants shall only be available pursuant to this section if the authority determines that it has sufficient money available in the fund. Nothing in this section shall require the authority to award grants if the authority determines that it has insufficient moneys available in the fund to do so.*

*(h) The authority may annually determine the amount available for purposes of this part. Administrative costs for this program shall not exceed the actual costs or 1 percent, whichever is less.*

*1179.58. The Bureau of State Audits may conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with the requirements of this part, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this part.*

*CHAPTER 3. FISCAL PROVISIONS*

*1179.59. Bonds in the total amount of nine hundred eighty million dollars ($980,000,000), not including the amount of any refunding bonds, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and 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 the principal of, and interest on, the bonds as the principal and interest become due and payable.*

*1179.60. The bonds authorized by this part 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 part and are hereby incorporated in this part as though set forth in full in this part.*

*1179.61. (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law of the bonds authorized by this part, the Children's Hospital Bond Act Finance Committee is hereby created. For purposes of this part, the Children's Hospital Bond Act Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.*

*(b) The authority is designated the "board" for purposes of the State General Obligation Bond Law, and shall administer the program pursuant to this part.*

*1179.62. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this part in order to carry out the actions specified in Section 1179.54 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 be issued or sold at any one time.*

*1179.63. 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. 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.*

*1179.64. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated continuously from the General Fund in the State Treasury, for the purposes of this part, 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 part, as the principal and interest become due and payable.*

*(b) The sum necessary to carry out Section 1179.65, appropriated without regard to fiscal years.*

*1179.65. For the purposes of carrying out this part, the Director of Finance may authorize the withdrawal from the General Fund of an amount 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 part. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from proceeds received from the sale of bonds for the purpose of carrying out this part.*

*1179.66. 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.*

*1179.67. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each children's hospital funded through this bond act.*

*1179.68. The authority may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, including other authorized forms of interim financing that include, but are not limited to, commercial paper, in accordance with Section 16312 of the Government Code, for purposes of carrying out this part. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this part. The authority shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this part.*

*1179.69. 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 voters of the state for the issuance of the bonds described in this part includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this part or any previously issued refunding bonds.*

*1179.70. Notwithstanding any other provision of this part, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this part 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 investment of bond proceeds and for the investment of earnings on those proceeds. The Treasurer 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 required or desirable under federal law 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.*

*1179.71. The people hereby find and declare that, inasmuch as the proceeds from the sale of bonds authorized by this part 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 part.*

*1179.72. Notwithstanding any other provision of this part, the provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

## BOND ACTS SUBMITTED BY LEGISLATURE

*Number on ballot*

1A. **Safe, Reliable High-Speed Passenger Train Bond Act.** (Statutes 2008, Chapter 267, AB 3034)

[Approved by electors November 4, 2008.]

## PROPOSED LAW

SEC. 9. Chapter 20 (commencing with Section 2704) is added to Division 3 of the Streets and Highways Code, to read:

*CHAPTER 20. SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT FOR THE 21ST CENTURY*

*Article 1. General Provisions*

*2704. This chapter shall be known and may be cited as the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century.*

*2704.01. As used in this chapter, the following terms have the following meanings:*

*(a) "Committee" means the High-Speed Passenger Train Finance Committee created pursuant to Section 2704.12.*

*(b) "Authority" means the High-Speed Rail Authority created pursuant to Section 185020 of the Public Utilities Code, or its successor.*

*(c) "Fund" means the High-Speed Passenger Train Bond Fund created pursuant to Section 2704.05.*

*(d) "High-speed train" means a passenger train capable of sustained revenue operating speeds of at least 200 miles per hour where conditions permit those speeds.*

*(e) "High-speed train system" means a system with high-speed trains and includes, but is not limited to, the following components: right-of-way, track, power system, rolling stock, stations, and associated facilities.*

*(f) "Corridor" means a portion of the high-speed train system as described in Section 2704.04.*

*(g) "Usable segment" means a portion of a corridor that includes at least two stations.*

*Article 2. High-Speed Passenger Train Financing Program*

*2704.04. (a) It is the intent of the Legislature by enacting this chapter and of the people of California by approving the bond measure pursuant to this chapter to initiate the construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim, and links the state's major population centers, including Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008.*

*(b) (1) Net proceeds received from the sale of nine billion dollars ($9,000,000,000) principal amount of bonds authorized pursuant to this chapter, upon appropriation by the Legislature in the annual Budget Act, shall be used for (A) planning and engineering for the high-speed train system and (B) capital costs, as described in subdivision (c).*

*(2) As adopted by the authority in May 2007, Phase 1 of the high-speed train project is the corridor of the high-speed train system between San Francisco Transbay Terminal and Los Angeles Union Station and Anaheim.*

*(3) Upon a finding by the authority that expenditure of bond proceeds for capital costs in corridors other than the corridor described in paragraph (2) would advance the construction of the system, would be consistent with the criteria described in subdivision (f) of Section 2704.08, and would not have an adverse impact on the construction of Phase 1 of the high-speed train project, the authority may request funding for capital costs, and the Legislature may appropriate funds described in paragraph (1) in the annual Budget Act, to be expended for any of the following high-speed train corridors:*

*(A) Sacramento to Stockton to Fresno.*

*(B) San Francisco Transbay Terminal to San Jose to Fresno.*

*(C) Oakland to San Jose.*

*(D) Fresno to Bakersfield to Palmdale to Los Angeles Union Station.*

*(E) Los Angeles Union Station to Riverside to San Diego.*

*(F) Los Angeles Union Station to Anaheim to Irvine.*

*(G) Merced to Stockton to Oakland and San Francisco via the Altamont Corridor.*

*(4) Nothing in this section shall prejudice the authority's determination and selection of the alignment from the Central Valley to the San Francisco Bay Area and its certification of the environmental impact report.*

*(5) Revenues of the authority, generated by operations of the high-speed train system above and beyond operating and maintenance costs and financing obligations, including, but not limited to, support of revenue bonds, as determined by the authority, shall be used for construction, expansion, improvement, replacement, and rehabilitation of the high-speed train system.*

*(c) Capital costs payable or reimbursable from proceeds of bonds described in paragraph (1) of subdivision (b) include, with respect to the high-speed train system or any portion thereof, all activities necessary for acquisition of interests in real property and rights-of-way and improvement thereof; acquisition and construction of tracks, structures, power systems, and stations; acquisition of rolling stock and related equipment; mitigation of any direct or indirect environmental impacts of activities authorized by this chapter; relocation assistance for displaced property owners and occupants; other related capital facilities and equipment; and such other purposes related to the foregoing, for the procurement thereof, and for the financing or refinancing thereof, as may be set forth in a statute hereafter enacted. The method of acquisition of any of the foregoing may also be set forth in a statute hereafter enacted.*

*(d) Proceeds of bonds authorized pursuant to this chapter shall not be used for any operating or maintenance costs of trains or facilities.*

*(e) The State Auditor shall perform periodic audits of the authority's use of proceeds of bonds authorized pursuant to this chapter for consistency with the requirements of this chapter.*

*2704.05. Subject to Section 2704.18, the proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the High-Speed Passenger Train Bond Fund, which is hereby created.*

*2704.06. The net proceeds received from the sale of nine billion dollars ($9,000,000,000) principal amount of bonds authorized pursuant to this chapter, upon appropriation by the Legislature in the annual Budget Act, shall*

*be available, and subject to those conditions and criteria that the Legislature may provide by statute, for (a) planning the high-speed train system and (b) capital costs set forth in subdivision (c) of Section 2704.04, consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008, as subsequently modified pursuant to environmental studies conducted by the authority.*

*2704.07. The authority shall pursue and obtain other private and public funds, including, but not limited to, federal funds, funds from revenue bonds, and local funds, to augment the proceeds of this chapter.*

*2704.08. (a) Proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 shall not be used for more than 50 percent of the total cost of construction of each corridor or usable segment thereof of the high-speed train system, except for bond proceeds used for the purposes of subdivision (g).*

*(b) Not more than 10 percent of the proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 shall be used for environmental studies, planning, and preliminary engineering activities.*

*(c) (1) No later than 90 days prior to the submittal to the Legislature and the Governor of the initial request for appropriation of proceeds of bonds authorized by this chapter for any eligible capital costs on each corridor, or usable segment thereof, identified in subdivision (b) of Section 2704.04, other than costs described in subdivision (g), the authority shall have approved and submitted to the Director of Finance, the peer review group established pursuant to Section 185035 of the Public Utilities Code, and the policy committees with jurisdiction over transportation matters and the fiscal committees in both houses of the Legislature, a detailed funding plan for that corridor or a usable segment thereof.*

*(2) The plan shall include, identify, or certify to all of the following:*

*(A) The corridor, or usable segment thereof, in which the authority is proposing to invest bond proceeds.*

*(B) A description of the expected terms and conditions associated with any lease agreement or franchise agreement proposed to be entered into by the authority and any other party for the construction or operation of passenger train service along the corridor or usable segment thereof.*

*(C) The estimated full cost of constructing the corridor or usable segment thereof, including an estimate of cost escalation during construction and appropriate reserves for contingencies.*

*(D) The sources of all funds to be invested in the corridor, or usable segment thereof, and the anticipated time of receipt of those funds based on expected commitments, authorizations, agreements, allocations, or other means.*

*(E) The projected ridership and operating revenue estimate based on projected high-speed passenger train operations on the corridor or usable segment.*

*(F) All known or foreseeable risks associated with the construction and operation of high-speed passenger train service along the corridor or usable segment thereof and the process and actions the authority will undertake to manage those risks.*

*(G) Construction of the corridor or usable segment thereof can be completed as proposed in the plan.*

*(H) The corridor or usable segment thereof would be suitable and ready for high-speed train operation.*

*(I) One or more passenger service providers can begin using the tracks or stations for passenger train service.*

*(J) The planned passenger service by the authority in the corridor or usable segment thereof will not require a local, state, or federal operating subsidy.*

*(K) The authority has completed all necessary project level environmental clearances necessary to proceed to construction.*

*(d) Prior to committing any proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 for expenditure for construction and real property and equipment acquisition on each corridor, or usable segment thereof, other than for costs described in subdivision (g), the authority shall have approved and concurrently submitted to the Director of Finance and the Chairperson of the Joint Legislative Budget Committee the following: (1) a detailed funding plan for that corridor or usable segment thereof that (A) identifies the corridor or usable segment thereof, and the estimated full cost of constructing the corridor or usable segment thereof, (B) identifies the sources of all funds to be used and anticipates time of receipt thereof based on offered commitments by private parties, and authorizations, allocations, or other assurances received from governmental agencies, (C) includes a projected ridership and operating revenue report, (D) includes a construction cost projection including estimates of cost escalation during construction and appropriate reserves for contingencies, (E) includes a report describing any material changes from the plan submitted pursuant to subdivision (c) for this corridor or usable segment thereof, and (F) describes the terms and conditions associated with any agreement proposed to be entered into by the authority and any other party for the construction or operation of passenger train service along the corridor or usable segment thereof; and (2) a report or reports, prepared by one or more financial services firms, financial consulting firms, or other consultants, independent of any parties, other than the authority, involved in funding or constructing the high-speed train system, indicating that (A) construction of the corridor or usable segment thereof can be completed as proposed in the plan submitted pursuant to paragraph (1), (B) if so completed, the corridor or usable segment thereof would be suitable and ready for high-speed train operation, (C) upon completion, one or more passenger service providers can begin using the tracks or stations for passenger train service, (D) the planned passenger train service to be provided by the authority, or pursuant to its authority, will not require operating subsidy, and (E) an assessment of risk and the risk mitigation strategies proposed to be employed. The Director of Finance shall review the plan within 60 days of its submission by the authority and, after receiving any communication from the Joint Legislative Budget Committee, if the director finds that the plan is likely to be successfully implemented as proposed, the authority may enter into commitments to expend bond funds that are subject to this subdivision and accept offered commitments from private parties.*

*(e) Subsequent to approval of the detailed funding plan required under subdivision (d), the authority shall promptly inform the Governor and the Legislature of any material changes in plans or project conditions that would jeopardize completion of the corridor as previously planned and shall identify means of remedying the conditions to allow completion and operation of the corridor.*

*(f) In selecting corridors or usable segments thereof for construction, the authority shall give priority to those corridors or usable segments thereof that are expected to require the least amount of bond funds as a percentage of total cost of construction. Among other criteria it may use for establishing priorities for initiating construction on corridors or usable segments thereof, the authority*

*shall include the following: (1) projected ridership and revenue, (2) the need to test and certify trains operating at speeds of 220 miles per hour, (3) the utility of those corridors or usable segments thereof for passenger train services other than the high-speed train service that will not result in any unreimbursed operating or maintenance cost to the authority, and (4) the extent to which the corridors include facilities contained therein to enhance the connectivity of the high-speed train network to other modes of transit, including, but not limited to, conventional rail (intercity rail, commuter rail, light rail, or other rail transit), bus, or air transit.*

*(g) Nothing in this section shall limit use or expenditure of proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 up to an amount equal to 7.5 percent of the aggregate principal amount of bonds described in that paragraph for environmental studies, planning, and preliminary engineering activities, and for (1) acquisition of interests in real property and right-of-way and improvement thereof (A) for preservation for high-speed rail uses, (B) to add to third-party improvements to make them compatible with high-speed rail uses, or (C) to avoid or to mitigate incompatible improvements or uses; (2) mitigation of any direct or indirect environmental impacts resulting from the foregoing; and (3) relocation assistance for property owners and occupants who are displaced as a result of the foregoing.*

*(h) Not more than 2.5 percent of the proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 shall be used for administrative purposes. The amount of bond proceeds available for administrative purposes shall be appropriated in the annual Budget Act. The Legislature may, by statute, adjust the percentage set forth in this subdivision, except that the Legislature shall not increase that percentage to more than 5 percent.*

*(i) No failure to comply with this section shall affect the validity of the bonds issued under this chapter.*

*2704.09. The high-speed train system to be constructed pursuant to this chapter shall be designed to achieve the following characteristics:*

*(a) Electric trains that are capable of sustained maximum revenue operating speeds of no less than 200 miles per hour.*

*(b) Maximum nonstop service travel times for each corridor that shall not exceed the following:*

*(1) San Francisco-Los Angeles Union Station: two hours, 40 minutes.*

*(2) Oakland-Los Angeles Union Station: two hours, 40 minutes.*

*(3) San Francisco-San Jose: 30 minutes.*

*(4) San Jose-Los Angeles: two hours, 10 minutes.*

*(5) San Diego-Los Angeles: one hour, 20 minutes.*

*(6) Inland Empire-Los Angeles: 30 minutes.*

*(7) Sacramento-Los Angeles: two hours, 20 minutes.*

*(c) Achievable operating headway (time between successive trains) shall be five minutes or less.*

*(d) The total number of stations to be served by high-speed trains for all of the corridors described in subdivision (b) of Section 2704.04 shall not exceed 24. There shall be no station between the Gilroy station and the Merced station.*

*(e) Trains shall have the capability to transition intermediate stations, or to bypass those stations, at mainline operating speed.*

*(f) For each corridor described in subdivision (b), passengers shall have the capability of traveling from any station on that corridor to any other station on that corridor without being required to change trains.*

*(g) In order to reduce impacts on communities and the environment, the alignment for the high-speed train system shall follow existing transportation or utility corridors to the extent feasible and shall be financially viable, as determined by the authority.*

*(h) Stations shall be located in areas with good access to local mass transit or other modes of transportation.*

*(i) The high-speed train system shall be planned and constructed in a manner that minimizes urban sprawl and impacts on the natural environment.*

*(j) Preserving wildlife corridors and mitigating impacts to wildlife movement, where feasible as determined by the authority, in order to limit the extent to which the system may present an additional barrier to wildlife's natural movement.*

*2704.095. (a) (1) Net proceeds received from the sale of nine hundred fifty million dollars ($950,000,000) principal amount of bonds authorized by this chapter shall be allocated to eligible recipients for capital improvements to intercity and commuter rail lines and urban rail systems that provide direct connectivity to the high-speed train system and its facilities, or that are part of the construction of the high-speed train system as that system is described in subdivision (b) of Section 2704.04, or that provide capacity enhancements and safety improvements. Funds under this section shall be available upon appropriation by the Legislature in the annual Budget Act for the eligible purposes described in subdivision (d).*

*(2) Twenty percent (one hundred ninety million dollars ($190,000,000)) of the amount authorized by this section shall be allocated for intercity rail to the Department of Transportation, for state-supported intercity rail lines that provide regularly scheduled service and use public funds to operate and maintain rail facilities, rights-of-way, and equipment. A minimum of 25 percent of the amount available under this paragraph (forty-seven million five hundred thousand dollars ($47,500,000)) shall be allocated to each of the state's three intercity rail corridors.*

*The California Transportation Commission shall allocate the available funds to eligible recipients consistent with this section and shall develop guidelines, in consultation with the authority, to implement the requirements of this section. The guidelines shall include provisions for the administration of funds, including, but not limited to, the authority of the intercity corridor operators to loan these funds by mutual agreement between intercity rail corridors.*

*(3) Eighty percent (seven hundred sixty million dollars ($760,000,000)) of the amount authorized by this section shall be allocated upon appropriation as set forth in this section to eligible recipients, except intercity rail, as described in subdivision (c) based upon a percentage amount calculated to incorporate all of the following:*

*(A) One-third of the eligible recipient's percentage share of statewide track miles.*

*(B) One-third of the eligible recipient's percentage share of statewide annual vehicle miles.*

*(C) One-third of the eligible recipient's percentage share of statewide annual passenger trips.*

*The California Transportation Commission shall allocate the available funds to eligible recipients consistent with this section and shall develop guidelines to implement the requirements of this section.*

*(b) For the purposes of this section, the following terms have the following meanings:*

*(1) "Track miles" means the miles of track used by a public agency or joint powers authority for regular passenger rail service.*

*(2) "Vehicle miles" means the total miles traveled, commencing with pullout from the maintenance depot, by all locomotives and cars operated in a train consist for passenger rail service by a public agency or joint powers authority.*

*(3) "Passenger trips" means the annual unlinked passenger boardings reported by a public agency or joint powers authority for regular passenger rail service.*

*(4) "Statewide" when used to modify the terms in subparagraphs (A), (B), and (C) of paragraph (3) of subdivision (a) means the combined total in the state of those amounts for all eligible recipients.*

*(c) Eligible recipients for funding under paragraph (3) of subdivision (a) shall be public agencies and joint powers authorities that operate regularly scheduled passenger rail service in the following categories:*

*(1) Commuter rail.*

*(2) Light rail.*

*(3) Heavy rail.*

*(4) Cable car.*

*(d) Funds allocated pursuant to this section shall be used to pay or reimburse the costs of projects to provide or improve connectivity with the high-speed train system or for the rehabilitation or modernization of, or safety improvements to, tracks utilized for public passenger rail service, signals, structures, facilities, and rolling stock.*

*(e) Eligible recipients may use the funds for any eligible rail element set forth in subdivision (d).*

*(f) In order to be eligible for funding under this section, an eligible recipient under paragraph (3) of subdivision (a) shall provide matching funds in an amount not less than the total amount allocated to the recipient under this section.*

*(g) An eligible recipient of funding under paragraph (3) of subdivision (a) shall certify that it has met its matching funds requirement, and all other requirements of this section, by resolution of its governing board, subject to verification by the California Transportation Commission.*

*(h) Funds made available to an eligible recipient under paragraph (3) of subdivision (a) shall supplement existing local, state, or federal revenues being used for maintenance or rehabilitation of the passenger rail system. Eligible recipients of funding under paragraph (3) of subdivision (a) shall maintain their existing commitment of local, state, or federal funds for these purposes in order to remain eligible for allocation and expenditure of the additional funding made available by this section.*

*(i) In order to receive any allocation under this section, an eligible recipient under paragraph (3) of subdivision (a) shall annually expend from existing local, state, or federal revenues being used for the maintenance or rehabilitation of the passenger rail system in an amount not less than the annual average of its expenditures from local revenues for those purposes during the 1998–99, 1999–2000, and 2000–01 fiscal years.*

*(j) Funds allocated pursuant to this section to the Southern California Regional Rail Authority for eligible projects within its service area shall be apportioned each fiscal year in accordance with memorandums of understanding to be executed between the Southern California Regional Rail Authority and its member agencies. The memorandum or memorandums of understanding shall take into account the passenger service needs of the Southern California*

*Regional Rail Authority and of the member agencies, revenue attributable to member agencies, and separate contributions to the Southern California Regional Rail Authority from the member agencies.*

*Article 3. Fiscal Provisions*

*2704.10. (a) Bonds in the total amount of nine billion nine hundred fifty million dollars ($9,950,000,000), exclusive of refunding bonds issued in accordance with Section 2704.19, 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.*

*(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.*

*2704.11. (a) Except as provided in subdivision (b), 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) Notwithstanding any provision of the State General Obligation Bond Law, each issue of bonds authorized by the committee shall have a final maturity of not more than 40 years from the date of original issuance thereof.*

*2704.12. (a) Solely for the purpose of authorizing the issuance and sale of the bonds authorized by this chapter and the making of those determinations and the taking of other actions as are authorized by this chapter, pursuant to the State General Obligation Bond Law, the High-Speed Passenger Train Finance Committee is hereby created. For purposes of this chapter, the High-Speed Passenger Train Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Director of Finance, the Controller, the Secretary of Business, Transportation and Housing, and the chairperson of the authority. Notwithstanding any other provision of law, any member of the committee may designate a representative to act as that member in his or her place and stead for all purposes, as though the member were personally present. The Treasurer shall serve as chairperson of the committee. A majority of the committee shall constitute a quorum of the committee, and may act for the committee.*

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

*2704.13. 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 Sections 2704.06 and 2704.095 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be issued and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized be issued and sold at any one time. The committee shall consider program funding needs, revenue projections, financial market conditions, and other necessary factors in determining the term for the bonds to be issued. In*

*addition to all other powers specifically granted in this chapter and the State General Obligation Bond Law, the committee may do all things necessary or convenient to carry out the powers and purposes of this article, including the approval of any indenture relating to the bonds, and the delegation of necessary duties to the chairperson and to the Treasurer as agent for the sale of the bonds. Any terms of any bonds issued under this chapter may be provided under an indenture instead of under a resolution, as determined by the committee.*

*2704.14. 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. 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.*

*2704.15. 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 equal to the total of the following: (a) that 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, and (b) the sum necessary to carry out Section 2704.17, appropriated without regard to fiscal years.*

*2704.16. 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 purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount borrowed pursuant to Section 2701.17. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.*

*2704.17. For the purpose 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 unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter, less any amount borrowed pursuant to Section 2704.16. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this chapter.*

*2704.18. All money deposited in the fund which is derived from premium on bonds sold shall be available to pay costs of issuing the bonds, and to the extent not so needed, together with accrued interest derived from sale of the bonds, shall be available for transfer to the General Fund as a credit to expenditures for bond interest.*

*2704.19. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.*

*2704.20. 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.*

*2704.21. Notwithstanding any provision of this chapter or the State General Obligation Bond Law, 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 bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.*

*Number on ballot*

12. **Veterans' Bond Act of 2008.** (Statutes 2008, Chapter 122, SB 1572)

[Approved by electors November 4, 2008.]

## PROPOSED LAW

SECTION 1. Article 5x (commencing with Section 998.400) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

*Article 5x. Veterans' Bond Act of 2008*

*998.400. This article may be cited as the Veterans' Bond Act of 2008.*

*998.401. (a) 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), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" refer both to this article and that law.*

*(b) For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the board.*

*998.402. As used herein, the following words have the following meanings:*

*(a) "Board" means the Department of Veterans Affairs.*

*(b) "Bond" means veterans' bond, a state general obligation bond, issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.*

*(c) "Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.*

*(d) "Committee" means the Veterans' Finance Committee of 1943, established by Section 991.*

*(e) "Fund" means the Veterans' Farm and Home Building Fund of 1943, established by Section 988.*

*998.403. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts,*

*liability or liabilities, of the State of California, in the aggregate amount of not more than nine hundred million dollars ($900,000,000), exclusive of refunding bonds, in the manner provided herein.*

*998.404. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations 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 and interest thereof.*

*(b) There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.*

*(c) On the dates on which funds are to be remitted pursuant to Section 16676 of the Government Code for the payment of debt service on the bonds in each fiscal year, there shall be transferred to the General Fund to pay the debt service all of the money in the fund, not in excess of the amount of debt service then due and payable. If the money transferred on the remittance dates is less than debt service then due and payable, the balance remaining unpaid shall be transferred to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the remittance date until paid, at the same rate of interest as borne by the bonds, compounded semiannually. Notwithstanding any other provision of law to the contrary, this subdivision shall apply to all veterans farm and home purchase bond acts pursuant to this chapter. This subdivision does not grant any lien on the fund or the moneys therein to the holders of any bonds issued under this article. For the purposes of this subdivision, "debt service" means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date with respect to any series of bonds. This subdivision shall not apply, however, in the case of any debt service that is payable from the proceeds of any refunding bonds.*

*998.405. There is hereby appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:*

*(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.*

*(b) That sum necessary to carry out Section 998.406, appropriated without regard to fiscal years.*

*998.406. For the purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All moneys made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.*

*998.407. 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 article. The amount of the request shall not exceed the amount of unsold bonds*

*which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are 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 article.*

*998.408. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.*

*998.409. As long as any bonds authorized under this article are outstanding, the Secretary of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Secretary of Veterans Affairs, the California Veterans Board, the appropriate policy committees dealing with veterans affairs in the Senate and the Assembly, and the committee.*

*The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money which the division may have available on deposit with the Treasurer.*

*998.410. The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.*

*Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.*

*998.411. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.*

*998.412. Any bonds issued and sold pursuant to this article 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. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.*

*998.413. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any*

*other action with respect to the investment and use of bond proceeds required or permitted under federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.*

*998.414. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article 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 Article XIII B.*

# MEASURES DEFEATED

## INITIATIVE CONSTITUTIONAL AMENDMENT

*Number on ballot*

4. **Waiting Period and Parental Notification Before Termination of Minor's Pregnancy.**

[Submitted by the initiative and rejected by electors November 4, 2008.]

## PROPOSED LAW

SECTION 1. Title

This measure shall be known and may be cited as the Child and Teen Safety and Stop Predators Act: Sarah's Law.

SEC. 2. Declaration of Findings and Purposes

The people of California have a compelling interest in protecting minors from the known risks of secret abortions, including the danger of not obtaining prompt care for health- and life-threatening complications when a minor's parent or responsible family member is unaware that she has undergone a secret abortion. The people also have a compelling interest in preventing sexual predators from using secret abortions to conceal sexual exploitation of minors.

SEC. 3. Parental Notification

Section 32 is added to Article I of the California Constitution, to read:

*SEC. 32. (a) For purposes of this section, the following terms shall be defined to mean:*

*(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor known to be pregnant except for the purpose of producing a live birth. "Abortion" shall not include the use of any contraceptive drug or device.*

*(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.*

*(3) "Parent" means a person who, at the time notice or waiver is required under this section, is either a parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of an unemancipated minor.*

*(4) "Adult family member" means a person at least 21 years of age who is the grandparent, stepparent, foster parent, aunt, uncle, sibling, half-sibling, or first cousin of an unemancipated minor.*

*(5) "Notice" means a written notification, signed and dated by a physician or his or her agent, informing the parent or adult family member of an unemancipated minor that she is pregnant and has requested an abortion.*

*(6) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this section, pregnancy does not emancipate a female under the age of 18 years.*

*(7) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.*

*(b) Notwithstanding Section 1 of Article I, or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until at least 48 hours has elapsed after the physician or the physician's agent has delivered written notice to her parent personally or by mail as provided in subdivision (c); or until the physician or the physician's agent has received a valid written waiver of notice as provided in subdivision (d); or until 48 hours after the physician has delivered written notice to an adult family member and has made a report of known or suspected child abuse, as provided in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h), (i), or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent may receive notice as provided for in this section.*

*(c) The written notice shall be delivered by the physician or the physician's agent to the parent, either personally or by certified mail addressed to the parent at the parent's last known address with return receipt requested and restricted delivery to the addressee. If notice is provided by certified mail, a copy of the written notice shall also be sent at the same time by first class mail to the parent. Notice by mail may be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place. A form for the notice shall be prescribed by the State Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.*

*(d) Notice of an unemancipated minor's intent to obtain an abortion may be waived by her parent. The waiver must be in writing, on a form prescribed by the State Department of Health Services, signed by a parent, dated, and notarized. The parent shall specify on the form that the waiver is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday. The written waiver need not be notarized if the parent personally delivers it to the physician or the physician's agent. The form shall include the following statement:* ***"WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or***

***guardian."*** *The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published. For each abortion performed on an unemancipated minor pursuant to this subdivision, the physician or the physician's agent must receive a separate original written waiver that shall be retained with the unemancipated minor's medical records.*

*(e) Notice to a parent shall not be required under this section if, at least 48 hours prior to performing the abortion, the attending physician has delivered notice in the manner prescribed and on the form prescribed in subdivision (c) to an adult family member designated by the unemancipated minor and has made a written report of known or suspected child abuse concerning the unemancipated minor to the appropriate law enforcement or public child protective agency. Such report shall be based on a minor's written statement that she fears physical, sexual, or severe emotional abuse from a parent who would otherwise be notified and that her fear is based on a pattern of physical, sexual, or severe emotional abuse of her exhibited by a parent. The physician shall include the minor's statement with his or her report and shall also retain a copy of the statement and the report in the minor's medical records. The physician shall also include with the notice a letter informing the adult family member that a report of known or suspected child abuse has been made concerning the minor and identifying the agency to which the report was made. The minor shall be informed that the notice and the letter will be delivered to the adult family member she has designated.*

*(f) Notice shall not be required under this section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency.*

*(g) Notice shall not be required under this section if waived pursuant to this subdivision and subdivision (h), (i), or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent, she may file a petition with the juvenile court. No filing fee shall be required for filing a petition. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the minor or person designated by the minor in preparing the documents required pursuant to this section. The petition shall set forth with specificity the minor's reasons for the request. The unemancipated minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time, and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed.*

*(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is both sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent.*

*(2) If the judge finds, by clear and convincing evidence, that notice to a parent is not in the best interests of the unemancipated minor, the judge shall authorize a waiver of notice. If the finding that notice to a parent is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse, the court shall ensure that such evidence is brought to the attention of the appropriate law enforcement or public child protective agency.*

*(3) If the judge does not make a finding specified in paragraph (1) or (2), the judge shall deny the petition.*

*(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.*

*(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time, and place of the hearing. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.*

*(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings, and entry of judgment as it deems necessary and may prescribe forms for such proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report of the number of petitions filed, the number of petitions granted under paragraph (1) or (2) of subdivision (h), deemed granted under subdivision (i), denied under paragraph (3) of subdivision (h), and granted or denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.*

*(l) The State Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms shall not identify the unemancipated minor or her parent(s) by name or request other information by which the unemancipated minor or her parent(s) might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the numbers of the unemancipated minor's previous abortions and deliveries if known, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed pursuant to subdivision (c), (d), (e), (f), (h), (i), or (j).*

*(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning that abortion with the State Department of Health Services on forms prescribed pursuant to subdivision (l). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.*

*(n) The State Department of Health Services shall compile an annual statistical report from the information specified in subdivision (l). The annual*

*report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, the numbers of prior abortions or deliveries where known, and the numbers of abortions performed pursuant to each of subdivision (c), (d), (e), (f), (h), (i), or (j). The annual statistical report shall be made available to county public health officials, Members of the Legislature, the Governor, and the public.*

*(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this section shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent wrongfully denied notification. The time for commencement of the action shall be within four years of the date the minor attains majority or four years of the date a parent wrongfully denied notification discovers or reasonably should have discovered the failure to comply with this section, whichever period expires later. A person shall not be liable under this section if the person establishes by written or documentary evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this section were bona fide and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the plaintiff may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of ten thousand dollars ($10,000). In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney fees. Nothing in this section shall abrogate, limit, or restrict the common law rights of parents, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.*

*(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this section notice has been or will be delivered to a parent or adult family member, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to two thousand dollars ($2,000).*

*(q) Notwithstanding any notice or waivers of notice, except where the particular circumstances of a medical emergency or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.*

*(r) Notwithstanding any notice or waivers of notice, an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.*

*(s) This section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The State Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (d), and (l).*

*(t) If any one or more provision, subdivision, sentence, clause, phrase or word of this section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase, or word of this section would have been approved by voters irrespective of the fact that any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.*

*(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this section, nothing in this section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.*

## INITIATIVE STATUTES

*Number on ballot*

5. **Nonviolent Drug Offenses. Sentencing, Parole and Rehabilitation.**

[Submitted by the initiative and rejected by electors November 4, 2008.]

## PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the "Nonviolent Offender Rehabilitation Act of 2008."

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

I. Failure to Provide Effective Rehabilitation is a Costly Mistake

(a) California's prison system has failed in its mission to rehabilitate criminals and protect public safety.

(b) State prisons are severely overcrowded and highly unsafe, currently with 175,000 inmates squeezed into facilities designed for about 100,000. Many of these inmates entered prison for nonviolent crimes and for nonviolent parole violations.

(c) Drug addiction is a leading cause of crime in California, with high prevalence among arrestees, prisoners and parolees. Moreover, untreated addiction is deadly: drug overdose is the second leading cause of accidental death in the United States and disproportionately impacts persons recently released from jail and prison.

(d) Punishment alone largely fails to change nonviolent criminal behavior, particularly when such behavior is driven by addiction and lack of basic education and skills.

(e) California's corrections system does not provide meaningful rehabilitation services to most inmates and parolees. Nonviolent offenders can languish for

years behind bars without education, vocational training, or rehabilitation programs of any kind. These inmates are then released into our communities without access to meaningful services, and with no skills or opportunities to help them safely and successfully be reintegrated into society.

(f) California's criminal justice system fails to offer effective drug treatment to tens of thousands of nonviolent offenders each year whose drug offenses and other criminal activity are driven by substance abuse and addiction. Moreover, courts are required to spend scarce resources on processing routine cases of adult marijuana possession, a waste of resources that can be curtailed by penalizing small amounts of marijuana possession as an infraction.

(g) California now offers virtually no publicly funded drug treatment options for youth under the age of 18, a tragic and short-sighted failure, in that young people with drug problems are at the highest risk to lead lives of addiction and criminality as adults. New sources of funding must be found for youth programs. At the same time, youth under the age of 18 who are arrested for possession of marijuana should receive appropriate, science-based drug education programs.

(h) California spends excessive time and resources monitoring nonviolent former inmates. Many states require much less supervision for low-risk offenders and have lower recidivism rates. Parole supervision should be targeted to more dangerous offenders, with serious or violent criminals given heightened parole supervision.

(i) High rates of incarceration and re-incarceration result, in part, from lack of appropriate treatment and rehabilitation options for youth and nonviolent offenders. Moreover, prison overcrowding makes rehabilitation almost impossible, and the lack of rehabilitation for nonviolent prisoners and parolees contributes directly to recidivism and re-incarceration of recently released inmates.

(j) Studies show that providing drug treatment and rehabilitation services to youth, to nonviolent offenders, and to nonviolent prisoners and parolees is an effective strategy to reduce future criminality and recidivism.

(k) In light of the crisis in California's prison system, Californians need and demand a major reorientation of state policies to provide greater rehabilitation, accountability and treatment options for youth, nonviolent offenders and nonviolent prisoners and parolees.

II. Treatment and Rehabilitation Enhance Public Safety

(a) Public safety is enhanced when young people are offered drug education and treatment, including family counseling, upon the first signs of a substance abuse problem.

(b) Public safety is enhanced when nonviolent, addicted offenders receive effective drug treatment and mental health services, instead of incarceration.

(c) Public safety is enhanced when nonviolent prisoners and parolees participate in effective rehabilitation programs designed to assist them in a successful reintegration into society.

(d) Public safety and institutional safety are enhanced when prisons are not forced to house more inmates than they were designed to hold. Rehabilitation programs have more successful outcomes when there is adequate space for programs and a minimum of lockdowns that impede such programs. Further, rehabilitation programs achieve better results when inmates have incentive to participate in and complete such programs.

(e) Public safety is enhanced when probation and parole officers oversee manageable caseloads and can focus on serious and violent offenders.

(f) California can protect public safety, save hundreds of millions of dollars, and reduce the unnecessary incarceration of nonviolent offenders by:

(1) expanding treatment opportunities for youth;

(2) diverting nonviolent offenders to treatment and providing incentives for them to complete such treatment;

(3) creating incentives for nonviolent inmates to behave in prison and to participate in and complete meaningful rehabilitation programs; and

(4) focusing parole resources on more dangerous offenders, and extending the period of supervision for such offenders, while providing effective rehabilitation programs for parolees.

III. Oversight and Accountability Are Critical for Individual Offenders and for Systems

(a) Offenders participating in rehabilitation and treatment programs in the criminal justice system must be held accountable by courts and parole authorities through the use of regular status hearings and structured responses to problems during treatment and rehabilitation.

(b) The criminal justice system must recognize that addiction, by definition, is a chronic, relapsing disease, and that addiction, standing alone, is not a behavioral problem for which punishment is appropriate. Punishing addiction has not worked and has proven counterproductive. Accordingly, it is incumbent upon criminal justice professionals to adhere to scientific research and clinical best practices that, among other things, recognize the various stages of recovery, endorse the use of incentives to improve treatment success rates, and sharply curtail the types and severity of sanctions used to respond to problems in treatment.

(c) Oversight and evaluation of treatment and rehabilitation programs is essential to ensure that appropriate programs are offered and best practices are adopted. To this end, independent researchers should study treatment and rehabilitation programs for youth, nonviolent offenders, inmates and parolees, and should report those results to the public. In addition, government agencies implementing new treatment and rehabilitation programs should be monitored and guided by independent commissions and authorities, with public input, to keep these efforts transparent and responsive to the public.

IV. Treatment and Rehabilitation Are Already a Proven Success; Programs Should Be Improved and Expanded

(a) Broadly based rehabilitation programs for nonviolent offenders in California are a proven success. In November 2000, the people approved Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, requiring community-based drug treatment instead of incarceration for nonviolent drug possession offenders.

(b) Since its passage in 2000, Proposition 36 has offered treatment to over 190,000 nonviolent drug possession offenders. It has guided roughly 36,000 people into treatment each year.

(c) The treatment success rate for Proposition 36 is on a par with success rates found for some of the most effective treatment systems studied in California and across America.

(d) Independent studies by researchers at the University of California, Los Angeles, show that Proposition 36 saves taxpayers between $2.50 and $4.00 for every $1.00 invested in the program. Overall, the program saved taxpayers nearly $1.8 billion during the first six years of the new law's implementation.

(e) Despite its success, Proposition 36 treatment programs are not funded adequately. As a result, people in the program all too often receive less treatment, or the wrong kind of treatment. Two studies released in 2006 indicated that funding should be at least $228 million to $256 million, however, less than half the suggested amount was appropriated for fiscal year 2007–08, and counties are now sharply curtailing the type, intensity, and quality of treatment offered. California is better served by adequately investing in cost-effective treatment for nonviolent offenders.

(f) Several other states have successfully reduced recidivism by former inmates by providing rehabilitation programs before and after release from prison. Small-scale efforts in recent years in California have been less successful, due to the limited scope of the programs and the substantial barriers to implementation of those programs.

(g) It is time to expand drug treatment diversion pioneered by Proposition 36, and to coordinate, cohere, supervise, and, where appropriate, universalize multiple independent programs.

(h) California must commit to providing effective treatment to low-level offenders caught up in the criminal justice system and continue this commitment to rehabilitation for persons who are incarcerated, and after their release. The failure to seize these opportunities to address some of the root causes of criminal behavior risks the return of many offenders to the criminal justice system.

(i) Existing laws allowing people suffering from addiction to be prematurely terminated from treatment and incarcerated due to foreseeable relapses or problems should be amended to promote continued treatment, provided that a person is not committing additional crimes.

(j) The use of jail time to punish relapses and misbehavior during the treatment period has never been proved effective, and therefore should be reserved only for those people who are at imminent risk of being terminated from probation and treatment, and only after incentives and graduated sanctions have failed.

(k) Community-based treatment should be an option for a wider range of nonviolent offenders than covered by Proposition 36, provided that the offender's conduct is found to result primarily from the offender's underlying substance abuse problems. Where such offenders are afforded treatment instead of incarceration, the criminal justice system should be given additional tools and resources to provide effective treatment, ensure offender accountability, and prevent future criminality.

(*l*) In 2006, the Legislature passed a bill known as Senate Bill 1137 (Chapter 63, Statutes of 2006) attempting to amend Proposition 36. The proposed amendments, however, were enjoined by a court as likely unconstitutional because they conflict with the original measure. If the amendments are eventually ruled invalid, the legislation calls for them to be placed before the electors. In considering this measure, the people are considering substantially similar legislation, and therefore declare it unnecessary and undesirable for the 2006 legislation to be referred to the ballot.

SEC. 3. Purposes and Intents.

The people hereby declare that the intents and purposes of this measure are to:

(a) Prevent crime, promote addiction recovery, provide rehabilitation services and restorative justice programs, and heighten accountability for youth and nonviolent offenders.

(b) Reduce prison overcrowding and use prison beds primarily for serious and violent offenders and sex offenders, who pose the greatest risks to our communities.

(c) Create a continuum of care providing drug treatment and related services for at-risk youth and for people entering treatment through the court system, with graduated steps tied to the severity of a person's substance abuse problems and criminal history, beginning with programs under Section 1000 of the Penal Code.

(d) Create a continuum of care providing rehabilitation programs for prison inmates, parolees and former parolees, with the goal of reducing recidivism and preventing future criminal activity by offering appropriate services whenever they are necessary.

(e) Preserve valuable court resources currently spent processing adults caught possessing marijuana for personal use by penalizing possession of small amounts of marijuana for personal use as an infraction with a fine, diverting young people caught using marijuana into appropriate science-based drug education programs, and providing additional money for youth programs through the re-direction of fines paid by people caught possessing marijuana.

(f) Limit the use of state prisons to punish minor parole violations by nonviolent parolees, provided that such parolees have never committed a serious or violent felony, a sex offense requiring registration, or a gang crime.

(g) Provide appropriate incentives and rewards for nonviolent offenders, prisoners and parolees who participate in treatment and rehabilitation, to encourage participation and completion of such programs.

(h) Improve the efficacy of our criminal justice system by making appropriate treatment and rehabilitative services a major focus in the processing of nonviolent offenders.

(i) Transform the culture of our state corrections system by elevating the mission of rehabilitation of prisoners and former inmates and integrating that mission with parole through creating new rehabilitation positions, including a new secretary at the Department of Corrections and Rehabilitation.

(j) Extend parole supervision for serious and violent offenders, and to reduce parole caseloads so that parole officers can focus on more dangerous offenders.

(k) Refocus parole supervision for nonviolent offenders to prioritize their re-integration into society, free from lives of addiction and crime.

(*l*) Fund adequately and to ensure effective, high-quality treatment and rehabilitation programs for all of the populations referenced herein.

(m) Provide a range of programs and incentives for nonviolent offenders, prison inmates and parolees, without limiting the range of programs or incentives that may be offered to persons who do not qualify under the terms of this measure.

(n) Prevent overdose death and morbidity by offering overdose awareness and prevention education to inmates in county jails.

(o) Ensure independent oversight and guidance to government agencies charged with implementing the programs outlined in this act by appointing diverse groups of stakeholders to help serve as the public's eyes, ears, and voices in shaping and monitoring the implementation of the act.

(p) Strengthen California's drug courts by adequately funding those courts, permitting those courts to fashion their own eligibility criteria and operating procedures, and holding them accountable by requiring those courts, for the first time, to systematically collect and report data regarding their budgets, expenditures, operations, and treatment outcomes.

(q) Provide voters with the final say on these matters at the time of the election on this measure, and to therefore strike a provision of Senate Bill 1137 (Chapter 63, Statutes of 2006) that might otherwise require a future election on substantially the same subject.

SEC. 4. Addition of a Secretary of Rehabilitation and Parole to the Department of Corrections and Rehabilitation.

SEC. 4.1. Section 12838 of the Government Code is amended to read:

12838. (a) There is hereby created in state government the Department of Corrections and Rehabilitation, to be headed by ~~a secretary, who shall be~~ *two secretaries who shall be known as the Secretary of Rehabilitation and Parole and the Secretary of Corrections. The Secretary of Rehabilitation and Parole shall be appointed by the Governor no later than February 1, 2009, subject to Senate confirmation, and shall serve a six-year term. The Secretary of Corrections shall be* appointed by the Governor, subject to Senate confirmation, and shall serve at the pleasure of the Governor. *The secretaries shall be eligible for reappointment.* The Department of Corrections and Rehabilitation shall consist of Adult Operations, Adult Programs, Juvenile Justice, the Corrections Standards Authority, ~~the Board of Parole Hearings,~~ the State Commission on Juvenile Justice, the Prison Industry Authority, ~~and~~ the Prison Industry Board~~.~~*, and Parole Policy, Programs and Hearings, to include the Board of Parole Hearings. The duties of the two secretaries shall be divided as follows:*

*(1) The Secretary of Rehabilitation and Parole shall have primary responsibility for parole policies and rehabilitation programs, including all such programs operated by the department, whether inside prison or outside, at the effective date of this act, and shall exercise duties such as those set forth in Sections 4056.5 and 5060 of the Penal Code.*

*(2) The Secretary of Corrections shall have primary responsibility for institutions and shall exercise duties such as those set forth in Sections 5054.1, 5054.2, 5061, 5062, 5063, and 5084 of the Penal Code.*

*(3) The Legislature shall, by a majority vote, delineate the responsibilities of the secretaries consistent with the purposes and intents of their respective positions.*

(b) The Governor, upon recommendation of the ~~secretary~~ *secretaries*, may appoint two undersecretaries of the Department of Corrections and Rehabilitation, subject to Senate confirmation. The undersecretaries shall hold office *for a term of five years* ~~at the pleasure of the Governor~~. One undersecretary shall oversee program support and the other undersecretary shall oversee program operations for the department. *The undersecretaries serving at the effective date of this act shall continue to serve at the pleasure of the Governor.*

(c) The Governor, upon recommendation of the ~~secretary~~ *secretaries*, shall appoint three chief deputy secretaries, subject to Senate confirmation, who shall hold office *for a term of five years* ~~at the pleasure of the Governor~~. One chief deputy secretary shall oversee adult operations, one chief deputy secretary shall oversee adult programs, and one chief deputy secretary shall oversee juvenile justice for the department. *The chief deputy secretaries serving at the effective date of this act shall continue to serve at the pleasure of the Governor.*

(d) The Governor, upon recommendation of the ~~secretary~~ *secretaries*, shall appoint an assistant secretary, subject to Senate confirmation, who shall be responsible for health care policy for the department, and shall serve at the pleasure of the Governor.

(e) The Governor, upon recommendation of the ~~secretary~~ *secretaries*, shall appoint an Assistant Secretary for Victim and Survivor Rights and Services, and

an Assistant Secretary for Correctional Safety, who shall serve at the pleasure of the Governor.

SEC. 5. Section 12838.1 of the Government Code is amended to read:

12838.1. (a) There is hereby created within the Department of Corrections and Rehabilitation, under the Chief Deputy Secretary for Adult Operations, the Division of Adult Institutions ~~and the Division of Adult Parole Operations. Each~~ *The* division shall be headed by a division chief, who shall be appointed by the Governor, upon recommendation of the ~~secretary~~ *secretaries*, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(b) The Governor shall, upon recommendation of the ~~secretary~~ *secretaries*, appoint five subordinate officers to the Chief of the Division of Adult Institutions, subject to Senate confirmation, who shall serve at the pleasure of the Governor. Each subordinate officer appointed pursuant to this subdivision shall oversee an identified category of adult institutions, one of which shall be female offender facilities.

SEC. 6. Section 12838.2 of the Government Code is amended to read:

12838.2. *(a)* There is hereby created within the Department of Corrections and Rehabilitation, under the Chief Deputy Secretary for Adult Programs, the Division of Community Partnerships, the Division of Education, Vocations and Offender Programs, and the Division of Correctional Health Care Services. Each division shall be headed by a chief who shall be appointed by the Governor, at the recommendation of the ~~secretary~~ *secretaries*, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

*(b) There is hereby created within the Department of Corrections and Rehabilitation, under the Secretary of Rehabilitation and Parole, the Division of Parole Policy, Programs and Hearings, which, notwithstanding any other law, shall include the Board of Parole Hearings and the Adult Parole Operations Authority, and which shall retain all of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the former Division of Adult Parole Operations. The division shall be headed by a chief who shall be appointed by the Governor, upon recommendation of the Secretary of Rehabilitation and Parole, and who shall serve a five-year term and who shall be eligible for reappointment. The Secretary of Rehabilitation and Parole shall ensure that the Division of Parole Policy, Programs and Hearings fully coordinates activities, as appropriate, with the other divisions under his or her direct authority, as well as with other divisions of the department, with the goal of successful reintegration of former inmates into society.*

*(c) There is hereby created within the Department of Corrections and Rehabilitation, under the Secretary of Rehabilitation and Parole, the Division of Research for Recovery and Re-Entry Matters. This division shall be headed by a chief who shall be appointed by the Secretary of Rehabilitation and Parole, who shall serve a five-year term, and who shall be eligible for reappointment. This division shall coordinate data collection and publish information about the department's rehabilitation programs consistent with the mandates of the Parole Reform Oversight and Accountability Board. Nothing in this section precludes the Legislature, by majority vote, from creating additional divisions under the Secretary of Rehabilitation and Parole.*

SEC. 7. Section 12838.4 of the Government Code is amended to read:

12838.4. The Board of Parole Hearings is hereby created. The Board of Parole Hearings shall be comprised of ~~17~~ *29* commissioners, who shall be appointed by the Governor, *upon recommendation of the Secretary of Rehabilitation*

*and Parole,* ~~subject to Senate confirmation,~~ for three-year terms. The Board of Parole Hearings hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist: Board of Prison Terms, Narcotic Addict Evaluation Authority, and Youthful Offender Parole Board. For purposes of this article, the above entities shall be known as "predecessor entities." *Notwithstanding this section, commissioners who are serving on the Board of Parole Hearings on the effective date of this act shall serve the remainder of their terms.*

SEC. 8. Section 12838.7 of the Government Code is amended to read:

12838.7. (a) The ~~Secretary~~ *Secretaries* of the Department of Corrections and Rehabilitation shall serve as the Chief Executive ~~Officer~~ *Officers* of the Department of Corrections and Rehabilitation and shall have all of the powers and authority *within their respective jurisdictions, as delineated by the Legislature pursuant to the terms of subdivision (a) of Section 12838,* which are conferred upon a head of a state department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Without limiting any other powers or duties, the ~~secretary~~ *secretaries* shall assure compliance with the terms of any state plan, memorandums of understanding, administrative order, interagency agreements, assurances, single state agency obligations, federal statute and regulations, and any other form of agreement or obligation that vital government activities rely upon, or are a condition to, the continued receipt by the department of state or federal funds or services. This includes, but is not limited to, the designation, appointment, and provision of individuals, groups, and resources to fulfill specific obligations of any agency, board, or department that is abolished pursuant to Section 12838.4 or 12838.5.

SEC. 9. Section 12838.12 of the Government Code is amended to read:

12838.12. (a) Any officer or employee of the predecessor entities who is engaged in the performance of a function specified in this reorganization plan and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Corrections and Rehabilitation pursuant to the provisions of Section 19050.9.

(b) Any officer or employee of the continuing entities who is engaged in the performance of a function specified in this reorganization plan and who is serving in the state civil service, other than as a temporary employee, shall continue such status with the continuing entity pursuant to the provisions of Section 19050.9.

(c) The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Corrections and Rehabilitation, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

*(d) It is the intent of the people that, to the extent permitted by law, any positions created pursuant to this act under the Secretary for Rehabilitation and Parole shall be occupied by the same category of rehabilitation personnel, sworn peace officers and other employees employed by the department to provide services prior to this act, and that the status, position, and rights of any officer or employee of the Department of Corrections and Rehabilitation shall not be affected by the structural changes to the department required by the act, and officers and employees shall be retained by the department pursuant to the*

*State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.*

SEC. 10. Section 12838.13 of the Government Code is amended to read:

12838.13. This article*, as amended,* shall become operative as of July 1, ~~2005~~ *2009, except that the Secretary of Rehabilitation and Parole shall be appointed by February 1, 2009, as provided*.

SEC. 11. Section 1210 of the Penal Code is amended to read:

1210. As used in Sections *1210.01 to 1210.05, inclusive, and Sections* 1210.1*, 1210.2* and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code, the following definitions apply:

(a) The term "nonviolent drug possession offense" means the unlawful personal use, possession for personal use, or transportation for personal use, *or being under the influence,* of any controlled substance identified in Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, *or of any controlled substance analog as defined in Section 11401 of the Health and Safety Code,* or the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code*, or of any drug paraphernalia offense as defined in Section 11364 of the Health and Safety Code or Section 4140 of the Business and Professions Code*. The term "nonviolent drug possession offense" does not include the possession for sale, *transportation for sale,* production, or manufacturing of any controlled substance and does not include violations of Section 4573.6 or 4573.8. *A jury's determination that a defendant is guilty of simple possession is a dispositive finding that the defendant is eligible for probation under this act absent other disqualifying factors set forth in separate sections of the act. People v. Dove, 124 Cal.App.4th 1 (2004), is hereby nullified.*

(b) The term "drug treatment program," *"interim treatment program,"* or "drug treatment" means a ~~state~~ licensed or certified community drug treatment program, which may include one or more of the following: *science-based* drug education, outpatient services, *medication-assisted treatment* ~~narcotic replacement therapy~~, residential treatment, *mental health services* ~~detoxification services~~, and aftercare *or continuing care* ~~services~~. The term "drug treatment program" or "drug treatment" includes a drug treatment program operated under the direction of the Veterans Health Administration of the Department of Veterans Affairs or a program specified in Section 8001. That type of program shall be eligible to provide drug treatment services without regard to the licensing or certification provisions required by this subdivision. *Detoxification services in a noncustodial setting, and/or mental health services, may be provided as a part of drug treatment as defined in this subdivision, but neither service shall be deemed sufficient to serve as treatment.* The term "drug treatment program" or "drug treatment" does not include drug treatment programs offered in a prison*,* ~~or~~ jail*, or other custodial* facility.

*(c) The term "medication-assisted treatment" means the medically indicated and medically managed use of any prescription medication, with the defendant's consent, as a part of drug treatment, or as a complement or supplement to such treatment. Examples include, but are not limited to, the use of antipsychotics, relapse prevention medications, mood stabilizers, and opioid agonists, including methadone and buprenorphine. Drugs or medicines used as a part of medication-assisted treatment are presumptively a legitimate and allowable expense in addition to the costs of treatment services.*

*(d) The term "harm reduction therapy" or "harm reduction services" means programs guided by a public health philosophy which promotes methods of reducing the physical, social, emotional, and economic harms associated with drug misuse and other harmful behaviors on individuals, their families, and their communities. Harm reduction therapy recognizes that people use drugs, including alcohol, for a variety of reasons, and strives for an integrated treatment approach that addresses the complex relationship that people develop with psychoactive substances over the course of their lives, in the context of the social and occupational impacts and psychological and emotional implications of their substance misuse. Harm reduction programs are free of judgment or blame and directly involve the client in setting his or her own goals.*

~~(c)~~ *(e)* The term "successful completion of treatment" means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of drug treatment as recommended by the treatment provider and ordered by the court and, as a result, there is reasonable cause to believe that the defendant will not abuse controlled substances in the future. ~~Completion~~ *Successful completion* of treatment shall not require ~~cessation of narcotic replacement therapy.~~ *termination or detoxification from medication-assisted treatments, or other medications which the court may verify to be taken pursuant to a valid prescription or otherwise taken consistent with state law.*

~~(d)~~ *(f)* The term "misdemeanor not related to the use of drugs" means a misdemeanor that does not involve (1) the simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or (2) any activity similar to those listed in (1).

*(g) The term "clinical assessment" means an evaluation performed by a qualified health care professional or drug treatment professional certified by the State Department of Alcohol and Drug Programs, pursuant to regulations approved by the Oversight Commission, using a standardized tool to determine an individual's social and educational history, drug use history, addiction severity, and other factors indicating the individual's needs and the appropriate course of drug treatment, including opioid agonist treatment. When appropriate, a clinical assessment may include a separate evaluation of mental health needs and/or psychiatric and psychological factors.*

*(h) The term "criminal history evaluation" means a report by a probation department or other entity appointed by the court detailing a defendant's history of arrest, conviction, incarceration, and recidivism. Such an evaluation may include opinions or recommendations regarding the risk of recidivism by the defendant and appropriate monitoring conditions for the defendant.*

*(i) The term "addiction training" shall mean an educational program about drug abuse and addiction intended for an audience of persons working with defendants placed into treatment under the terms of this act. The objectives and content of addiction training programs shall be established by the State Department of Alcohol and Drug Programs in collaboration with a statewide association of physicians specializing in addiction and with the Judicial Council; provided, however, that one required portion of every addiction training course shall consist of education regarding opioid addiction and opioid agonist therapies and one portion shall cover principles and practices of harm reduction. Such training programs may be paid for from the Substance Abuse Treatment Trust Fund, in an amount approved by the Oversight Commission.*

*(j) "Incentives and rewards" means a response by a treatment provider or by the court to a client's or defendant's progress, attainment of certain goals or*

*benchmarks, or other good behavior in the course of treatment pursuant to this section, or the promise of such rewards, intended to encourage future progress and good behavior. Counties may spend funds allocated under this section to provide a range of such benefits to persons undergoing treatment pursuant to this section, consistent with regulations approved by the Oversight Commission. The State Department of Alcohol and Drug Programs shall annually publish a list of examples of appropriate incentives and rewards.*

*(k) The term "drug-related condition of probation" shall be interpreted broadly and shall include, but not be limited to, a probationer's specific drug treatment regimen, employment, vocational training, educational programs, psychological counseling, and family counseling.*

*(l) "Graduated sanction" means a response by a treatment provider or by the court to a client's or defendant's misbehavior, probation violations or relapse during treatment, intended to hold a person accountable for his or her actions, provide a negative consequence, and deter future problems from occurring. Sanctions are graduated in that they begin with a minimal negative consequence and become more onerous with additional misbehavior, violations, or relapses. Examples may include, but not be limited to, requiring additional visits to treatment, increased frequency of drug testing, attendance at a greater number of court sessions, or community service. The State Department of Alcohol and Drug Programs shall annually publish a list of examples of appropriate sanctions. Graduated sanctions do not include jail sanctions.*

*(m) "Jail sanction" means the imposition of a term of incarceration in a county jail in response to a defendant's misbehavior or probation violations. The length of time allowable for a jail sanction may be specified by statute; otherwise, no jail sanction shall exceed 10 days. Imposition of a jail sanction does not require, or imply, the termination of drug treatment.*

*When determining whether to impose jail sanctions, the court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including opioid agonist treatment, and including the opinion of the defendant's licensed and treating physician if available and presented at the hearing, child support obligations, and family responsibilities. The court shall also consider whether illicit drugs are available in the county's jail, the prevalence of drug use therein, and any documented impact of drug-related harms resulting from drug use in jail.*

*(n) "Youth programs" means noncustodial programs and services for youth under the age of 18 who are considered to be nonviolent and at risk of committing future drug offenses, pursuant to guidelines established by the Oversight Commission. Services may include, but shall not be limited to: drug treatment programs; family therapy for the youth, parent, guardian or primary caregiver; mental health counseling; psychiatric medication, counseling and consultation; education stipends for fees at university, college, technical or trade schools; employment stipends; and transportation to any of these services.*

SEC. 12. Section 1210.01 is added to the Penal Code, to read:

*1210.01. Assessment of Defendants Prior to Charging or Eligibility Determination.*

*(a) Notwithstanding any other provision of law, the court may order a clinical assessment and/or criminal history evaluation for any person arrested for an offense that might result in diversion and treatment under Track I, Track II, or Track III, as provided in Sections 1210.03 to 1210.05, inclusive, Section 1210.1,*

*and Section 1210.2. The costs of the clinical assessment shall be reimbursable from funds provided pursuant to this act. The defendant shall have the right to counsel and may refuse the clinical assessment and/or any interview for the criminal history evaluation until after the arraignment and a plea is entered.*

*(b) For any defendant who does appear for a clinical assessment or criminal history evaluation, no statement made by the defendant, or any information revealed during the course of the assessment or evaluation with respect to the specific offense with which the defendant is charged shall be admissible in any action or proceeding brought subsequently, including a sentencing hearing.*

SEC. 13. Section 1210.02 is added to the Penal Code, to read:

*1210.02. Treatment Placement, Monitoring Conditions, Payment, Judicial Training.*

*(a) Any defendant found eligible for treatment diversion under Track I, Track II, or Track III shall be placed into appropriate treatment and shall have monitoring conditions imposed consistent with the following terms:*

*(1) In determining an appropriate treatment program, the court must rely upon the clinical assessment of the defendant.*

*Prior to a final determination of the appropriate treatment program and the availability of such a program for the defendant, the court may order the defendant to attend any available treatment program that partly serves the defendant's needs as an interim measure for purposes of quickly engaging the defendant in treatment, provided that such an interim placement shall be for no more than 60 days. Defendants who refuse to attend such an interim treatment program shall not accrue violations of drug-related conditions of probation until placement in an appropriate treatment program. Defendants who participate in an interim treatment program shall not accrue program violations or violations of drug-related conditions of probation while attending an interim placement. The court shall credit the time that the defendant attends an interim treatment program toward the overall period of treatment required.*

*(2) The court shall refer the defendant to opioid agonist treatment or other medication-assisted treatments where the clinical assessment indicates the need for such treatment.*

*(3) In determining the appropriate monitoring conditions and requirements imposed upon the defendant, the court must rely upon the criminal history evaluation and clinical assessment.*

*(4) A defendant may request to be referred to a drug treatment program in any county.*

*(5) Any defendant who is participating in a treatment program in Track I, Track II, or Track III may be required to undergo analysis of his or her urine for the purpose of testing for the presence of any drug as part of the program. The results of such analysis may be used solely as a treatment tool to tailor the response of the treatment program and the court to the defendant's relapse. Such results shall be given no greater weight than any other aspects of the defendant's individual treatment program. Results of such testing shall not be admissible as a basis for any new criminal prosecution or proceeding, nor shall such results be cause, in and of themselves, for the court to enter judgment in a case where the defendant has had entry of judgment deferred under Track I diversion, or for the court to find that a violation of probation has occurred. A court may consider a test result as positive only if the laboratory performing such analysis utilized the following procedures and standards: validity testing, initial and confirmation testing, cutoff concentrations, dilution and adulteration criteria, and split specimen procedures.*

*(6) No person otherwise eligible for treatment shall be denied access to treatment due to the presence of a co-occurring psychiatric or developmental disorder or language barrier, nor shall an eligible defendant be required to cease the use of any medication-assisted treatments, or other medications taken pursuant to a valid prescription or otherwise taken consistent with state law, subject to court verification.*

*(7) In addition to any fine assessed under other provisions of law, the trial judge may require any person placed in Track I, Track II, or Track III treatment who is reasonably able to do so to contribute to the cost of his or her own placement in an appropriate drug treatment program, detoxification services, or urinalysis, provided that:*

*(A) Failure to pay such costs shall not be grounds for a treatment provider to refuse to report a client's completion of a program.*

*(B) Failure to pay such costs shall not be grounds for a court to deny dismissal of charges, indictment, complaint, or conviction.*

*(C) Failure to pay such costs shall not be grounds to refuse to seal records upon satisfactory performance or successful completion of treatment under Track I or II, respectively.*

*(D) Before or after the completion of treatment, the court may require community service as an alternative to the payment of outstanding fees, fines, or court costs, or may use administrative or civil methods to require payment of any outstanding amount.*

*(E) A person who is unable to pay the cost of his or her placement in a drug treatment program shall not be deprived of appropriate drug treatment or urinalysis ordered by the court.*

*(8) The court may also require participation in educational programs, vocational training, family counseling, health care, including mental health services, literacy training and/or community service, harm reduction services, and any other services that may be identified as appropriate by the clinical assessment of the defendant or through other evaluations of the defendant's needs.*

*(b) After July 1, 2010, every judge regularly presiding over a Track I, Track II, or Track III diversion case after a defendant is ordered to appear for a clinical assessment shall annually complete an addiction training course.*

SEC. 14. Section 1210.03 is added to the Penal Code, to read:

*1210.03. Track I. Treatment Diversion with Deferred Entry of Judgment.*

*(a) Notwithstanding any other provision of law, drug treatment shall be provided to eligible defendants. A defendant is eligible for the disposition options, sanctions, and treatment programs of Track I diversion if:*

*(1) The defendant is charged with one or more nonviolent drug possession offenses.*

*(2) The defendant has never been convicted of an offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony.*

*(3) The defendant has no prior conviction for any felony, other than a single nonviolent drug possession offense, within five years prior to the alleged commission of the charged offense.*

*(4) The defendant is not charged with any other offense that is not a nonviolent drug possession offense.*

*(b) A defendant who is not eligible solely because of a concurrent charge for another offense as provided in paragraph (4) of subdivision (a), whether in*

*the same or another case, in the same or another jurisdiction, may be deemed eligible for Track I treatment pursuant to this section if the court determines that it is in the interest of the defendant and in the furtherance of justice to permit deferred entry of judgment.*

*(c) A defendant may refuse Track I treatment. No defendant shall be ruled ineligible for Track I treatment solely because of failure to complete a diversion program offered pursuant to Section 1000.*

*(d) A defense attorney, a prosecuting attorney, or the court on its own motion, may request Track I treatment diversion for any defendant when it appears that the defendant meets the criteria set forth in subdivision(a) or the court has made the findings specified in subdivision (b). The court shall order an evidentiary hearing in any case in which there is a dispute as to the defendant's eligibility for Track I treatment diversion. The prosecution shall have the burden to prove that the defendant is not eligible. If the defendant is found ineligible, the court shall state the grounds for so finding on the record.*

*(e) If the court determines that a defendant is eligible for Track I treatment diversion, the court shall provide the following to the defendant and his or her attorney:*

*(1) A full description of the procedures for Track I treatment diversion, including any waivers required of the defendant, the defendant's right to refuse the program, the defendant's rights during the program, the potential duration of the program, the benefits a defendant may expect for completing the program, and the consequences of failure to complete the program.*

*(2) A general explanation of the roles and authorities of the probation department, the prosecuting attorney, the program, and the court in the process. An explanation of criminal record retention and disposition resulting from participation in the deferred entry of judgment program and the defendant's rights relative to answering questions about his or her arrest and deferred entry of judgment following successful completion of the program.*

*(f) If the defendant consents and waives his or her right to a speedy trial or a speedy preliminary hearing, the court shall grant deferred entry of judgment if the defendant pleads guilty to the charge or charges and waives time for the pronouncement of judgment.*

*(g) At the time that deferred entry of judgment is granted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of the defendant shall be exonerated.*

*(h) At the time deferred entry of judgment is granted, the court shall seal from public view all records and files concerning the qualifying offense, including all records of arrest and detention, for the period the defendant is participating in a treatment program referred to in this section or is on a waiting list for a program referred to in this section.*

*(i) The court shall order the defendant to appear for a clinical assessment and criminal history evaluation, and shall thereafter order the defendant to attend and complete an appropriate treatment program. If the defendant had a clinical assessment performed prior to a determination of eligibility, the court may order a new assessment. The court shall thereafter place the defendant in treatment and set monitoring conditions consistent with the terms and requirements of Section 1210.02.*

*(j) If a defendant receives deferred entry of judgment under this section, and has not yet begun treatment within 30 days of the grant of deferred entry of judgment, the court shall conduct a hearing to determine the reasons for the*

*defendant's failure to begin treatment. The court shall consider evidence from the parties, probation department, and treatment provider. At the hearing, the defendant may refuse treatment and deferred entry of judgment.*

*If the defendant does not refuse treatment, the court may re-refer the defendant to the treatment program and may impose graduated sanctions or may enter judgment for the defendant's failure to start treatment, provided, however, that sanctions shall not be imposed or judgment entered when the defendant's failure to begin treatment resulted from a county's inability to provide appropriate treatment in a timely manner or from the county's failure to make treatment reasonably accessible, such as the failure to offer child care for a parenting defendant or failure to provide transportation if needed. A defendant for whom judgment is entered due to failure to begin treatment shall be transferred to Track II treatment diversion.*

*The court shall collect and report all data relevant to a defendant's failure to begin treatment within 30 days, the reasons therefor, and the court's responses, in any form required by the Oversight Commission. Such data regarding treatment show rates shall be published by the department, or researchers designated by the Oversight Commission, on county-by-county and statewide bases, not less than once per year.*

*(k) The period during which deferred entry of judgment is granted shall be for no less than six months nor longer than 18 months. Progress reports shall be filed with the court by the treatment provider and the probation department as directed by the court.*

*(l) No statement that is made during the course of treatment or any information procured therefrom, with respect to the specific offense with which the defendant is charged, shall be admissible in any action or proceeding brought subsequently, including a sentencing hearing.*

*(m) Deferred entry of judgment for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1210.05.*

*(n) A defendant's plea of guilty pursuant to this chapter shall not constitute a conviction for any purpose unless a judgment of guilty is entered pursuant to Section 1210.04.*

*(o) During periodic review hearings to evaluate a defendant's progress, the court shall consider the use of incentives and rewards to encourage continued progress, and may impose graduated sanctions in response to problems reported by the treatment provider or probation department, or in the court's discretion, without entry of judgment. The court may not impose a jail sanction on a defendant participating in Track I treatment diversion.*

*(p) If the defendant has performed satisfactorily during the period in which deferred entry of judgment was granted, the criminal charge or charges shall be dismissed and the case records and files shall be permanently sealed, including any record of arrest and detention.*

SEC. 15. Section 1210.04 is added to the Penal Code, to read:

*1210.04. If it appears to the treatment provider, the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, or the defendant is convicted of a misdemeanor not related to the use of drugs, or the defendant is convicted of a felony that is not a nonviolent drug possession offense, or the defendant has*

*engaged in criminal conduct rendering him or her unsuitable for deferred entry of judgment, the prosecuting attorney or the court on its own, may make a motion for entry of judgment.*

*After notice to the defendant, the court shall hold a hearing to determine whether judgment should be entered. If the court finds that the defendant is not performing satisfactorily in the assigned program, or that the defendant is not benefiting from education, treatment, or rehabilitation, or the court finds that the defendant has been convicted of a crime as indicated above, or that the defendant has engaged in criminal conduct rendering him or her unsuitable for deferred entry of judgment, the court shall render a finding of guilt to the charge or charges pled, enter judgment, and schedule a sentencing hearing as otherwise provided in this code.*

*In determining whether the defendant has performed satisfactorily or unsatisfactorily in any treatment program, the court shall be guided by the evaluation provided for the court by the qualified treatment professional in charge of the defendant's treatment program, and the treatment provider's opinion as to the prospects for the defendant to return to treatment and continue treatment successfully with changes in the treatment plan.*

*If the court does not enter judgment, the treatment plan may be amended, and graduated sanctions may be imposed, consistent with the recommendation of the treatment provider.*

*If the court does enter judgment, the court shall sentence the defendant to Track II probation and treatment, if eligible. If the defendant has committed a new offense that is a misdemeanor not related to the use of drugs or a felony that is not a nonviolent drug possession offense, sentencing is not controlled by this section.*

SEC. 16. Section 1210.05 is added to the Penal Code, to read:

*1210.05. (a) Any record filed with the Department of Justice shall indicate the disposition in cases deferred pursuant to this chapter. Notwithstanding any other provision of law, upon successful completion of a deferred entry of judgment program, the arrest upon which the judgment was deferred shall be deemed to have never occurred. The defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or granted deferred entry of judgment for the offense, except as specified in subdivision (b). A record pertaining to an arrest resulting in successful completion of a deferred entry of judgment program shall not be used in any way that could result in the denial of any employment, benefit, license, or certificate.*

*(b) The defendant shall be advised that, regardless of his or her successful completion of the deferred entry of judgment program, the arrest upon which the judgment was deferred may be disclosed by the Department of Justice in response to any peace officer application request and that, notwithstanding subdivision (a), this section does not relieve him or her of the obligation to disclose the arrest in response to any direct question contained in any questionnaire or application for a position as a peace officer, as defined in Section 830.*

SEC. 17. Section 1210.1 of the Penal Code is amended to read:

1210.1. *Track II. Treatment Diversion After a Conviction.*

(a) Notwithstanding any other provision of law, and except as provided in subdivision ~~(b)~~ *(f)*, any person *who is ineligible for Track I deferred entry diversion and is* convicted of a nonviolent drug possession offense shall receive probation. As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. ~~The court shall~~

~~impose appropriate drug testing as a condition of probation. The court may also impose, as a condition of probation, participation in vocational training, family counseling, literacy training and/or community service.~~ A court may not impose incarceration as an additional condition of probation. ~~Aside~~ *The court shall order the defendant to appear for a clinical assessment and criminal history evaluation, and shall thereafter order the defendant to attend and complete an appropriate treatment program. If the defendant had a clinical assessment performed prior to a determination of eligibility, the court may order a new assessment. The court shall thereafter place the defendant in treatment and set monitoring conditions consistent with the terms and requirements of Section 1210.02.*

*(b) Aside* from the limitations imposed in this subdivision, the trial court is not otherwise limited in the type of probation conditions it may impose. Probation shall be imposed by suspending the imposition of sentence. ~~No person shall be denied the opportunity to benefit from the provisions of the Substance Abuse and Crime Prevention Act of 2000 based solely upon evidence of a co-occurring psychiatric or developmental disorder. To~~

*(c) Upon granting probation under subdivision (a), the court shall seal all records and files concerning the qualifying offense, including all records of arrest, detention, and conviction, for the period that the defendant is in treatment or on a waiting list for treatment.*

*(d) To* the greatest extent possible, any person who is convicted of, and placed on probation pursuant to this section for a nonviolent drug possession offense shall be monitored by the court through the use of a dedicated court calendar and the incorporation of a collaborative court model of oversight that includes close collaboration with treatment providers and probation, drug testing commensurate with treatment needs, and supervision of progress through review hearings.

~~In addition to any fine assessed under other provisions of law, the trial judge may require any person convicted of a nonviolent drug possession offense who is reasonably able to do so to contribute to the cost of his or her own placement in a drug treatment program.~~

*(e) Any person who has been ordered to complete a drug treatment program pursuant to this section shall not be required to comply with the drug offender registration provisions of Section 11590 of the Health and Safety Code during the course of treatment. This exemption will become permanent upon the successful completion of the drug treatment program. Any person convicted of a nonviolent drug offense that was deemed ineligible for participation in or has been excluded from continued participation in this act shall be subject to the provisions of Section 11590 of the Health and Safety Code.*

~~(b)~~ *(f)* Subdivision (a) shall not apply to any of the following:

(1) Any defendant who previously has been convicted of one or more violent or serious felonies as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, respectively, unless the nonviolent drug possession offense occurred after a period of five years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction other than a nonviolent drug possession offense, or a misdemeanor conviction involving physical injury or the threat of physical injury to another person.

(2) Any defendant who, in addition to one or more nonviolent drug possession offenses, has been convicted in the same proceeding of a misdemeanor not related to the use of drugs or any felony *that is not a nonviolent drug possession*

*offense, except that with respect to a misdemeanor conviction the court shall have discretion to declare the person eligible for treatment under subdivision (a) and suspend sentencing during participation in drug treatment.*

(3) Any defendant who, while armed with a deadly weapon, with the intent to use the same as a deadly weapon, unlawfully possesses or is under the influence of any controlled substance identified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code.

(4) Any defendant who refuses drug treatment as a condition of probation.

(5) Any defendant who has two separate convictions for nonviolent drug possession offenses, has participated in two separate courses of drug treatment pursuant to subdivision (a), and is found by the court, by clear and convincing evidence, to be unamenable to any and all forms of available drug treatment, as defined in subdivision (b) of Section 1210. Notwithstanding any other provision of law, the trial court shall sentence that defendant to 30 days in jail.

*(6) Any defendant who, in the 30 months prior to the current conviction, has five or more convictions for any offense or combination of offenses, including nonviolent drug possession offenses, and not including infractions. A defendant who is ineligible for Track II treatment diversion solely on the basis of this finding shall be eligible for Track III treatment diversion.*

*(g) No defendant shall be ruled ineligible for Track II treatment because of failure to complete a diversion program offered pursuant to Section 1000.*

~~(c) (1) Any defendent who has previously been convicted of at least three non-drug-related felonies for which the defendant has served three separate prison terms within the meaning of subdivision (b) of Section 667.5 shall be presumed eligible for treatment under subdivision (a). The court may exclude such a defendant from treatment under subdivision (a) where the court, pursuant to the motion of the prosecutor or its own motion, finds that the defendant poses a present danger to the safety of others and would not benefit from a drug treatment program. The court shall, on the record, state its findings, the reasons for those findings.~~

~~(2) Any defendant who has previously been convicted of a misdemeanor or felony at least five times within the prior 30 months shall be presumed to be eligible for treatment under subdivision (a). The court may exclude such a defendant from treatment under subdivision (a) if the court, pursuant to the motion of the prosecutor, or on its own motion, finds that the defendant poses a present danger to the safety of others or would not benefit from a drug treatment program. The court shall, on the record, state its findings and the reasons for those findings.~~

~~(d)~~ *(h)* Within seven days of an order imposing probation under subdivision (a), the probation department shall notify the drug treatment provider designated to provide drug treatment under subdivision (a). Within 30 days of receiving that notice, the treatment provider shall prepare a treatment plan and forward it to the probation department for distribution to the court and counsel. The treatment provider shall provide to the probation department standardized treatment progress reports, with minimum data elements as determined by the department, including all drug testing results. At a minimum, the reports shall be provided to the court every 90 days, or more frequently, as the court directs.

*(1) If a defendant receives probation under subdivision (a), and has not yet begun treatment within 30 days of the grant of probation, the court shall conduct a hearing to determine the reasons for the defendant's failure to appear at treatment. The court shall consider evidence from the parties, probation*

*department and treatment provider. At the hearing, the defendant may refuse treatment under subdivision (a).*

*If the defendant does not refuse treatment, the court may re-refer the defendant to the treatment program and may impose graduated sanctions or may revoke the defendant's probation for the defendant's failure to start treatment, provided, however, that sanctions shall not be imposed or probation revoked when the defendant's failure to begin treatment resulted from a county's inability to provide appropriate treatment in a timely manner or from the county's failure to make treatment reasonably accessible, such as the failure to offer child care for a parenting defendant or failure to provide transportation if needed. A defendant whose probation is terminated for failure to begin treatment may be transferred to Track III treatment diversion in the discretion of the court.*

*The court shall collect and report all data relevant to a defendant's failure to begin treatment within 30 days, the reasons therefor, and the court's responses, in any form required by the Oversight Commission. Such data regarding treatment show rates shall be published by the department, or researchers designated by the Oversight Commission, on county-by-county and statewide bases, not less than once per year.*

*(2) During periodic review hearings to evaluate a defendant's progress, the court shall consider the use of incentives and rewards to encourage continued progress, and may impose graduated sanctions in response to problems reported by the treatment provider or probation department, or in the court's discretion, with or without a finding that a violation of probation has occurred.*

~~(1)~~ *(3)* If at any point during the course of drug treatment the treatment provider notifies the probation department and the court that the defendant is unamenable to the drug treatment being provided, but may be amenable to other drug treatments or related programs, the probation department may move the court to modify the terms of probation, or on its own motion, the court may modify the terms of probation after a hearing to ensure that the defendant receives the alternative drug treatment or program.

~~(2)~~ *(4)* If at any point during the course of drug treatment the treatment provider notifies the probation department and the court that the defendant is unamenable to the drug treatment provided and all other forms of drug treatment programs pursuant to subdivision (b) of Section 1210, the probation department may move to revoke probation. At the revocation hearing, *the prosecution must prove the defendant is unamenable to all drug treatment programs pursuant to subdivision (b) of Section 1210* ~~if it is proved that the defendant is unamenable to all drug treatment programs pursuant to subdivision (b) of Section 1210~~, *whereupon* the court may revoke probation.

~~(3)~~ *(5)* Drug treatment services provided by subdivision (a) as a required condition of probation may not exceed 12 months, unless the court makes a finding supported by the record, that the continuation of treatment services beyond 12 months is necessary for drug treatment to be successful. If such a finding is made, the court may order up to two six-month extensions of treatment services. The provision of treatment services under *this section* ~~the Substance Abuse and Crime Prevention Act of 2000~~ shall not exceed 24 months.

*(6) When the defendant completes the required treatment program, the treatment provider shall notify the court within seven days. The court shall amend the terms of probation to provide for no more than six months of continued supervision after the date of treatment completion. Aftercare or continuing care services may be required and provided during this period.*

~~(e)~~ *(i)* (1) At any time after completion of drug treatment and the terms of probation, the court shall conduct a hearing, and if the court finds that the defendant successfully completed drug treatment, and substantially complied with the conditions of probation, including refraining from the use of drugs after the completion of treatment, the conviction on which the probation was based shall be set aside and the court shall dismiss the indictment, complaint, or information against the defendant*, and the court shall order the case records and files to remain sealed, including any record of arrest, detention, and conviction*. In addition, except as provided in paragraphs (2) and (3), both the arrest and the conviction shall be deemed never to have occurred. The defendant may additionally petition the court for a dismissal of charges at any time after completion of the prescribed course of drug treatment. Except as provided in paragraph (2) or (3), the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

(2) Dismissal of an indictment, complaint, or information pursuant to paragraph (1) does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

(3) Except as provided below, after an indictment, complaint, or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting in successful completion of a drug treatment program under this section may not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

Regardless of his or her successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information, complaint, or indictment under this section does not relieve a defendant of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

~~(f)~~ *(j)* (1) If probation is revoked pursuant to the provisions of this subdivision, *the court may sentence the defendant to Track III probation and treatment or the court shall sentence the defendant to incarceration in the county jail for not more than one year. If the defendant has committed a new offense that is a misdemeanor not related to the use of drugs or a felony that is not a nonviolent drug possession offense, sentencing is not controlled by this paragraph.* ~~the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section. The court may modify or revoke probation if the alleged violation is proved.~~

(2) If a defendant receives probation under subdivision (a), and violates that probation either by committing an offense that is not a nonviolent drug possession offense, or by violating a non-drug-related condition of probation, and the state moves to revoke probation, the court *shall conduct a hearing to determine whether probation shall be revoked. The court may modify or revoke probation, and may impose graduated sanctions and/or jail sanctions prior to reinstatement of probation*

*and treatment, if the alleged violation is proved, provided, however, that no jail sanction shall be imposed on a defendant who is receiving medication-assisted treatment if that treatment is not available to the defendant in jail*. ~~may remand the defendant for a period not exceeding 30 days during which time the court may receive input from treatment, probation, the state, and the defendant, and the court may conduct further hearings as it deems appropriate to determine whether or not probation should be reinstated under this section. If the court reinstates the defendant on probation, the court may modify the treatment plan and any other terms of probation, and continue the defendant in a treatment program under the Substance Abuse and Crime Prevention Act of 2000. If the court reinstates the defendant on probation, the court may, after receiving input from the treatment provider and probation, if available, intensify or alter the treatment plan under subdivision (a), and impose sanctions, including jail sanctions not exceeding 30 days, a tool to enhance treatment compliance.~~

(3) (A) ~~If a defendant receives probation under~~ *After drug treatment commences pursuant to* subdivision (a), ~~and~~ *if there is probable cause to believe that the defendant has violated* ~~violates~~ that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, ~~being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210,~~ or by violating a drug-related condition of probation, ~~and the state moves to revoke probation,~~ the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation *only* if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. *The court shall not revoke probation under this section for a drug-related violation of probation which occurred while the defendant was on a waiting list for a treatment program, was placed in an interim treatment program, or was otherwise waiting to begin appropriate drug treatment.* If the court does not revoke probation, it may intensify or alter the drug treatment plan and ~~in addition,~~ *impose a graduated sanction.* ~~if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 48 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in such a facility, the court may order that the defendant be confined in a county~~

~~jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.~~

(B) If a defendant receives probation under subdivision (a), and for the second *or third* time *there is probable cause to believe that the defendant has violated* ~~violates that~~ probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia~~, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210~~, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation *only* if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or is unamenable to drug treatment. In determining whether a defendant is unamenable to drug treatment, the court may consider, to the extent relevant, whether the defendant (i) has committed a serious violation of rules at the drug treatment program, (ii) has repeatedly committed violations of program rules that inhibit the defendant's ability to function in the program, or (iii) has continually refused to participate in the program or asked to be removed from the program. If the court does not revoke probation, it may intensify or alter the drug treatment plan *and impose a graduated sanction.*~~, and may, in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, impose sanctions including jail sanctions that may not exceed 120 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in the facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. Detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.~~

(C) If a defendant receives probation under subdivision (a), and ~~for the third or subsequent time violates~~ *on a subsequent occasion there is probable cause to believe that the defendant has violated* that probation either by committing a nonviolent drug possession offense, or by violating a drug-related condition of probation, ~~and the state moves for a third or subsequent time to revoke~~

~~probation,~~ the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a) *unless the court finds, in its discretion, after taking into consideration the opinions and recommendations of the drug treatment provider and the district attorney, that the defendant:*

*(1) Is not a danger to the community, and*

*(2) Is not unamenable to treatment.*

*If the court does not revoke probation, it may intensify or alter the drug treatment plan, impose a graduated sanction, and/or impose a jail sanction not to exceed 48 hours upon the first such imposition during the current course of treatment, five days upon the second such imposition during the current course of treatment, and 10 days for any subsequent imposition, provided, however, that no jail sanction shall be imposed on a defendant who is receiving medication-assisted treatment if that treatment is not available to the defendant in jail.* ~~*unless the court determines that the defendant is not a danger to the community and would benefit from further treatment under subdivision (a). The court may then either intensify or alter the treatment plan under subdivision (a) or transfer the defendant to a highly structured drug court. If the court continues the defendant in treatment under subdivision (a), or drug court, the court may impose appropriate sanctions including jail sanctions as the court deems appropriate.*~~

(D) ~~If a~~ *A* defendant *who is* on probation *and enrolled in a drug treatment program pursuant to the former provisions of Section 1210.1* at the effective date of this act *shall be subject to the revised provisions of the section for any future probation violation or for any new offense. Where such a probationer has committed one or more drug-related violations of probation prior to the effective date of the revisions, the count of the number of probation violations shall not be reset, but shall count forward from the number of violations prior to July 1, 2009, for purposes of establishing the court's response to such violations.* ~~for a nonviolent drug possession offense violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug- related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may modify or alter the treatment plan, and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 48 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to,~~

~~community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in such a facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.~~

~~(E) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation a second time either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or that the defendant is unamenable to drug treatment. If the court does not revoke probation, it may modify or alter the treatment plan, and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 120 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in such a facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.~~

~~(F) If a defendant on probation at the effective date of this act for a nonviolent drug offense violates that probation a third or subsequent time either by committing a nonviolent drug possession offense, or by violating a drug-~~

~~related condition of probation, and the state moves for a third or subsequent time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a), unless the court determines that the defendant is not a danger to the community and would benefit from further treatment under subdivision (a). The court may then either intensify or alter the treatment plan under subdivision (a) or transfer the defendant to a highly structured drug court. If the court continues the defendant in treatment under subdivision (a), or drug court, the court may impose appropriate sanctions including jail sanctions.~~

~~(g) The term "drug-related condition of probation" shall include a probationer's specific drug treatment regimen, employment, vocational training, educational programs, psychological counseling, and family counseling.~~

SEC. 18. Section 1210.2 is added to the Penal Code, to read:

*1210.2. Track III. Treatment Diversion After a Conviction for Possession Of Controlled Substances; Other Nonviolent Offenses; Judicial Discretion.*

*(a) Notwithstanding any other provision of law, an offender is eligible to be placed into Track III treatment diversion programs if the defendant has:*

*(1) Participated unsuccessfully in Track II treatment diversion;*

*(2) Committed a nonviolent drug possession offense or offenses, but is not eligible for Track II treatment diversion; or*

*(3) Committed a nonviolent offense or offenses, and the defendant appears to have a problem with substance abuse or addiction.*

*(b) The court must find that placement of the defendant in Track III treatment diversion pursuant to subdivision (a) is in the furtherance of justice. In the case of a defendant who has committed a nonviolent offense that is not a nonviolent drug possession offense, the court may require the defendant to provide restitution, participate in a restorative justice program, and/or complete a portion of a sentence for the offense prior to placement in Track III treatment diversion, with the remainder of the sentence suspended during participation.*

*(c) Notwithstanding any other provision of law, an offender shall be placed into Track III treatment diversion programs if the defendant is otherwise eligible for Track II treatment diversion but for the fact that, in the 30 months prior to the current conviction, the defendant has five or more convictions for any offense or combination of offenses, including nonviolent drug possession offenses and not including infractions.*

*(d) A defendant is not eligible for Track III treatment diversion under this section if the defendant:*

*(1) Has ever committed a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, unless the district attorney seeks to place the defendant in Track III treatment diversion;*

*(2) Is eligible for Track I or Track II treatment diversion and has not been afforded any opportunity to participate in such programs; or*

*(3) Refuses placement in treatment diversion under this section.*

*(e) A defendant placed into Track III treatment diversion shall be granted probation. As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. The court shall order the defendant to appear for a clinical assessment and criminal history evaluation, and shall thereafter order the defendant to attend and complete an appropriate treatment program. If the defendant had a clinical assessment performed prior to a determination of eligibility, the court may order a new assessment. The court*

*shall thereafter place the defendant in treatment and set monitoring conditions consistent with the terms and requirements of Section 1210.02.*

*(f) If a defendant receives probation under this section, and has not yet begun treatment within 30 days of the grant of probation, the court shall conduct a hearing to determine the reason for the defendant's failure to begin treatment. The court shall consider evidence from the parties, probation department, and treatment provider. At the hearing, the defendant may refuse treatment.*

*If the defendant does not refuse treatment, the court may re-refer the defendant to the treatment program and may impose graduated sanctions and/or jail sanctions, or may revoke probation for the defendant's failure to start treatment, provided, however, that sanctions shall not be imposed or probation revoked when the defendant's failure to begin treatment resulted from a county's inability to provide appropriate treatment in a timely manner or from the county's failure to make treatment reasonably accessible, such as the failure to offer child care for a parenting defendant or failure to provide transportation if needed.*

*The court shall collect and report all data relevant to a defendant's failure to begin treatment within 30 days, the reasons therefor, and the court's responses, in any form required by the Oversight Commission. Such data regarding treatment show rates shall be published by the department, or researchers designated by the Oversight Commission, on county-by-county and statewide bases, not less than once per year.*

*(g) Drug treatment services provided by subdivision (e) as a required condition of probation may not exceed 18 months, unless the court makes a finding that the continuation of treatment services beyond 18 months is necessary for drug treatment to be successful. If such a finding is made, the court may order up to two three-month extensions of treatment services. The provision of treatment services under this section shall not exceed 24 months.*

*(h) To the greatest extent possible, any person who is placed on probation pursuant to this section shall be monitored by the court through the use of a dedicated court calendar and the incorporation of a collaborative court model of oversight that includes close collaboration with treatment providers and probation, urinalysis consistent with treatment needs, and supervision of progress through review hearings.*

*(i) During periodic review hearings to evaluate a defendant's progress, the court shall consider the use of incentives and rewards to encourage continued progress, and may impose graduated sanctions or jail sanctions in response to problems reported by the treatment provider or probation department, or in the court's discretion, with or without a finding that a violation of probation has occurred. A jail sanction shall not exceed 48 hours upon the first such imposition during the current course of treatment, five days upon the second such imposition during the current course of treatment, and 10 days for any subsequent imposition, provided, however, that no jail sanction shall be imposed on a defendant who is receiving medication-assisted treatment if that treatment is not available to the defendant in jail.*

*(j) Aside from the limitations imposed in this subdivision, the trial court is not otherwise limited in its authority to process and respond to probation violations. The court may terminate treatment and probation at any time in response to the defendant's behavior. If probation is terminated, the defendant may be sentenced without regard to any provision of this section.*

*(k) Upon successful completion of treatment as required under this section, the court may require continued probation. At any time after completion of*

*drug treatment and the terms of probation, the court shall conduct a hearing to determine the appropriate final disposition of the case, which may include dismissal of the conviction, indictment, complaint and information against the defendant, and the sealing of case records and files, including any record of arrest, detention and conviction. The defendant may, additionally, petition the court for a dismissal of charges at any time after completion of treatment. Any time a dismissal is ordered, the court shall set appropriate limitations for the defendant regarding the dismissed charges.*

SEC. 19. Section 2933 of the Penal Code is amended to read:

2933. (a) It is the intent of the Legislature that persons convicted of a crime and sentenced to the state prison under Section 1170 serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the ~~Director of Corrections~~ *Department of Corrections and Rehabilitation* for performance in work, training, or education programs established by the *Department of Corrections and Rehabilitation* ~~Director of Corrections~~. Worktime credits shall apply for performance in work assignments and performance in elementary, high school, or vocational education programs. Enrollment in a two- or four-year college program leading to a degree shall result in the application of time credits equal to that provided in Section 2931. For every six months of full-time performance in a credit qualifying program, as designated by the *department,* ~~director,~~ a prisoner shall be awarded worktime credit reductions from his or her term of confinement of six months. A lesser amount of credit based on this ratio shall be awarded for any lesser period of continuous performance. Less than maximum credit should be awarded pursuant to regulations adopted by the ~~director~~ *department* for prisoners not assigned to a full-time credit qualifying program. Every prisoner who refuses to accept a full-time credit qualifying assignment or who is denied the opportunity to earn worktime credits pursuant to subdivision (a) of Section 2932 shall be awarded no worktime credit reduction. Every prisoner who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit reductions from his or her term of confinement of three months for each six-month period of continued performance. Except as provided in subdivision (a) of Section 2932, every prisoner willing to participate in a full-time credit qualifying assignment but who is either not assigned to a full-time assignment or is assigned to a program for less than full time, shall receive no less credit than is provided under Section 2931. Under no circumstances shall any prisoner receive more than six months' credit reduction for any six-month period under this *subdivision* ~~section~~.

*(b) It is the intent of the people that persons convicted of a crime defined in paragraph (1) of subdivision (b) of Section 3000 and sentenced to the state prison under Section 1170 serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Department of Corrections and Rehabilitation for good behavior and performance in rehabilitation programs approved by the department. Credits shall apply for good behavior and performance in rehabilitation programs. For every two months of good behavior, a prisoner shall be awarded a good time credit reduction to his or her term of confinement of no less than one month. For every two months of performance in a credit qualifying rehabilitation program, as designated by the Secretary of Rehabilitation, a prisoner shall be awarded a program time reduction to his or her term of confinement of no less than one month. As to both good time and program time reductions, a lesser amount of credit based on this*

*ratio shall be awarded for any lesser period of good behavior or performance. The Department of Corrections and Rehabilitation may award more than the minimum credit amounts provided for in this section pursuant to regulations approved by the Parole Reform Oversight and Accountability Board. Credits awarded pursuant to this subdivision shall not be used to reduce the term for any inmate who has ever been convicted of a serious or violent felony within the meaning of Section 667.5 or 1192.7, or who has ever been convicted of a Section 290 registration offense. Inmates may earn the credits provided in this subdivision whether serving time for their original commitment offense or serving time after having been returned to state prison from parole.*

*(c) Nothing in this section shall be interpreted to limit the awarding of credits to any inmates pursuant to any law or regulation existing prior to the effective date of this act.*

*(d) Inmates who qualify for credits under subdivisions (a) and (b) may earn credit under both subdivisions, provided, however, that the combined total of all credits shall not exceed one-half of the term of imprisonment imposed by the court, unless the inmate successfully completes a rehabilitation program as defined in paragraph (3) of subdivision (b) of Section 3000. The maximum amount of credit for inmates who successfully complete rehabilitation programs shall be designated in regulations approved by the Parole Reform Oversight and Accountability Board.*

~~(b)~~ (*e*) ~~Worktime credit~~ *Earning credits* is a privilege, not a right. ~~Worktime credit~~ *Credits* must be earned and may be forfeited pursuant to the provisions of Section 2932. The application of credit to reduce the sentence of a prisoner who committed a crime on or after January 1, 1997, is subject to the provisions of Section 3067. Except as provided in subdivision (a) of Section 2932, every prisoner shall have a reasonable opportunity to participate in a ~~full-time~~ credit qualifying *program or service or* assignment in a manner consistent with institutional security and available resources.

~~(c)~~ (*f*) Under regulations adopted by the Department of Corrections *and Rehabilitation*, which shall require a period of not more than one year free of disciplinary infractions, ~~worktime~~ credit which has been previously forfeited may be restored by the *department* ~~director~~. The regulations shall provide for separate classifications of serious disciplinary infractions as they relate to restoration of credits, the time period required before forfeited credits or a portion thereof may be restored, and the percentage of forfeited credits that may be restored for these time periods. For credits forfeited for commission of a felony specified in paragraph (1) of subdivision (a) of Section 2932, the Department of Corrections *and Rehabilitation* may provide that up to 180 days of lost credit shall not be restored and up to 90 days of credit shall not be restored for a forfeiture resulting from conspiracy or attempts to commit one of those acts. No credits may be restored if they were forfeited for a serious disciplinary infraction in which the victim died or was permanently disabled. Upon application of the prisoner and following completion of the required time period free of disciplinary offenses, forfeited credits eligible for restoration under the regulations for disciplinary offenses other than serious disciplinary infractions punishable by a credit loss of more than 90 days shall be restored unless, at a hearing, it is found that the prisoner refused to accept or failed to perform in a credit qualifying assignment, or extraordinary circumstances are present that require that credits not be restored. “Extraordinary circumstances” shall be defined in the regulations adopted by the director. However, in any case in which worktime credit was

forfeited for a serious disciplinary infraction punishable by a credit loss of more than 90 days, restoration of credit shall be at the discretion of the director.

The prisoner may appeal the finding through the Department of Corrections *and Rehabilitation* review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

~~(d)~~ *(g)* The provisions of subdivision ~~(c)~~ *(f)* shall also apply in cases of credit forfeited under Section 2931 for offenses and serious disciplinary infractions occurring on or after January 1, 1983.

SEC. 20. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The ~~Legislature~~ *people* ~~finds~~ *find* and ~~declares~~ *declare* that the ~~period~~ *periods* immediately ~~following~~ *before and after the end of* incarceration ~~is~~ *are* critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to *prepare inmates who are leaving prison for reintegration into society, to* provide for *appropriate* ~~the~~ supervision ~~of~~ and surveillance of parolees, including the judicious use of revocation actions, and to provide *appropriate* educational, vocational, family and personal counseling*, and restorative justice programming* necessary to assist *inmates and* parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section.

(2) The ~~Legislature~~ *people* ~~finds~~ *find* and ~~declares~~ *declare* that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Parole Hearings to execute its duties with respect to parole functions for which the board is responsible.

(3) The ~~Legislature~~ *people* ~~finds~~ *find* and ~~declares~~ *declare* that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders *and participation in restorative justice programs, where appropriate, and that equally diligent efforts must be made to prevent such criminal behavior by provision of appropriate services, programs, and counseling before parolees leave prison and after they are released, with the goal of successful reintegration of the parolee into society.*

(4) The parole period of any person found to be a sexually violent predator shall be tolled until that person is found to no longer be a sexually violent predator, at which time the period of parole, or any remaining portion thereof, shall begin to run.

*(b) For purposes of this section, and subdivision (b) of Section 2933, the following definitions apply:*

*(1) The term "qualifying commitment offense" means that the current offense from which the inmate is being paroled is a controlled substance offense, a nonviolent property offense, or any other offense added by the Legislature by majority vote. A "controlled substance offense" is any offense involving possession or use of any controlled substance defined in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, or the sale or distribution of any such substance in an amount less than one kilogram, provided that the conviction did not involve a finding of sale or distribution to a minor. A "nonviolent property offense" is a crime against property in which no one is physically injured and which did not involve either the use or attempted use*

*of force or violence or the express or implied threat to use force or violence. The Parole Reform Oversight and Accountability Board shall create an advisory list of qualifying commitment offenses which meet the criteria identified in this subdivision.*

*(2) The term "Section 290 registration offense" means an offense for which registration is required pursuant to Section 290.*

*(3) The term "rehabilitation programs" refers to training and counseling programs paid for by the Department of Corrections and Rehabilitation designed to assist prison inmates and parolees in a successful reintegration into the community upon release. Such programs and services include, but are not limited to, drug treatment programs, mental health services, alcohol abuse treatment, re-entry services, cognitive skills development, housing assistance, education, literacy training, life skills, job skills, vocational training, victim impact awareness, restorative justice programs, anger management, family and relationship counseling, and provision of information involving publicly funded health, social security, and other benefits. Rehabilitation programs may include services provided in prison or after release from prison. When rehabilitation services are provided after release from prison, transportation to and from the services shall be provided by the department.*

*(4) The term "drug treatment program" or "drug treatment" means a drug treatment program which may include one or more of the following: science-based drug education, outpatient services, residential services, opioid agonist treatment, medication-assisted treatment, and aftercare services or continuing care. The term "drug treatment program" or "drug treatment" includes a drug treatment program operated under the direction of the Veterans Health Administration of the Department of Veterans Affairs or a program specified in Section 8001; such a program shall be eligible to provide drug treatment services without regard to the licensing or certification provisions required by this subdivision.*

*(5) The term "minimum supervision" means a level of parole under which the requirements of the parolee are to report to his or her parole officer no more than once every 90 days and to be subject to search.*

~~(b)~~ *(c)* Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply:

~~(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding five years, unless in either case the parole authority for good cause waives parole and discharges the inmate from the custody of the department.~~

*(1) As to all inmates sentenced to state prison under Section 1170 and scheduled to be released, including inmates returned to state prison for a parole violation, the department shall provide rehabilitation programs beginning no fewer than 90 days prior to their scheduled release. Prior to providing an inmate with rehabilitation programs, the department shall conduct a case assessment to determine the inmate's needs and which programs are most likely to result in the successful reintegration of the inmate upon release. If a parolee is returned to state prison for less than 90 days, the department shall nevertheless provide rehabilitation programs.*

*(2) As to all inmates released from state prison and on parole, the department shall provide rehabilitation programs tailored to the parolee's needs as defined by the case assessment.*

*(3) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, and unless the parole authority for good cause waives parole and discharges the inmate from the custody of the department, an inmate shall be released from custody on parole supervision for a period not exceeding six months if all the following conditions have been satisfied:*

*(A) The offense from which the inmate is being paroled is a qualifying commitment offense;*

*(B) The inmate has never been convicted, or suffered a juvenile adjudication, of either a serious or violent felony within the meaning of Section 667.5 or 1192.7, or a Section 290 registration offense; and*

*(C) The inmate has never been convicted, or suffered a juvenile adjudication, of participating in a criminal street gang in violation of subdivision (a) of Section 186.22, or convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang in violation of subdivision (b) of Section 186.22.*

*The six-month supervision period may be extended only to account for time that the parolee is incarcerated due to parole violations or for time in which the parolee is absent from supervision. At the end of the supervision period, the parolee shall be discharged from further parole supervision. The parole authority may, however, assign a parolee to minimum supervision for a period not exceeding six months where the parolee has failed to complete an appropriate rehabilitation program which was offered. As to parolees retained on minimum supervision, final discharge from parole shall occur at the expiration of this six-month period or upon completion of an appropriate rehabilitation program, whichever is earlier.*

*Except as provided in paragraphs (4), (5) and (6), all other inmates shall be released on parole for a period not exceeding three years, unless the parole authority for good cause waives parole and discharges the inmate from the custody of the department.*

*(4) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, any inmate sentenced for an offense which is either a serious or violent felony as defined in Section 667.5 or 1192.7 shall be released on parole for a period of up to five years, unless the parole authority for good cause waives parole and discharges the inmate from the custody of the department.*

*(5)* ~~(2)~~ In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

*(6)* ~~(3)~~ Notwithstanding paragraphs (1) ~~and (2)~~, *(3), (4), and (5),* in the case of any offense for which the inmate has received a life sentence pursuant to Section 667.61 or 667.71, the period of parole shall be 10 years.

*(7)* ~~(4)~~ The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

*(8)* ~~(5)~~ Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), ~~(2), or (3)~~ *(3), (4), (5), or (6)* as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), ~~(2), and (3)~~ *(3), (4), (5), and (6)* shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, in no case may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole.

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

*(9)* ~~(6)~~ The Department of Corrections and Rehabilitation shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections and Rehabilitation or the Board of Parole Hearings may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

*(10)* ~~(7)~~ For purposes of this chapter, the Board of Parole Hearings shall be considered the parole authority.

*(11)* ~~(8)~~ The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Parole Hearings, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

*(12)* ~~(9)~~ It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290.011 who are on parole to engage them in treatment.

*(d) As to all inmates released from state prison and discharged from parole, the department shall provide rehabilitation programs upon request of the former inmate made within one year of discharge from parole. The services shall be provided through the inmate's county probation department and shall last no more than 12 months from the date they are first provided. All operational costs of such services shall be reimbursed by the department.*

SEC. 21. Section 3063.01 is added to the Penal Code, to read:

*3063.01. (a) A parolee who commits a nonviolent drug possession offense as defined in subdivision (a) of Section 1210, or who tests positive for or is under*

*the influence of controlled substances, and is eligible for drug treatment services pursuant to Section 3063.1, shall receive such services at the expense of the department regardless of whether the services and supervision are provided by the county or the parole authority. The response to any further violations shall be governed by Section 3063.1 for as long as the parolee remains eligible for continued treatment under that section. Parolees who are no longer eligible for drug treatment pursuant to the terms of subparagraph (A) or (B) of paragraph (3) of subdivision (d) of Section 3063.1, and who violate the terms of their parole, shall be governed by subdivisions (c), (d) and (e) of this section.*

*(b) A parolee who accepts an assignment or referral to a program described in Section 3060.9, 3069, or 3069.5 shall, in writing, voluntarily and specifically waive application of the rights he or she might otherwise have pursuant to this section or Section 3063.1.*

*(c) Except for parolees covered by Section 3060.7, and parolees who have ever been convicted of a serious or violent felony pursuant to subdivision (c) of Section 667.5, or subdivision (c) of Section 1192.7, parole shall not be suspended or revoked, and a prisoner returned to custody in state prison for a technical violation of parole. For purposes of this section, the term "technical violation of parole" refers to conduct which although it may violate a parole condition does not constitute either a misdemeanor or felony in and of itself. Where a technical violation of absconding from parole supervision has been found, the parolee may be incarcerated in a local jail for up to 30 days or non-incarceration options and sanctions may be imposed, including modification of the conditions of parole, performing a case assessment to determine needs, and provision of local rehabilitation programs as defined in paragraph (3) of subdivision (b) of Section 3000. Where any other technical violation has been found, non-incarceration options and sanctions may be imposed. Upon the second technical violation other than absconding, the revised conditions of parole may include non-incarceration sanctions and options and/or incarceration in a local jail for up to seven days. For subsequent technical violations other than absconding, the revised conditions of parole may include non-incarceration options and sanctions as well as incarceration in a local jail for up to 14 days. The operational costs of such local custody, and of any assessments or rehabilitation programs, shall be reimbursed by the department. Nothing in this section is intended to overrule the provisions of Section 3063.1.*

*(d) Except for parolees covered by Section 3060.7, and parolees who have ever been convicted of a serious or violent felony pursuant to subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, parole shall not be suspended or revoked, and a prisoner returned to custody in state prison, for a misdemeanor violation of parole. For purposes of this section, the term misdemeanor violation of parole refers to conduct which although it may violate a parole condition does not necessarily constitute a felony in and of itself. Where a misdemeanor violation has been found, non-incarceration options and sanctions may be imposed, including modification of the conditions of parole, performing a case assessment to determine needs, and provision of local rehabilitation programs as defined in paragraph (3) of subdivision (b) of Section 3000. Alternatively, where a misdemeanor violation has been found, parole may be revoked and the parolee may be returned to custody in a local jail for up to six months. The operational costs of such local custody, and of any assessments or rehabilitation programs, shall be reimbursed by the department. Nothing in this section is intended to overrule the provisions of Section 3063.1.*

*(e) Notwithstanding any other provision of law, parole may be suspended or revoked, and any prisoner may be returned to custody in state prison, for a felony violation of parole. For purposes of this section, the term "felony violation of parole" refers to conduct which constitutes a felony in and of itself. Where a felony violation has been found, non-incarceration options and sanctions may be imposed, including modification of the conditions of parole, performing a case assessment to determine needs, and provision of local rehabilitation programs as defined in paragraph (3) of subdivision (b) of Section 3000. Alternatively, where a felony violation has been found, parole may be revoked and the prisoner may be returned to custody in a local jail or state prison. The operational costs of such local custody, and of any assessments or rehabilitation programs, shall be reimbursed by the department. Nothing in this section is intended to overrule the provisions of Section 3063.1.*

*(f) In addition to any other procedures and rights provided by law, a parolee alleged to have committed a violation of parole shall receive notice of the alleged violation at a hearing held before a deputy commissioner of the Board of Parole Hearings within three business days of being taken into custody. The parolee shall have the right to counsel at this hearing.*

*(g) The parole authority shall collect and report data regarding all alleged parole violations, regardless of whether they are sustained or result in either modification or revocation of parole. The data shall be collected in the form recommended by the Parole Reform Oversight and Accountability Board and shall include information about the nature of the violation and the demographics of the alleged violator. The department shall publish this data electronically at least twice yearly on its Web site.*

SEC. 22. Section 3063.02 is added to the Penal Code, to read:

*3063.02. From the funds appropriated to the Department of Corrections and Rehabilitation in the annual Budget Act or other statute appropriating funds to the department, and subject to the limitations contained therein, the department shall allocate funds for five years, beginning July 1, 2009, for a pilot project in at least five regions spanning urban and rural areas to implement the programs described in Sections 3060.9, 3069, and 3069.5.*

SEC. 23. Section 3063.03 is added to the Penal Code, to read:

*3063.03. (a) There is hereby created the Parole Reform Oversight and Accountability Board which shall review, direct, and approve the implementation, by the Department of Corrections and Rehabilitation, of the programs and policies provided for under this act. Regulations of general applicability promulgated by the department that pertain to parole policies and rehabilitation programs for inmates and parolees shall not take effect without approval by a majority vote of the board. Regulations subject to board approval shall not be subject to the Administrative Procedures Act or to review and approval by the Office of Administrative Law. The board shall have no role in determining release dates or the specific response to any alleged parole violation for any specific inmate or parolee. The board shall do the following:*

*(1) Review and approve by a majority vote all regulations governing parole policy and rehabilitation programs;*

*(2) Review all proposed funding allocations for rehabilitation programs, and actual spending in prior years, and publish its comments on those allocations and spending;*

*(3) Review and approve, by majority vote, regulations specifying any amount of credit to be awarded for good behavior and program participation beyond the*

*minimum amounts specified in subdivision (b) of Section 2933, based on such factors as progress benchmarks, including program completion. The regulations shall address whether parolees returned to state prison should be treated the same as other inmates with respect to credits;*

*(4) Create and approve, by a majority vote, an advisory list of qualifying commitment offenses to be employed in applying subdivision (b) of Section 2933, and paragraph (1) of subdivision (b), and paragraph (3) of subdivision (c), of Section 3000;*

*(5) Require the department to provide specific data on the parole system, and examine that data to assess current laws regulating all aspects of the parole system;*

*(6) Require the department to provide specific data on rehabilitation programs to be collected by the Division of Research for Recovery and Re-Entry Matters, and examine that data to assess current rehabilitation programs and policies;*

*(7) Determine and approve, by a majority vote, the appropriate form of data collection for purposes of subdivision (e) of Section 3063.01 regarding parole violations;*

*(8) Order research on parole policy and practices, inside and outside California, to be paid for, upon a majority vote of the board, from the funds appropriated to the department in the annual Budget Act, and subject to the limitations contained therein. Such research shall be conducted by a public university in California;*

*(9) Monitor the development and implementation, by the department, of a system of incentives and rewards to encourage compliance with the terms of parole by all former inmates under parole supervision;*

*(10) Provide a balanced forum for statewide policy development, information development, research, and planning concerning the parole process;*

*(11) Assemble and draw upon sources of knowledge, experience and community values from all sectors of the criminal justice system, from the public at large and from other jurisdictions;*

*(12) Study the experiences of other jurisdictions in connection with parole;*

*(13) Make recommendations to the Secretary of Rehabilitation and Parole and the Legislature in a report published at least once every two years;*

*(14) Ensure that all these efforts take place on a permanent and ongoing basis, with the expectation that the parole system and rehabilitation programs provided by the department shall strive continually to evaluate themselves, evolve, and improve;*

*(15) Develop and approve, in consultation with the department, the program and agenda, invitation list, and budget for an annual international conference on the subject of prisoner and parolee rehabilitation;*

*(16) Identify and promote innovative rehabilitation programs and best practices implemented in prisons and on parole, and publicly honor department employees who exemplify rehabilitation excellence;*

*(17) Determine the board's staffing needs sufficient to carry out the board's responsibilities;*

*(18) Conduct public meetings and invite and consider public comment. The board shall promulgate regulations that provide for public review and comment on all proposed regulations subject to board approval, provided, however, that the board need not respond to all comments before giving approval to regulations or taking other actions.*

*(b) The board shall be empanelled no later than March 31, 2009. It shall be composed of 19 voting members and two non-voting members. The two non-voting members shall be the Secretary of Rehabilitation and Parole or his or her designee and the Inspector General. Of the 19 voting members, two members shall be academic experts in parole policy, appointed by the Speaker of the Assembly. One member shall be a legal scholar with expertise in parole policy, appointed by the Senate Committee on Rules. One member shall be a county sheriff from a county with a population greater than 100,000, appointed by the Governor. One member shall be a former member of the judiciary, appointed by the Governor. One member shall be a person formerly incarcerated in state prison, appointed by the Speaker of the Assembly. One member shall be a sheriff from a county with a population less than 100,000, appointed by the Governor. One member shall be a California district attorney, appointed by the Governor. One member shall be a public defender, appointed by the Governor. One member shall be a private criminal defense lawyer with experience litigating parole cases on behalf of inmates, appointed by the Speaker of the Assembly. One member shall be a member of a crime victims group, appointed by the Governor. One member shall be a parole officer with a minimum of five years experience, appointed by the Governor. Three members shall be providers of drug treatment, rehabilitation or re-entry services as defined in paragraph (3) of subdivision (b) of Section 3000, with one appointed by the Speaker of the Assembly, one appointed by the Senate Committee on Rules, and one appointed by the Governor. One member shall be a provider of community-based services to parolees, appointed by the Senate Committee on Rules. One member shall be a member of an association of county governments, appointed by the Governor. Two members shall be representatives of the two largest bargaining units within the department, the representative of the largest bargaining unit appointed by the Speaker of the Assembly and the other representative appointed by the Governor.*

*(c) On January 1, 2012, the terms of the county sheriff from the smaller county, the former member of the judiciary, the parole officer, the district attorney, the county government representative, the representative of the largest bargaining unit within the department, and the private defense lawyer shall expire. On January 1, 2013, the terms of the crime victim representative, the public defender, the sheriff from the larger county, the representative of the second largest bargaining unit within the department, and the provider of community-based services shall expire. On January 1, 2014, the terms of the two academic experts, the legal scholar, the formerly incarcerated person, and the three reentry service providers shall expire. Successor members shall be appointed in the same manner, and hold office for terms of three years, each term to commence on the expiration date of the predecessor. Any appointment to a vacancy that occurs for any reason other than the expiration of the term shall be for the remainder of the unexpired term. Members are eligible for reappointment.*

*(d) Members of the board other than government employees shall receive a per diem to be determined by the Department of Corrections and Rehabilitation, but not less than the usual per diem rate allowed to department employees during travel out of state. All members shall be reimbursed by the department for all necessary expenses of travel actually incurred attending meetings of the board and in the performance of their duties. All expenses shall be paid by the department, and the department shall also provide staff for the board sufficient to support and facilitate its operations. Research ordered by the board shall be conducted by a public university in California and shall be paid for by the*

*department from the funds appropriated to the department in the annual Budget Act, subject to the limitations contained therein. For purposes of compensation, attendance at meetings of the board by a state or local government employee shall be deemed performance of the duties of his or her state or local government employment.*

SEC. 24. Section 3063.2 of the Penal Code is amended to read:

3063.2. In a case where a parolee had been ordered to undergo drug treatment as a condition of parole pursuant to Section 3063.1, any drug testing of the parolee shall be used *solely* as a treatment tool *to tailor the response of the treatment program and of the supervising authority to the parolee's relapse.* In evaluating a parolee's treatment program, results of any drug testing shall be given no greater weight than any other aspects of the parolee's individual treatment program. *Results of such testing shall not be admissible as a basis for any new criminal prosecution or proceeding, nor shall such results be cause, in and of themselves, to find that a violation of parole has occurred. The county or parole authority may consider a test result as positive for purposes of modifying a parolee's conditions of parole only if the laboratory performing such analysis utilized the following procedures and standards: validity testing, initial and confirmation testing, cutoff concentrations, dilution and adulteration criteria, and split specimen procedures.*

SEC. 25. Section 5050 of the Penal Code is amended to read:

5050. *References to Secretary of the Department of Corrections and Director of Corrections; creation of Secretary of Rehabilitation and Parole.*

*Commencing July 1, 2009, any reference to the Secretary of the Department of Corrections and Rehabilitation or the Director of Corrections refers to the Secretary of Rehabilitation and Parole or the Secretary of Corrections, as specified by statute or the subject matter of the provision.* ~~Commencing July 1, 2005, any reference to the Director of Corrections in this or any other code refers to the Secretary of the Department of Corrections and Rehabilitation. As of that date, the office of the Director of Corrections is abolished.~~

SEC. 26. Section 6026.01 is added to the Penal Code, to read:

*6026.01. The Corrections Standards Authority shall annually publish a report detailing the number of persons in institutions in each calendar year with a primary commitment offense that is a controlled substance offense. The report shall clearly delineate the numbers entering institutions during the most recent year due to new sentences from the courts and due to parole violations. For all persons entering institutions for simple possession of controlled substances, the report shall, to the greatest extent possible, provide detail regarding the prior records of such persons, the controlled substance involved, the reasons for referral to institutions, the range of sentence lengths, and the average sentence lengths imposed on such persons. The report shall include a statement or projection of the annual cost of incarcerating all of these persons for controlled substance offenses. The first such annual report shall be issued no later than July 1, 2010.*

SEC. 27. Section 6026.02 is added to the Penal Code, to read:

*6026.02. The Corrections Standards Authority shall annually publish a report regarding the parole population, parolee program participation, parole violations, and the responses to such violations. Each report shall cover a calendar year and shall detail the number of persons placed onto parole supervision and the levels of supervision; the number of parolees participating in rehabilitation programs and the specific types of programs in which those*

*parolees were enrolled; the number of alleged parole violations and the number of parole violations found to have occurred; the response to parole violations including parole modifications, sanctions, program referrals and revocations; and the number of jail or prison days served by parole violators. Each report shall contain a section with data on treatment provided pursuant to Section 3063.1, and including data related to eligibility, participation, and completion. Each report shall provide information on the sex, race or ethnicity, and county of commitment of all parolees, to the extent such information is available, for each category of information required for the report. The first such annual report shall be issued no later than July 1, 2011.*

SEC. 28. Section 6032 is added to the Penal Code, to read:

*6032. The Department of Corrections and Rehabilitation shall annually host an international conference on the subject of prisoner and parolee rehabilitation with the purpose of examining California's rehabilitation programs and data and comparing California's efforts with the best practices and innovations of other jurisdictions. The conference shall include representatives from the corrections and rehabilitation departments of other states and other nations. The complete program and agenda, invitation list and budget shall be developed by the department in consultation with, and subject to the final approval of, the Parole Reform Oversight and Accountability Board. Conference expenses, consistent with a budget approved by the Parole Reform Oversight and Accountability Board, shall be paid for by the department from the funds appropriated to the department in the annual Budget Act, subject to the limitations contained therein. The first such conference shall occur no later than July 1, 2010.*

SEC. 29. Section 6050.1 is added to the Penal Code, to read:

*6050.1. (a) The Governor, upon the recommendation of the Secretary of Rehabilitation and Parole, shall appoint a Chief Deputy Warden for Rehabilitation to serve at each of the state prisons, and, as appropriate, at additional department facilities such as re-entry centers, who shall be known as the Rehabilitation Warden. The Rehabilitation Warden shall be responsible for implementing and overseeing rehabilitation programs at each state prison and/or facility and providing data to the Secretary of Rehabilitation and Parole on the types of in-custody programs being offered, the demographics of prisoners attending the programs, and the effectiveness of, and barriers to, such programs at each prison and/or facility, and any additional data required by the Secretary of Rehabilitation and Parole and the Parole Reform Oversight and Accountability Board. This data is to be provided to the secretary through the Division of Research for Recovery and Re-Entry Matters no less than once a year. Each Rehabilitation Warden shall be subject to removal by the secretary. If the secretary removes him or her, the action shall be final.*

*(b) The Department of Personnel Administration shall fix the compensation of the Rehabilitation Wardens at a level equal to that of the other chief deputy wardens in the prison system.*

SEC. 30. Section 6126.01 is added to the Penal Code, to read:

*6126.01. The Inspector General shall annually publish a report detailing the prevalence and types of rehabilitation programs available at each California prison, and each facility managed by or contracted by the Department of Corrections and Rehabilitation. The report shall rank and rate the prisons and facilities in terms of program availability relative to need, utilization rates, and performance measures, examining both the degree of success by each prison or facility in implementing such programs and the degree of success by prisoner*

*participants. The report shall use a letter-grade system, and shall make specific recommendations for improvement. A preliminary report shall be issued no later than October 1, 2009. All subsequent annual reports shall be issued by October 1 of each year.*

SEC. 31. Marijuana. Diversion for Persons Under Age 18. Fines.

SEC. 31.1. Section 11357 of the Health and Safety Code is amended to read:

11357. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, or shall be punished by imprisonment in the state prison.

(b) *Except as authorized by law, every person 18 years of age or older who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100). Additional fees of any kind, including assessments, fees, and penalties, shall not exceed the amount of the fine imposed. Every person under 18 years of age who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction and shall be required to complete a science-based drug education program certified by the county alcohol and drug program administrator.* ~~Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). Notwithstanding other provisions of law, if such person has been previously convicted three or more times of an offense described in this subdivision during the two-year period immediately preceding the date of commission of the violation to be charged, the previous convictions shall also be charged in the accusatory pleading and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, the provisions of Sections 1000.1 and 1000.2 of the Penal Code shall be applicable to him, and the court shall divert and refer him for education, treatment, or rehabilitation, without a court hearing or determination or the concurrence of the district attorney, to an appropriate community program which will accept him. If the person is so diverted and referred he shall not be subject to the fine specified in this subdivision. If no community program will accept him, the person shall be subject to the fine specified in this subdivision. In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.~~

(c) Except as authorized by law, every person who possesses more than 28.5 grams of marijuana, other than concentrated cannabis, shall be punished by imprisonment in the county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(d) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall

be punished by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for a period of not more than 10 days, or both.

(e) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed~~.~~*, and required completion of a science-based drug education program certified by the county alcohol and drug program administrator*.

(2) A fine of not more than five hundred dollars ($500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

*(f) The fines collected pursuant to this section shall be deposited into the county's trust fund designated for youth programs established pursuant to subdivision (b) of Section 11999.6.2.*

SEC. 32. Oversight of Drug Court Programs for Adult Felons in Track III Diversion.

SEC. 32.1. Section 11970.1 of the Health and Safety Code is amended to read:

11970.1. (a) This article shall be known and may be cited as the Comprehensive Drug Court Implementation Act of 1999.

*(b) The people intend that all adult felons who qualify for Track III treatment diversion programs after July 1, 2009, shall be enrolled in those programs, and that all drug courts working with defendants who qualify for Track III shall be controlled and governed by the Track III statute, Section 1210.2 of the Penal Code, and Sections 11999.5 to 11999.13, inclusive, of this code. To the greatest extent possible, defendants participating in drug courts before July 1, 2009, and who are eligible for Track III, shall be transferred to Track III programs.*

~~(b)~~ *(c)* This article shall be administered by the State Department of Alcohol and Drug Programs*, with all regulations related to programs for adult felons enrolled in Track III treatment diversion programs being subject to review and approval by the Oversight Commission, as described in Section 11999.5.2*.

~~(c)~~ *(d)* The department and the Judicial Council shall design and implement this article through the Drug Court Partnership Executive Steering Committee established under the Drug Court Partnership Act of 1998 pursuant to Section 11970, for the purpose of funding cost-effective local drug court systems for adults, juveniles, and parents of children who are detained by, or are dependents of, the juvenile court.

SEC. 33. Evaluation of Drug Court Programs for Adult Felons.

SEC. 33.1. Section 11970.2.1 is added to the Health and Safety Code, to read:

*11970.2.1. Notwithstanding subdivision (d) of Section 11970.2, evaluation of all programs for adult felons provided pursuant to Sections 11970.1 to 11970.35, inclusive, shall be integrated with the program evaluations required pursuant to Section 11999.10. The State Department of Alcohol and Drug Programs shall not publish additional reports regarding adult felons using any design established prior to October 31, 2007; however, all data and information*

*collected by the department related to drug court programs for adult felons shall be public information, subject to redaction only as required by federal law or the California Constitution. The department, in collaboration with the Judicial Council, may create an evaluation design for the Comprehensive Drug Court Implementation Act of 1999 to separately assess the effectiveness of programs for persons who are not adult felons.*

SEC. 34. Funding of Drug Court Programs for Qualifying Adult Felons Through Track III.

SEC. 34.1. Section 11970.3 of the Health and Safety Code is amended to read:

11970.3. (a) It is the intent of the ~~Legislature~~ *people* that *all programs for adult felons who qualify for Track III treatment diversion, including those programs which may have functioned before enactment of Section 1210.2 of the Penal Code, shall, beginning July 1, 2009,* ~~this chapter~~ be funded *principally* by *the annual appropriation for Track III diversion programs described in subdivision (c) of Section 11999.6, with all other programs for persons who do not qualify for Track III treatment diversion to be funded by* ~~an appropriation~~ *appropriations* in the annual Budget Act.

(b) Up to 5 percent of the amount appropriated by the annual Budget Act *for programs authorized in this section, and not serving adult felons who qualify for Track III diversion programs,* is available to the department and the Judicial Council to administer the program, including technical assistance to counties and development of an evaluation component.

SEC. 35. Repeal of Substance Abuse Offender Treatment Program.

SEC. 35.1. Section 11999.30 of the Health and Safety Code is amended to read:

11999.30. ~~(a)~~ *The people find that it is duplicative and unnecessary to maintain separate funding streams for the same group of drug offenders eligible for treatment. This section is hereby repealed, effective July 1, 2009. Any funds appropriated or allocated pursuant to this section may be distributed and used as provided by its terms; however, any such funds held by the state or a county after January 1, 2010, shall be transferred to the county's fund for youth programs established pursuant to subdivision (b) of Section 11999.6.2.* ~~This division shall be known as the Substance Abuse Offender Treatment Program. Funds distributed under this division shall be used to serve offenders who qualify for services under the Substance Abuse and Crime Prevention Act of 2000, including any amendments thereto. Implementation of this division is subject to an appropriation in the annual Budget Act.~~

~~(b) The department shall distribute funds for the Substance Abuse Offender Treatment Program to counties that demonstrate eligibility for the program, including a commitment of county general funds or funds from a source other than the state, which demonstrates eligibility for the program. The department shall establish a methodology for allocating funds under the program, based on the following factors:~~

~~(1) The percentage of offenders ordered to drug treatment that actually begin treatment.~~

~~(2) The percentage of offenders ordered to treatment that completed the prescribed course of treatment.~~

~~(3) Any other factor determined by the department.~~

~~(c) The distribution of funds for this program to each eligible county shall be at a ratio of nine dollars ($9) for every one dollar ($1) of eligible county matching funds.~~

~~(d) County eligibility for funds under this division shall be determined by the department according to specified criteria, including, but not limited to, all of the following:~~

~~(1) The establishment and maintenance of dedicated court calendars with regularly scheduled reviews of treatment progress for persons ordered to drug treatment.~~

~~(2) The existence or establishment of a drug court, or a similar approach, and willingness to accept defendants who are likely to be committed to state prison.~~

~~(3) The establishment and maintenance of protocols for the use of drug testing to monitor offenders' progress in treatment.~~

~~(4) The establishment and maintenance of protocols for assessing offenders' treatment needs and the placement of offenders at the appropriate level of treatment.~~

~~(5) The establishment and maintenance of protocols for effective supervision of offenders on probation.~~

~~(6) The establishment and maintenance of protocols for enhancing the overall effectiveness of services to eligible parolees.~~

~~(e) The department, in its discretion, may limit administrative costs in determining the amount of eligible county match, and may limit the expenditure of funds provided under this division for administrative costs. The department may also require a limitation on the expenditure of funds provided under this division for services other than direct treatment costs, as a condition of receipt of program funds.~~

~~(f) To receive funds under this division, a county shall submit an application to the department documenting all of the following:~~

~~(1) The county's commitment of funds, as required by subdivision (b).~~

~~(2) The county's eligibility, as determined by the criteria set forth in subdivision (d).~~

~~(3) The county's plan and commitment to utilize the funds for the purposes of the program, which may include, but are not limited to, all of the following:~~

~~(A) Enhancing treatment services for offenders assessed to need them, including residential treatment and narcotic replacement therapy.~~

~~(B) Increasing the proportion of sentenced offenders who enter, remain in, and complete treatment, through activities and approaches such as colocation of services, enhanced supervision of offenders, and enhanced services determined necessary through the use of drug test results.~~

~~(C) Reducing delays in the availability of appropriate treatment services.~~

~~(D) Use of a drug court or similar model, including dedicated court calendars with regularly scheduled reviews of treatment progress, and strong collaboration by the courts, probation, and treatment.~~

~~(E) Developing treatment services that are needed but not available.~~

~~(F) Other activities, approaches, and services approved by the department, after consultation with stakeholders.~~

~~(g) The department shall audit county expenditures of funds distributed pursuant to this division. Expenditures not made in accordance with this division shall be repaid to the state.~~

~~(h) The department shall consult with stakeholders and report during annual budget hearings on additional recommendations for improvement of programs and services, allocation and funding mechanisms, including, but not limited to, competitive approaches, performance-based allocations, and sources of data for measurement.~~

~~(i) (1) For the 2006–07 and 2007–08 fiscal years, the department may implement this division by all-county letters or other similar instructions, and need not comply with the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Commencing with the 2008–09 fiscal year, the department may implement this section by emergency regulations, adopted pursuant to paragraph (2).~~

~~(2) Regulations adopted by the department pursuant to this division shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to this division shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department. Nothing in this paragraph shall be interpreted to prohibit the department from adopting subsequent amendments on a nonemergency basis or as emergency regulations in accordance with the standards set forth in Section 11346.1 of the Government Code.~~

SEC. 36. Section 11999.5 of the Health and Safety Code is amended to read:

11999.5. Funding Appropriation.

~~Upon passage of this act, $60,000,000 shall be continuously appropriated from the General Fund to the Substance Abuse Treatment Trust Fund for the 2000–01 fiscal year. There is hereby continuously appropriated from the General Fund to the Substance Abuse Treatment Trust Fund an additional $120,000,000 for the 2001–02 fiscal year, and an additional sum of $120,000,000 for each such subsequent fiscal year concluding with the 2005–06 fiscal year. These funds shall be transferred to the Substance Abuse Treatment Trust Fund on July 1 of each of these specified fiscal years. Funds~~

*(a) There is hereby appropriated from the General Fund to the Substance Abuse Treatment Trust Fund the amount of one hundred fifty million dollars ($150,000,000), for the period from January 1, 2009, to June 30, 2009, and the amount of four hundred sixty million dollars ($460,000,000), annually for each full fiscal year thereafter, commencing with the 2009–10 fiscal year, with annual adjustments for price inflation, and adjustments once every five years for changes in the state population, as specified in subdivision (c).*

*(b) The Department of Finance shall annually, in the month of May, calculate and publicly announce the adjusted funding level for each upcoming fiscal year. The Controller shall transfer funds in the amount calculated by the Department of Finance from the General Fund to the Substance Abuse Treatment Trust Fund on the first day of each fiscal year.*

*(c) The Department of Finance shall calculate annual funding levels by making an annual adjustment to the baseline figure appropriated for the 2009–10 fiscal year to account for price inflation, with the year 2009 to be used as the baseline year, and by making an adjustment, once every five years, to account for changes in the state population during the previous five years, with the first such adjustment to be made for the 2016–17 fiscal year.*

*The adjustment for price inflation shall be made with the Implicit Price Deflator for state and local government purchases, as published by the U.S. Department of Commerce, Bureau of Economic Analysis, or a comparable tool published by a similar or successor agency if that data source is unavailable, and shall be based upon the last data point available before the start of the fiscal year. Adjustments for changes in the state population shall use data published by the United States Census Bureau.*

*(d) Funds* transferred to the Substance Abuse Treatment Trust Fund are not subject to annual appropriation by the Legislature and may be used without a time limit. Nothing in this section precludes additional appropriations by the Legislature to the Substance Abuse Treatment Trust Fund.

SEC. 37. Section 11999.5.1 is added to the Health and Safety Code, to read:

*11999.5.1. State and local agency oversight.*

*"Department" refers to the State Department of Alcohol and Drug Programs when used in the context of Track I, Track II, Track III, and youth programs, unless otherwise stated, and is designated the agency responsible for distribution of all moneys provided pursuant to Sections 11999.4 to 11999.14, inclusive. Each county shall appoint as local lead agency its alcohol and drug programs administrator, unless the Oversight Commission approves a county's request to appoint another local agency.*

SEC. 38. Section 11999.5.2 is added to the Health and Safety Code, to read:

*11999.5.2. Oversight Commission.*

*(a) There is hereby created the Treatment Diversion Oversight and Accountability Commission (Oversight Commission), which shall be convened to review, direct, and approve the implementation, by the State Department of Alcoho1 and Drug Programs, of the programs and policies related to Track I, Track II, Track III, and youth programs. Regulations of general applicability promulgated by the department that pertain to programs required under Sections 1210.01 to 1210.05, inclusive, and Sections 1210.1 and 1210.2 of the Penal Code, and funded pursuant to Sections 11999.4 to 11999.14, inclusive, of this code, shall not take effect without approval by the Oversight Commission. The commission shall have the powers and responsibilities specified in subdivision (b) for regulatory and fiscal matters. Regulations subject to board approval shall not be subject to the Administrative Procedures Act or to review and approval by the Office of Administrative Law.*

*(b) The Oversight Commission shall do the following:*

*(1) Review and approve by a majority vote:*

*(A) All regulations regarding county-level implementation issues related to programs required under this act, and the use of funds provided for Track I, Track II, Track III, and youth programs;*

*(B) A distribution formula for funding provided pursuant to Section 11999.6. The commission may approve a formula for distribution of funding for youth programs that differs substantially from the formula for funding for adults;*

*(C) Any regulation placing contingencies on up to 10 percent of a county's allocation, as provided in subdivision (d) of Section 11999.6;*

*(D) Regulations pertaining to counties' use of funding provided under this act to provide supportive services other than drug treatment services, as described in subdivision (a) of Section 11999.6;*

*(E) Regulations pertaining to the use of funds for youth programs, including the establishment of guidelines by the Oversight Commission to define target populations of youth under the age of 18 who are nonviolent and at risk of committing future drug offenses;*

*(F) Any county's request to appoint, as lead agency responsible for distribution of moneys provided under this act, an agency other than the county alcohol and drug programs administrator;*

*(G) Any proposal to order researchers to study any issue beyond the scope of studies already approved;*

*(H) The annual amount proposed by the department to be set aside for addiction training programs, implementation trainings, and conferences;*

*(I) The annual amount proposed by the department to be set aside for use for direct contracts with drug treatment service providers in counties where demand for drug treatment services, including opioid agonist treatment, is not adequately met by existing programs;*

*(J) The annual amount proposed by the department to be set aside for studies by public universities as provided by Section 11999.10;*

*(K) Regulations pertaining to clinical assessments, including guidelines and requirements for persons performing assessments and the selection of a standardized assessment tool or tools;*

*(L) All requirements for county plans, including the frequency with which such plans must be submitted, and any limits on the amounts of money to be available for use for incentives and rewards, limits on annual carryover funds or reserves, requirements to address the provision of culturally and linguistically appropriate services that are geographically accessible to the relevant communities, the dissemination of overdose awareness and prevention materials and strategies in county jails, and the provision of training on harm reduction practices and the implementation of harm reduction therapy and services;*

*(M) All county plans, after review by the department;*

*(N) Any petition by a county with a population of less than 100,000 to be exempt from regulations regarding treatment and non-treatment costs. Any such approval shall be valid for four years;*

*(O) Any corrective action proposed in lieu of repayment by a county found not to have spent funds in accordance with the requirements of this act;*

*(P) The range of data to be collected on each county annual report form;*

*(Q) The range of data to be required to be collected by courts regarding defendants' failure to begin treatment within 30 days, as provided by subdivision (j) of Section 1210.03, paragraph (1) of subdivision (h) of Section 1210.1, and subdivision (f) of Section 1210.2 of the Penal Code;*

*(R) The issues and range of data to be addressed in an annual report by the department regarding programs conducted pursuant to this act; and*

*(S) All research plans for outside evaluation pursuant to Section 11999.10.*

*(2) Require the department to provide data related to Track I, Track II, Track III, and youth programs;*

*(3) Require counties to provide data related to Track I, Track II, Track III, and youth programs;*

*(4) Develop oversight and enforcement mechanisms to ensure the provision of opioid agonist treatment consistent with this act;*

*(5) Develop and approve, in consultation with the State Department of Alcohol and Drug Programs, the program and agenda, invitation list, and budget for an annual statewide conference on drug treatment diversion pursuant to this act; and*

*(6) Conduct public meetings and invite and consider public comment, provided, however, that the Oversight Commission need not respond to all comments before giving approval to regulations or taking other actions.*

*(c) The Oversight Commission shall be empanelled no later than July 1, 2009. It shall consist of the following 23 voting members: five treatment providers, including three to be appointed by the Speaker of the Assembly, of which at least one shall be a physician specializing in addiction, and at least one person shall be a provider specializing in treatment of youth under the age of 18, and with two such appointments made by the President of the Senate, of which one person shall be a member of a statewide association of treatment providers; two mental health service providers who work in programs providing services to persons with a dual diagnosis of mental illness and substance abuse, of which one person shall be a member of a statewide association of mental health service providers, with both such appointments made by the Governor; two county alcohol and drug program administrators, with both appointments made by the President of the Senate; two drug treatment program counselors, including one who is a member of a statewide association of counselors, with both appointments made by the Governor; two probation department executives or officers, with both appointments made by the Governor; one person formerly a participant in a treatment program established pursuant to the Substance Abuse and Crime Prevention Act of 2000, or Track I or Track II of this act, appointed by the Governor; two criminal defense attorneys, including one public defender and one attorney in private defense practice, with both appointments made by the Speaker of the Assembly; two public policy researchers from public or private universities in California, with both appointments made by the President of the Senate; two members of organizations concerned with civil rights, drug laws and/or drug policies, to be appointed by the President of the Senate; three law enforcement professionals and/or members of the judiciary, who must each be in active service or retired from active service, to be appointed by the Governor and confirmed by the Senate.*

*(d) On July 1, 2011, the terms of the following members shall expire: the two treatment provider representatives appointed by the Speaker, one treatment provider representative appointed by the President of the Senate, one public policy researcher, one criminal defense attorney, one representative of law enforcement or the judiciary, one county alcohol and drug program administrator, one drug treatment program counselor, one mental health service provider, one person representing organizations concerned with civil rights, drug laws and/or drug policies, one representative of the probation department, executives or officers, and the former participant in a treatment program. On July 1, 2012, the terms of the following members shall expire: one treatment provider representative appointed by the Speaker and one treatment provider representative appointed by the President of the Senate, one drug treatment program counselor, one mental health service provider, one county alcohol and drug program administrator, one representative of the probation department, executives or officers, one criminal defense attorney, one person representing organizations concerned with civil rights, drug laws and/or drug policies, one public policy researcher, and two representatives of law enforcement or the judiciary. For appointments made to the first commission to be empanelled by no later than July 1, 2009, the Speaker, the President of the Senate, and the Governor shall indicate on which of the specified dates each term of each individual representative appointed by them shall expire when there is more than one possible date of expiration for that*

*category of appointment. Successor members shall be appointed in the same manner, and hold office for terms of four years, each term to commence on the expiration date of the predecessor. Any appointment of a vacancy that occurs for any reason other than the expiration of the term shall be for the remainder of the unexpired term. Members are eligible for reappointment.*

*(e) Members of the Oversight Commission other than government employees shall receive a per diem to be determined by the Director of the Department, but not less than the usual per diem rate allowed to department employees during travel out of state. All members shall be reimbursed by the department for all necessary expenses of travel actually incurred attending meetings of the board and in the performance of their duties. All expenses shall be paid by the department, and the department shall also provide staff for the board sufficient to support and facilitate its operations. For purposes of compensation, attendance at meetings of the commission by a state or local government employee shall be deemed performance of the duties of his or her state or local government employment.*

SEC. 39. Section 11999.6 of the Health and Safety Code is amended to read:

11999.6. *(a)* Moneys deposited in the Substance Abuse Treatment Trust Fund shall be distributed annually by the Secretary of the Health and Human Services Agency through the State Department of Alcohol and Drug Programs to counties to cover the costs of *youth programs and* placing persons in and providing drug treatment programs under *Track I, Track II, and Track III as provided in* this act, and vocational training, family counseling, *mental health services, harm reduction therapy and services* and literacy training*, and, where permitted by regulations approved by the Oversight Commission, for housing assistance, childcare, and transportation to and from clinical assessment, court appearances, drug treatment, mental health services, and other court-mandated services and ancillary services such as vocational training, family counseling, harm reduction therapy and services, and literacy training accessed pursuant to* ~~under~~ this act. Additional costs that may be reimbursed from the Substance Abuse Treatment Trust Fund include probation department costs, court monitoring costs, and any miscellaneous costs made necessary by the provisions of this act*,* ~~other than~~ *except for* drug testing services of any kind *in youth programs or for defendants participating in Track I or Track II. The department may use funds appropriated by this act to prepare and present an annual calculation of the need for funding for drug testing services*. Incarceration costs cannot be reimbursed from the fund. Those moneys shall be allocated to counties through a fair and equitable distribution formula *established by the Oversight Commission.* ~~that includes, but is not limited to, per capita arrests for controlled substance possession violations and substance abuse treatment caseload, as determined by the department as necessary to carry out the purposes of this act.~~ The department ~~may~~ *shall* reserve a portion of the fund to pay for direct contracts with drug treatment service providers in counties or areas in which the director of the department *or the Oversight Commission* has determined that demand for drug treatment services*, including opioid agonist treatment,* is not adequately met by existing programs. However, nothing in this section shall be interpreted or construed to allow any entity*, including the department or any county,* to use funds from the Substance Abuse Treatment Trust Fund to supplant funds from any ~~existing~~ *other* fund source or mechanism ~~currently~~ used to provide substance abuse treatment*, except for grants awarded pursuant to the Drug Court Partnership*

*Act or Comprehensive Drug Court Implementation Act, which may be supplanted by Track III funds. Funding provided by the Substance Abuse Treatment Trust Fund shall cover those portions of care that cannot be paid for by other means, such as public or private insurance, mental health services funding from the Mental Health Services Fund, treatment program funding from the Department of Corrections and Rehabilitation, an individual defendant's contributions, or other funding sources for which the defendant is eligible.* ~~In addition, funds from the Substance Abuse Treatment Trust Fund shall not be used to fund in any way the drug treatment courts established pursuant to Article 2 (commencing with Section 11970.1) or Article 3 (commencing with Section 11970.4) of Chapter 2 of Part 3 of Division 10.5, including drug treatment or probation supervision associated with those drug treatment courts.~~

*(b) Prior to calculating the annual allocations for distribution to counties, the department shall withhold funds, in amounts approved by a majority of the Oversight Commission, from the Substance Abuse Treatment Trust Fund sufficient to:*

*(1) Provide for direct contracts between the department and drug treatment providers in counties that have been determined, by the director or the Oversight Commission, to provide inadequate access to drug treatment services, including opioid agonist treatment and other medication-assisted treatments;*

*(2) Provide addiction training programs for persons required to receive such training under this act or for persons authorized to receive such training by the Oversight Commission consistent with this act;*

*(3) Produce implementation training programs and/or conferences for local stakeholders; and*

*(4) Pay for studies by public universities as provided by Section 11999.10.*

*(c) Subject to modification as provided in subdivision (d), funds remaining in the Substance Abuse Treatment Trust Fund shall be allocated annually as follows, in subaccounts of the trust fund:*

*(1) Fifteen percent for youth programs, as defined in subdivision (n) of Section 1210 of the Penal Code.*

*(2) Fifteen percent for treatment and related costs for Track I diversion programs, provided pursuant to Section 1210.03 of the Penal Code.*

*(3) Sixty percent for treatment and related costs for Track II diversion programs, provided pursuant to Section 1210.1 of the Penal Code.*

*(4) Ten percent for treatment and related costs for Track III diversion programs, provided pursuant to Section 1210.2 of the Penal Code.*

*(d) Upon the enactment of regulations promulgated by the department and approved by the Oversight Commission, distribution of up to 10 percent of the allocation to counties for Track I, Track II, and/or Track III programs may be made contingent upon specific requirements to adopt best practices, create innovative programs, and/or establish programs for underserved populations, and may be subject to a county matching requirement. Any regulation making a portion of county allocations contingent in this manner shall specify the disposition of funds not accessed by counties for failure to meet the specific requirements. Absent any such regulations, the department shall not place any contingency involving a county matching requirement on the allocations for Track I, Track II, or Track III programs.*

*(e) Notwithstanding the creation of Track III diversion programs in this act, and the requirement for 10 percent of funding from the trust fund to go to such programs, no provision of this act shall be interpreted to preclude:*

*(1) The creation or maintenance of innovative programs providing court-supervised treatment to persons or defendants not eligible for treatment under the terms of this act;*

*(2) The appropriation, by the Legislature, of separate funding for programs for court-supervised treatment for persons or defendants not eligible for treatment under the terms of this act; or*

*(3) The use, by local court-supervised treatment programs, of funds provided by a county, the federal government, or private sources.*

SEC. 40. Section 11999.6.1 of the Health and Safety Code is amended to read:

11999.6.1. *Payment of Treatment Costs for Parolees.*

*Notwithstanding Section 11999.6, the costs of drug treatment and related services, including mental health services, for parolees placed into treatment under the terms of this act shall be paid by the Department of Corrections and Rehabilitation and not by funds from the Substance Abuse and Treatment Trust Fund.*

~~(a) Notwithstanding any other provision of law, when the department allocates funds appropriated to the Substance Abuse Treatment Trust Fund, it shall withhold from any allocation to a county the amount of funds previously allocated to that county from the fund that are projected to remain unencumbered, up to the amount that would otherwise be allocated to that county. The department shall allow a county with unencumbered funds to retain a reserve of 5 percent of the amount allocated to that county for the most recent fiscal year in which the county received an allocation from the fund without a reduction pursuant to this subdivision.~~

~~(b) The department shall allocate 75 percent of the amount withheld pursuant to subdivision (a) in accordance with Section 11999.6 and any regulations adopted pursuant to that section, but taking into account any amount withheld pursuant to subdivision (a).~~

~~(c) The department shall reserve 25 percent of the amount withheld pursuant to subdivision (a) until all counties have submitted final actual expenditures for the most recent fiscal year. The department shall then allocate the funds reserved to adjust for actual rather than projected unencumbered funds, to the extent that the amount reserved is adequate to do so. Any balance of funds not reallocated pursuant to this subdivision shall be allocated in accordance with subdivision (e).~~

~~(d) If the department determines from actual expenditures that more funds should have been withheld from any county than were withheld pursuant to subdivision (a), it shall adjust any allocations pursuant to subdivision (c) accordingly, to the extent possible. If one or more counties fails to report actual expenditures in a timely manner, the department may, in its discretion, proceed with the available information, and may exclude any nonreporting county from any allocations pursuant to this section.~~

~~(e) If revenues, funds, or other receipts to the Substance Abuse Treatment Trust Fund are sufficient to create additional allocations to counties, through reconsideration of unencumbered funds, audit recoveries, or otherwise, the Director of Finance may authorize expenditures for the department in excess of the amount appropriated no earlier than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees in each house and the Chairperson of the Joint Legislative Budget Committee, or at~~

~~an earlier time that the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.~~

~~(f) The department may implement this section by All-County Lead Agency letters or other similar instructions, and need not comply with the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.~~

SEC. 41. Section 11999.6.2 is added to the Health and Safety Code, to read:

*11999.6.2. County Management of Funds.*

*(a) County plans. Counties shall submit to the department and the Oversight Commission their plans for implementation and spending for programs funded pursuant to this act at least once every three years, or more frequently as provided in regulations approved by the Oversight Commission. A county with a population of less than 100,000 may petition the Oversight Commission to create and submit plans jointly with one or more additional counties.*

*(b) Segregation of Funds. Counties receiving funds pursuant to Section 11999.6 shall establish three separate trust funds: one for Track I and Track II programs, one for Track III programs, and one for youth programs. Counties shall segregate all funds received from the state appropriately. Notwithstanding these requirements, a county with a population of less than 100,000 may petition the Oversight Commission for an exemption from these restrictions.*

*(c) Regulation of Treatment and Non-Treatment Costs. Counties shall spend a minimum of 80 percent of the funds provided pursuant to Section 11999.6 for Track I and Track II treatment diversion programs on the delivery of treatment and support services, with up to 20 percent allowable for non-treatment costs including probation department costs, court monitoring costs, and other costs made necessary by this act. The Oversight Commission shall approve regulations to categorize costs as treatment costs or non-treatment costs, to specify allowable percentages of non-treatment costs for Track III programs, and to describe permissible uses of funds provided for youth programs. Notwithstanding these requirements, a county with a population of less than 100,000 may petition the Oversight Commission for an exemption from these restrictions.*

*(d) Excess Funds. Youth Treatment. For the 2008–09, 2009–10, 2010–11, and 2011–12 fiscal years, a county may retain unspent funds received from the Substance Abuse Treatment Trust Fund to use those funds in a future year. Thereafter, all unspent funds shall be subject to regulations approved by the Oversight Commission regarding reserve funds. Other than funds placed in a reserve in accordance with an approved county plan, any funds allocated to a county which have not been spent for their authorized purpose within three years shall be transferred to the county's fund for youth programs.*

*(e) Local Research. A county may use a portion of funds provided pursuant to Section 11999.6 to pay for independent research studies, provided that the county has received prior approval to contract for such research from the department and Oversight Commission.*

SEC. 42. Section 11999.8 of the Health and Safety Code is amended to read:

11999.8. Surplus Funds.

Any funds remaining in the Substance Abuse Treatment Trust Fund at the end of a fiscal year ~~may~~ *shall* be utilized to pay for *youth programs or* drug treatment programs *provided to defendants in Track I, II, or III* ~~to be carried out~~ in the subsequent fiscal year.

SEC. 43. Section 11999.9 of the Health and Safety Code is amended to read:

11999.9. *The department shall annually publish data regarding the programs conducted pursuant to this act. Publication of annual data shall occur no more than five months after the end of the fiscal year. The Oversight Commission shall establish the range of data to be published in such annual reports, which shall include all caseload and fiscal data required for the reports required of the Office of the Legislative Analyst pursuant to Section 11999.9.1. The reports may be published electronically. The department shall furnish all data to the Office of the Legislative Analyst, upon request, as soon as it is practical to do so.* ~~(a) The department shall conduct three two-year followup studies to evaluate the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act, and submit those studies to the Legislature no later than January 1, 2009, January 1, 2011, and January 1, 2013, respectively. The evaluation studies shall include, but not be limited to, a study of the implementation process, a review of lower incarcerations costs, reductions in crime, reduced prison and jail construction, reduced welfare costs, the adequacy of funds appropriated, and other impacts or issues the department can identify, in addition to all of the following:~~

~~(1) Criminal justice measures on rearrests, jail and prison days averted, and crime trends.~~

~~(2) A classification, in summary form, of rearrests as having occurred as a result of:~~

~~(A) A parole violation.~~

~~(B) A parole revocation.~~

~~(C) A probation violation.~~

~~(D) A probation revocation.~~

~~(3) A classification, in summary form, of the disposition of crimes committed in terms of whether the person was:~~

~~(A) Retained on probation.~~

~~(B) Sentenced to jail.~~

~~(C) Sentenced to prison.~~

~~(4) Treatment measures on completion rates and quality of life indicators, such as alcohol and drug used, employment, health, mental health, and family and social supports.~~

~~(5) A separate discussion of the information described in paragraphs (1) to (3), inclusive, for offenders whose primary drug of abuse was methamphetamine or who were arrested for possession or use of methamphetamine and, commencing with the report due on or before January 1, 2009, the report shall include a separate analysis of the costs and benefits of treatment specific to these methamphetamine offenders.~~

~~(b) In addition to studies to evaluate the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act, the department shall produce an annual report detailing the number and characteristics of participants served as a result of this act, and the related costs.~~

SEC. 44. Section 11999.9.1 is added to the Health and Safety Code, to read:

*11999.9.1. Funding Recommendations.*

*In each of the 2010–11, 2012–13, and 2013–14 fiscal years, and periodically thereafter, the Office of the Legislative Analyst shall publish an evaluation of the adequacy of funding provided for programs pursuant to Sections 1210.01*

*to 1210.04, inclusive, and Sections 1210.1 and 1210.2 of the Penal Code, in the prior year. The report shall provide recommendations to the Legislature for any additional funding that might be necessary for drug treatment, support services, or related programs, to the extent such needs can be calculated or estimated, with due consideration of the levels of service recommended for participating defendants by researchers, treatment providers, physicians, county alcohol and drug program administrators, and other stakeholders. The report may make separate recommendations for funding that take account of the fiscal condition of the state and of the counties.*

SEC. 45. Section 11999.10 of the Health and Safety Code is amended to read:

11999.10. The department shall allocate *at least 1 percent of the fund's total moneys in fiscal years 2009–10 to 2014–15, inclusive, and* up to ~~0.5~~ *2* percent of the fund's total moneys each year *in subsequent fiscal years, for studies to be conducted by two public universities in California, one in the northern half of the state and one in the southern half of the state, aimed at evaluating the effectiveness and financial impact of Track I, Track II, and Track III treatment diversion programs and youth programs. Reports and studies paid for under this section shall be published jointly by the two universities, and shall not be subject to approval by the department.*

*One study to be published at least once every three years shall consist of a cost-benefit analysis of state and local drug enforcement and interdiction policies, including perspectives on economics, public health, public policy, and the law. This study, in part, must address the impacts of drug law enforcement efforts on individuals, families, and communities, and shall examine, through quantitative and qualitative analysis, (a) any disparate impacts based on race, sex, and socioeconomic status, (b) the relationship between any disparate impacts and the decisions, strategies, and practices of local and state drug enforcement officials, and (c) the collateral consequences of drug laws, policies, and enforcement.*

*The Oversight Commission may order studies of specific additional issues, by a majority vote.* ~~to fund the costs of the studies required in Section 11999.9 by a public or private university.~~

SEC. 46. Section 11999.11 of the Health and Safety Code is amended to read:

11999.11. County Reports.

~~Counties~~ *Each county* shall submit a report annually to the department detailing the numbers and characteristics of clients-participants served as a result of funding provided by this act*, and any other data that may be required.* The department shall promulgate a form*, to be approved by the Oversight Commission,* which shall be used by the counties for the reporting of this information, as well as any other information that may be required ~~by the department~~. *The form shall require counties to report the amount of money spent for drug treatment services and testing for defendants participating in Track III programs, and shall require counties to provide data regarding the adequacy of funding.* The department shall establish a deadline by which the counties shall submit their reports. *The department shall promptly provide the reports in electronic form for public consumption, provided that the department shall redact any information as to which federal law or the California Constitution prohibits disclosure.*

SEC. 47. Section 11999.12 of the Health and Safety Code is amended to read:

11999.12. The department shall conduct periodic audits of the expenditures made by any county that is funded, in whole or in part, with funds provided by

this act. Counties shall repay to the department any funds that are not spent in accordance with the requirements of this act. *With approval by a majority of the Oversight Commission*, ~~The~~ *the* department may require a corrective action by the county in the place of repayment~~, as determined by the department~~.

SEC. 48. Section 11999.13 of the Health and Safety Code is amended to read:

11999.13. ~~Excess Funds~~ Treatment Diversity.

~~At the end of each fiscal year, a county may retain unspent funds received from the Substance Abuse Treatment Trust Fund and may spend those funds, if approved by the department, on drug treatment programs that further the purposes of this act.~~ *The department shall promulgate regulations, with approval by a majority of the Oversight Commission, that require county plans to address the provision of culturally and linguistically appropriate services that are geographically accessible to the relevant communities.*

SEC. 49. Section 11999.14 is added to the Health and Safety Code, to read:

*11999.14. Drug Overdose Prevention.*

*Any county jail housing probationers or parolees pursuant to Track II or III of this act, or Section 3063.01 of the Penal Code, must provide drug overdose awareness and prevention materials and strategies to all inmates prior to their release. The materials and strategies shall be developed by each county's department of alcohol and drug programs in consultation with physicians specializing in addiction and practitioners specializing in harm reduction, and must be designed and disseminated in a manner calculated to most effectively reach the jail's inmate populations and shall be described in the county plans. The State Department of Alcohol and Drug Programs shall review the county overdose materials and strategies for evidence-based best practices.*

SEC. 50. Eligibility for Mental Health Services for Persons Dually Diagnosed and in Programs Under Treatment Diversion Tracks I, II and III.

SEC. 50.1. Section 5600.33 is added to the Welfare and Institutions Code, to read:

*5600.33. For purposes of subdivision (b) of Section 5600.3, adults with a serious mental disorder shall include adults who are in drug treatment programs pursuant to the provisions of Sections 1210.01 to 1210.05, inclusive, and Sections 1210.1 and 1210.2, of the Penal Code, and who have been diagnosed with a mental illness coincident with a diagnosis of substance abuse or addiction, and who meet the requirements of paragraphs (2) and (3) of subdivision (b) of Section 5600.3. Such adults shall be considered to have a severe mental illness and shall be eligible for services pursuant to Section 5813.5, utilizing funds in accordance with paragraph (5) of subdivision (a) of Section 5892. Furthermore, each update of a county's plan pursuant to Section 5847 shall include provisions documenting the county's efforts to serve qualifying adults in drug treatment programs pursuant to Sections 1210.01 to 1210.05, inclusive, and Sections 1210.1 and 1210.2, of the Penal Code, and who have been diagnosed with a mental illness coincident with a diagnosis of substance abuse or addiction. However, nothing in this section shall be construed to require payment for mental health services for parolees from the Mental Health Services Fund.*

SEC. 51. Inclusion of Drug Treatment Stakeholders in Mental Health Service Planning.

SEC. 51.1. Section 5848 of the Welfare and Institutions Code is amended to read:

5848. (a) Each plan and update shall be developed with local stakeholders including adults and seniors with severe mental illness, families of children, adults and seniors with severe mental illness, providers of services, *drug treatment providers, county alcohol and drug program agencies, members of the judiciary,* law enforcement agencies, education, social services agencies and other important interests. A draft plan and update shall be prepared and circulated for review and comment for at least 30 days to representatives of stakeholder interests and any interested party who has requested a copy of such plans.

(b) The mental health board established pursuant to Section 5604 shall conduct a public hearing on the draft plan and annual updates at the close of the 30-day comment period required by subdivision (a). Each adopted plan and update shall include any substantive written recommendations for revisions. The adopted plan or update shall summarize and analyze the recommended revisions. The mental health board shall review the adopted plan or update and make recommendations to the county mental health department for revisions.

(c) The department shall establish requirements for the content of the plans. The plans shall include reports on the achievement of performance outcomes for services pursuant to Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) of this division funded by the Mental Health Services Fund and established by the department.

(d) Mental health services provided pursuant to Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850) of this division, shall be included in the review of program performance by the California Mental Health Planning Council required by paragraph (2) of subdivision (c) of Section 5772 and in the local mental health board's review and comment on the performance outcome data required by paragraph (7) of subdivision (a) of Section 5604.2.

SEC. 52. Repeal of Ballot Referral Provision.

SEC. 52.1. Section 9 of Chapter 63 of the Statutes of 2006 is hereby repealed:

~~SEC. 9. The provisions of this bill shall be applied prospectively. If any provision of this bill is found to be invalid, the entire legislative measure shall be submitted to the voters at the next statewide election.~~

SEC. 53. Effective Date.

Except as otherwise provided, the provisions of this act shall become effective July 1, 2009, and its provisions shall be applied prospectively.

SEC. 54. Amendment.

Except as otherwise provided herein, this act may be amended only by a statute approved by the electors, or by a statute that is approved by a four-fifths majority of all members of each house of the Legislature and that furthers the purposes of this act. However, those portions of the Penal Code and Health and Safety Code enacted as part of the Substance Abuse and Crime Prevention Act of 2000 that are not referenced or modified herein may be modified pursuant to the provisions of that measure.

In any litigation involving the constitutionality of any such legislatively enacted statute, the party or parties contending that the statute is constitutional shall have the burden of proving its compliance with the foregoing requirements.

SEC. 55. Education Funding Guarantee.

No provision of this act shall be construed to alter the calculation of the minimum state obligations under Section 8 of Article XVI of the California

Constitution, nor to diminish the actual state and local support for K–14 schools required by law, except as authorized by the Constitution.

SEC. 56. Conflicting Ballot Measures.

In the event that this measure relating to protecting our communities by providing rehabilitation programs and drug treatment for youth and nonviolent offenders, and any other criminal justice measure or measures that do not provide rehabilitation to inmates being released into society, are approved by a majority of voters at the same election, and this measure regarding rehabilitation of nonviolent offenders receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and conflicting provisions in the other measure or measures shall be void and without legal effect. If this measure regarding rehabilitation of youth and nonviolent offenders is approved but does not receive a greater number of affirmative votes than said other measure or measures, this measure shall take effect to the extent permitted by law.

SEC. 57. Severability.

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

*Number on ballot*

6. **Police and Law Enforcement Funding. Criminal Penalties and Laws.**

[Submitted by the initiative and rejected by electors November 4, 2008.]

## PROPOSED LAW

SECTION 1. TITLE

This act shall be known, and may be cited as, the "Safe Neighborhoods Act: Stop Gang, Gun, and Street Crime."

SEC. 2. FINDINGS AND DECLARATIONS

(a) The people of the State of California find and declare that state government has no higher purpose or more challenging mandate than the protection of our families and our neighborhoods from crime.

(b) Almost every citizen has been, or knows someone who has been, victimized by crime.

(c) Although crime rates have fallen substantially since the early 1990s, there have been some disturbing increases in the last few years in several categories of crime. According to the Federal Bureau of Investigation, there were 477 more homicides in California in 2006 than there were in 1999, a period during which homicides and homicide rates declined in many other states. In addition, the California Department of Justice has reported that there were 74,000 more vehicle thefts in 2006 than in 1999 and that the number of robberies in our state jumped by over 7,500 between 2005 and 2006. More needs to be done to reduce crime and keep our communities safe.

(d) Gangs are a large part of the reason why California has not fared as well as many other states in recent years in terms of decreasing crime rates. Street

gangs are largely responsible for increases in California homicides in recent years. Many gangs involve juveniles.

(e) Previously convicted felons and gang members commit the vast majority of gun crimes, including the killing of peace officers. Gangs have compromised our criminal justice system, routinely threatening and assaulting victims, witnesses, and even judges. It is essential that state laws and resources target these types of offenders.

(f) The proliferation of methamphetamine has created a multitude of crime problems, driving recent increases in vehicle and identity theft. Now the illegal drug of choice, methamphetamine is often sold by street gangs and, unlike many other drugs, is produced here in California. The effects of the drug are devastating on users and communities where its use is widespread.

(g) Our state adds several hundred thousand people to its population each year and must commit resources necessary to support increasing demands on criminal justice personnel and infrastructure. California's law enforcement personnel, programs, technology, and infrastructure have not kept pace. In fact, the resources available to California law enforcement agencies are generally not as great as those found in communities in other states. According to the U.S. Department of Justice, in 2004, 35 states had more sworn officers per 100,000 residents than California.

(h) Unfortunately, our Legislature has failed to address these problems in a comprehensive way. Programs to prevent crime and rehabilitate offenders are inadequate and unaccountable to the public. Penalties for certain crimes are not severe enough to deter. Enforcement efforts and deterrence programs that do work are often so erratically funded they cannot be sustained. Victims of crime are not afforded adequate information, protection, and support in the criminal justice system. In 2007, the State Senate abdicated its responsibility altogether, refusing to pass legislation that enhances criminal penalties.

(i) These conditions are unacceptable. Californians have used their constitutionally reserved power of initiative to enact comprehensive criminal justice reform in the past and it is time for us to do so again. Early intervention reduces crime and gang activity. Tougher criminal penalties reduce the number of crime victims.

SEC. 3. STATEMENT OF PURPOSE

In order to make our neighborhoods safe and reduce the number of crime victims, the people of the State of California hereby enact a comprehensive reform of our criminal justice laws in order to:

(a) Improve programs to prevent crimes;

(b) Enhance public involvement and public accountability;

(c) Increase punishment to incapacitate criminals and deter crime;

(d) Protect victims of crimes from abuse and ensure that they are treated with dignity at all stages of the criminal justice process; and

(e) Provide supplemental and sustainable funding for law enforcement, crime prevention, and victim programs.

SEC. 4. INTERVENTION

SEC. 4.1. Title 12.6 (commencing with Section 14260) is added to Part 4 of the Penal Code, to read:

*TITLE 12.6. OFFICE OF PUBLIC SAFETY EDUCATION AND INFORMATION*

*14260. (a) There is hereby established the Office of Public Safety Education and Information.*

*(b) The primary objectives of the office are to deter crime, support crime victims, encourage public cooperation with law enforcement, and administer grant programs that pursue these goals. These objectives shall be met in part through public service announcements disseminated by the most efficient means including television, radio, the Internet, and the office's own Web site.*

*(c) Public disclosures shall include, but not be limited to, information regarding the following themes and state laws: "Use a Gun and You're Done," "Three Strikes," and "Jessica's Law." In addition, disclosures will incorporate comparative crime rates by specific offense, including homicide, rape, robbery, burglary, and vehicle theft; incarceration rates; and prison demographics that explain by offense the makeup of inmate population. Comparative information regarding crime and criminal justice resources may include year-to-year as well as state-to-state comparisons. Public disclosures shall also include the relative efficacy of programs to deter, educate, and rehabilitate, including, but not limited to, the disclosure of recidivism rates and subsequent arrests and convictions.*

*(d) The office shall maintain a publicly accessible Web site that shall include at least three discrete features:*

*(1) A public safety information page that shall include general information regarding the criminal justice system, current crime activity, safety advice, statistics, changes in the law, and links to related Web sites, including the California Department of Justice and the Federal Bureau of Investigation.*

*(2) A statewide neighborhood watch page, known as "Cal Watch," providing informational support for and linking with local neighborhood watch programs and assisting communities, sheriffs, and police departments wishing to create new neighborhood watch programs.*

*(3) A crime victim information and support page shall link state and local programs that assist victims through the criminal justice process and provide services and reimbursement, including medical expenses, rape counseling, lost wages, and victim-paid rewards.*

*(e) The sum of twelve million five hundred thousand dollars ($12,500,000) is hereby appropriated from the General Fund to the Office of Public Safety Education and Information for the 2009–10 fiscal year and annually thereafter, adjusted for cost of living changes pursuant to the California Consumer Price Index, for the purpose of augmenting resources of district attorneys and law enforcement agencies employed to assist victims or comply with victim notification requirements under the California Constitution or consistent statutory measures.*

*(1) Twenty percent of the amount annually appropriated shall be distributed on a pro rata basis to participating county sheriffs' departments which maintain the Victim Information and Notification Everyday (VINE) program.*

*(2) Eighty percent of the amount annually appropriated shall support grant programs awarded to county district attorneys, sheriffs, and police departments in order to disseminate victim rights information and to assist victims of crime in gaining access to protective services, counseling, and loss reimbursement. Specific program and grant application requirements shall be promulgated by the office no later than March 30, 2009, and may be amended periodically. Applicant agencies may apply no later than June 15 preceding the fiscal year during which grant funds are sought.*

*(f) The Governor shall appoint an executive officer and staff, as reasonably necessary to implement the work of the office.*

*(g) The office shall work with state, local, and federal agencies to maximize public safety resources, secure matching funds, eliminate duplicative efforts, and help craft better public safety policies and practices.*

SEC. 4.2. Section 13921 is added to the Government Code, to read:

*13921. (a) There is hereby established the California Early Intervention, Rehabilitation, and Accountability Commission for the purpose of evaluating publicly funded programs designed to deter crime through early intervention, or reduce recidivism through rehabilitation, and to disclose those findings to the public. The commission shall adhere to the principle that limited public resources are best directed to programs that help limit incarceration through deterrence and focused rehabilitation rather than early release without meaningful accountability.*

*(b) The commission's long-term goal is to help identify and productively intervene with at-risk populations prior to incarceration, and, for those subject to incarceration, to identify programs and offenders with the greatest rehabilitative potential, so the most successful programs can be replicated.*

*(c) The commission is authorized to propose standards of accountability for publicly funded program providers and participants, make recommendations to continue, supplement, or decrease funding, and highlight favorable or unfavorable elements of the programs reviewed.*

*(d) The commission shall report annually to the Joint Legislative Audit Committee and the Governor regarding the expenditures and efficacy of publicly funded programs.*

*(e) All publicly funded early intervention programs shall have a clearly defined at-risk target population and identify participants so that participants' subsequent criminal involvement, if any, can be compared to similarly situated control groups.*

*(f) All publicly funded rehabilitation programs involving criminal offenders, including juveniles, shall be designed to help create a plan for the offenders' successful integration or reintegration into the community. Accordingly, all such programs shall have clearly defined goals and require the offender to develop skills to find employment, locate housing, overcome addiction, and/or develop a plan with the potential for successful reintegration.*

*(g) All recipient programs, including those directed toward early intervention and education, shall file an annual statement with the commission detailing staffing, curriculum, and program participation. Copies of annual statements to other granting authorities will be sufficient unless the commission requires additional information.*

*(h) The commission shall be comprised of nine members, consisting of three appointees of the Governor, including the chair; two Members of the Senate, one appointed by the Rules Committee and one by the Minority Leader; two Members of the State Assembly, one appointed by the Speaker and one by the Minority Leader; a retired judge appointed by the Chief Justice of the California Supreme Court; and the Attorney General or his or her designee. The members of the commission shall not receive compensation, but shall be reimbursed only for reasonable commission-related expenses.*

*(i) The Governor shall appoint an executive officer, who shall hire necessary staff to conduct research and administer to the commission, including staff to conduct periodic or random audits of all publicly funded programs, subject to budgetary limitations of the commission.*

*(j) Every early intervention or rehabilitation program funded in whole or in part with public funds shall make its physical facilities and financial records available to the commission as a condition of public funding.*

*(k) The commission may evaluate any early intervention, education, or rehabilitation program, juvenile or adult, public or private, for the purposes of comparative study.*

SEC. 4.3. Section 749.22 of the Welfare and Institutions Code is amended to read:

749.22. To be eligible for this grant, each county shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of county-based responses to juvenile crime. The coordinating councils shall~~, at a minimum,~~ include the chief probation officer, as chair, and one representative each from the district attorney's office, the public defender's office, the sheriff's department, the board of supervisors, the department of social services, the department of mental health~~, a community-based drug and alcohol program~~, a city police department, the county office of education or a school district~~, and an at-large community representative. In order to carry out its duties pursuant to this section, a coordinating council shall also include representatives from nonprofit community-based organizations providing services to minors. The board of supervisors shall be informed of community-based organizations participating on a coordinating council~~. The coordinating councils shall develop a comprehensive, multiagency plan that identifies the resources and strategies for providing an effective continuum of responses for the prevention, intervention, supervision, treatment, and incarceration of male and female juvenile offenders, including strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602. ~~Counties may utilize community-punishment plans developed pursuant to grants awarded from funds included in the 1995 Budget Act to the extent the plans address juvenile crime and the juvenile justice system or local action plans previously developed for this program.~~ The plan shall include, but not be limited to, the following components:

(a) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources which specifically target at-risk juveniles, juvenile offenders, and their families.

(b) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, ~~daylight~~ burglary, ~~late-night~~ robbery, vandalism, truancy, controlled substance sales, firearm-related violence, and juvenile alcohol *and drug* use within the council's jurisdiction.

(c) A local action plan (LAP) for improving and marshaling the resources set forth in subdivision (a) to reduce the incidence of juvenile crime and delinquency in the areas targeted pursuant to subdivision (b) and the greater community. The councils shall prepare their plans to maximize the provision of collaborative and integrated services of all the resources set forth in subdivision (a), and shall provide specified strategies for all elements of response, including prevention, intervention, suppression, and incapacitation, to provide a continuum for addressing the identified male and female juvenile crime problem, and strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602.

(d) Develop information and intelligence-sharing systems to ensure that county actions are fully coordinated, and to provide data for measuring the

success of the grantee in achieving its goals. The plan shall develop goals related to the outcome measures that shall be used to determine the effectiveness of the program.

(e) Identify outcome measures which shall include, but not be limited to, the following:

(1) The rate of juvenile arrests *in relation to the crime rate*.

(2) The rate of successful completion of probation.

(3) The rate of successful completion of restitution and court-ordered community service responsibilities.

*(f) No person employed by or representing the interest of any private entity, including a charitable nonprofit organization which has received or may receive grant funding for providing services for juvenile or adult offenders or at-risk populations, may serve on a coordinating council.*

SEC. 4.4. Section 1951 of the Welfare and Institutions Code is amended to read:

1951. (a) There is hereby established the Youthful Offender Block Grant Fund.

(b) Allocations from the Youthfu1 Offender Block Grant Fund shall be used to enhance the capacity of county probation~~, mental health, drug and alcohol, and other county~~ departments to provide *or secure* appropriate rehabilitative and supervision services to youthful offenders subject to Sections 731.1, 733, 1766, and 1767.35. ~~Counties, in expanding the Youthful Offender Block Grant allocation, shall provide all necessary services related to the custody and parole of the offenders.~~

(c) The county of commitment is relieved of obligation for any payment to the state pursuant to Section 912, 912.1, or 912.5 for each offender who is not committed to the custody of the state solely pursuant to subdivision (c) of Section 733, and for each offender who is supervised by the county of commitment pursuant to subdivision (b) of Section 1766 or subdivision (b) of Section 1767.35. *Savings from this provision shall be added to the Youthful Offender Block Grant Fund and directed to the probation department as specified in subdivision (b).*

*(d) There is hereby continuously appropriated from the General Fund ninety-two million five hundred thousand dollars ($92,500,000) or the amount in Section 1953, 1954, or 1955, whichever is greater, for the 2009–10 fiscal year and each year thereafter adjusted for cost of living changes annually pursuant to the California Consumer Price Index. This amount shall be distributed in accordance with the formula in Section 1955 to assist counties for the expense of housing juvenile offenders.*

SEC. 4.5. Section 30062.2 is added to the Government Code, to read:

*30062.2. (a) There is hereby established the Juvenile Probation Facility and Supervision Fund.*

*(b) The sum of fifty million dollars ($50,000,000) is hereby appropriated from the Genera1 Fund to the Juvenile Probation Facility and Supervision Fund for the 2009–10 fiscal year and annually each year thereafter, adjusted for cost of living changes pursuant to the California Consumer Price Index, to be allocated by the Controller to counties and deposited in each county's SLESF in the same ratios authorized under paragraph (1) of subdivision (b) of Section 30061 for juvenile facility repair and renovation, juvenile deferred entry of judgment programs, and intensified juvenile or young adult (under age 25) probation supervision.*

SEC. 5. PROTECTION AND SUPPORT FOR VICTIMS

SEC. 5.1. Section 240 of the Evidence Code is amended to read:

240. (a) Except as otherwise provided in subdivision (b), "unavailable as a witness" means that the declarant is any of the following:

(1) Exempted or precluded on the ground of privilege from testifying concerning the matter to which his or her statement is relevant.

(2) Disqualified from testifying to the matter.

(3) Dead or unable to attend or to testify at the hearing because of then existing physical or mental illness or infirmity.

(4) Absent from the hearing and the court is unable to compel his or her attendance by its process.

(5) Absent from the hearing and the proponent of his or her statement has exercised reasonable diligence but has been unable to procure his or her attendance by the court's process.

*(6) The declarant is present at the hearing and refuses to testify concerning the subject matter of the declarant's statement despite an order from the court to do so.*

(b) A declarant is not unavailable as a witness if the exemption, preclusion, disqualification, death, inability, or absence of the declarant was brought about by the procurement or wrongdoing of the proponent of his or her statement for the purpose of preventing the declarant from attending or testifying.

(c) Expert testimony ~~which~~ *that* establishes that physical or mental trauma resulting from an alleged crime has caused harm to a witness of sufficient severity that the witness is physically unable to testify or is unable to testify without suffering substantial trauma may constitute a sufficient showing of unavailability pursuant to paragraph (3) of subdivision (a). As used in this section, the term "expert" means a physician and surgeon, including a psychiatrist, or any person described by subdivision (b), (c), or (e) of Section 1010.

The introduction of evidence to establish the unavailability of a witness under this subdivision shall not be deemed procurement of unavailability, in absence of proof to the contrary.

SEC. 5.2. Section 1390 is added to the Evidence Code, to read:

*1390. (a) Evidence of a statement is not made inadmissible by the hearsay rule if the statement is offered against a party who has engaged or acquiesced in intentional criminal wrongdoing that has caused the unavailability of the declarant as a witness.*

*(b) (1) The party seeking to introduce a statement pursuant to subdivision (a) shall establish, by a preponderance of the evidence, that the elements of subdivision (a) have been met at a foundational hearing.*

*(2) Hearsay evidence, including the hearsay evidence that is the subject of the foundational hearing, is admissible at the foundational hearing. However, a finding that the elements of subdivision (a) have been met shall not be based solely on the unconfronted hearsay statement of the unavailable declarant, and shall be supported by independent corroborative evidence.*

*(3) The foundational hearing shall be conducted outside the presence of the jury. However, if the hearing is conducted after a jury trial has begun, the judge presiding at the hearing may consider evidence already presented to the jury in deciding whether the elements of subdivision (a) have been met.*

*(c) If a statement to be admitted pursuant to this section includes a hearsay statement made by anyone other than the declarant who is unavailable pursuant to subdivision (a), that other hearsay statement is inadmissible unless it meets the requirements of an exception to the hearsay rule.*

SEC. 5.3. Section 13921.5 is added to the Government Code, to read:

*13921.5. (a) There is hereby established the Crimestopper Reward Reimbursement Fund, to be administered by the board.*

*(b) Allocations from the Crimestopper Reward Reimbursement Fund shall be used to provide reimbursement for rewards offered and paid for information in felony cases.*

*(c) Reimbursement in amounts not to exceed five thousand dollars ($5,000) per claim may be paid to eligible claimants but shall not exceed the actual reward paid.*

*(d) Reward reimbursement claims shall be paid upon proof that the underlying reward was offered and paid for evidence that actually led to arrest or conviction verified by the arresting or prosecuting agency.*

*(e) Qualified claimants for reimbursement include the victim of the underlying felony or his or her family, or a charitable or nonprofit organization.*

*(f) The board may set reward limits below the maximum, may set discrete limits for different crime classifications, may increase the class of eligible claimants, and shall post its claim procedures and forms on its Web site.*

*(g) The Controller shall transfer ten million dollars ($10,000,000) from the General Fund to the Crimestopper Reward Reimbursement Fund for the 2009–10 fiscal year.*

*(h) The Crimestopper Reward Reimbursement Fund shall be annually augmented by the Controller so that the fund has available the amount of ten million dollars ($10,000,000), adjusted for cost of living annually according to the California Consumer Price Index.*

*(i) Nothing in this section shall be deemed to preclude or otherwise interfere with the Governor's power to offer rewards pursuant to Section 1547 of the Penal Code.*

SEC. 5.4. Section 13974.6 is added to the Government Code, to read:

*13974.6. (a) The Victim Trauma Recovery Fund is hereby created for the purpose of supporting victim recovery, resource, and treatment programs to provide comprehensive recovery services to victims of crime.*

*(b) The board shall select up to five sites to award grants pursuant to this section. The sites shall include, but need not be limited to, all of the following programmatic components:*

*(1) Establishment of a victim recovery, resource, and treatment center.*

*(2) Implementation of a crime scene mobile outreach team to provide comprehensive intervention and debriefing for children and families.*

*(3) Community-based outreach.*

*(4) Services to family members and loved ones of homicide victims.*

*(c) Victim recovery, resource, and treatment programs selected by the board shall serve populations of crime victims whose needs are not currently being met, shall be distributed geographically to serve the state's population, and shall include services to all of the following:*

*(1) Individuals who are not aware of the breadth and range of services provided to victims of crime.*

*(2) Individuals residing in communities with limited services.*

*(3) Individuals who cannot access services due to disability.*

*(4) Family members and loved ones of homicide victims.*

*(d) The board shall award those grants beginning on July 1, 2009.*

*(e) The board may retain up to 5 percent of those funds for the purposes of administering those grants.*

SEC. 5.5. Section 136.1 of the Penal Code is amended to read:

136.1. (a) Except as provided in subdivision (c), any person who does any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

(1) Knowingly and maliciously prevents or dissuades any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(2) Knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(3) For purposes of this section, evidence that the defendant was a family member who interceded in an effort to protect the witness or victim shall create a presumption that the act was without malice.

(b) Except as provided in subdivision (c), every person who attempts to prevent or dissuade another person who has been the victim of a crime or who is witness to a crime from doing any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

(1) Making any report of that victimization to any peace officer or state or local law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge.

(2) Causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

(3) Arresting or causing or seeking the arrest of any person in connection with that victimization.

(c) Every person doing any of the acts described in subdivision (a) or (b) knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years under any of the following circumstances:

(1) Where the act is accompanied by force or by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person.

(2) Where the act is in furtherance of a conspiracy.

(3) Where the act is committed by any person who has been convicted of any violation of this section, any predecessor law hereto or any federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this section.

(4) Where the act is committed by any person for pecuniary gain or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

*(d) Any person who, by means of force or by express or implied threat of force or violence, attempts to prevent or dissuade a judge, juror, prosecutor, public defender, or peace officer from participating in the arrest, prosecution, trial, or impartial judgment of any criminal suspect is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.*

*(e) Any person who, by means of force or by express or implied threat of force or violence, attempts to prevent or dissuade any person from filing, authorizing, or implementing a gang injunction or nuisance abatement process in response to gang, drug, or other organized criminal activity, or from inspecting premises where such activities occur, shall be guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.*

*(f) Any person who, by means of force or by express or implied threat of force or violence, attempts to retaliate against any person who lawfully participated in any criminal or civil process protected pursuant to subdivision (a), (b), (d), or (e) shall be guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.*

~~(d)~~ *(g)* Every person attempting the commission of any act described in subdivisions (a), (b), ~~and~~ (c), *and (d)* is guilty of the offense attempted without regard to success or failure of the attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under this section.

~~(e)~~ *(h)* Nothing in this section precludes the imposition of an enhancement for great bodily injury where the injury inflicted is significant or substantial.

~~(f)~~ *(i)* The use of force during the commission of any offense described in subdivision (c) shall be considered a circumstance in aggravation of the crime in imposing a term of imprisonment under subdivision (b) of Section 1170.

SEC. 5.6. Section 11166.6 is added to the Penal Code, to read:

*11166.6. (a) Each county may establish child advocacy centers to coordinate the activities of the various agencies involved in the investigation and prosecution of alleged child abuse, including those that provide medical services and follow-up treatment to victims of child abuse. The purpose of these centers is to protect victims of child abuse by minimizing traumatizing interviews through the coordination of efforts of district attorneys, child welfare social workers, law enforcement, and medical personnel, among others, and to assist prosecution by reducing the chances of conflicting or inaccurate information by asking age-appropriate questions to help procure information that is admissible in court.*

*(b) (1) Member agencies of the child advocacy center shall, at a minimum, consist of a representative from the district attorney's office, the sheriff's department, a police department, and child protective services, and may include medical and mental health professionals.*

*(2) Members of the local child advocacy center shall be trained to conduct child forensic interviews. The training shall include instruction in risk assessment, the dynamics of child abuse, including the abuse of children with special needs, child sexual abuse and rape of children, and legally sound and age-appropriate interview and investigation techniques.*

*(c) The Child Advocacy Center Fund is hereby created for the purpose of supporting child advocacy centers. Money appropriated from the fund shall be made available through the Office of Emergency Services to any public or private nonprofit agency for the establishment or maintenance, or both, of child advocacy centers that provide comprehensive child advocacy services, as specified in this section.*

SEC. 5.7. Section 1464 of the Penal Code is amended to read:

1464. (a) (1) *The people of the State of California find and declare that street crime, through its prevalence and brutality, creates numerous victims who require support and services that are best obtained from experienced providers. Further, because the funds allocated to the Driver Training Penalty Assessment Fund are no longer used for their original purpose, it is appropriate to redirect those funds, which are generated by criminal penalty assessments, to victim services and law enforcement training programs.*

*(2)* Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and except as otherwise provided in this section, there shall be levied a state penalty in the amount of ten dollars ($10) for every ten

dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

~~(2)~~ *(3)* Any bail schedule adopted pursuant to Section 1269b or bail schedule adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay the penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the surcharge authorized by Section 1465.7, for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

~~(3)~~ *(4)* The penalty imposed by this section does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to remain on deposit in the county general fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to ~~32.02~~ *30.21* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to ~~23.99~~ *32.44* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to ~~25.70~~ *0.67* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to ~~7.88~~ *13.80* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to ~~0.78~~ *1.25* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. ~~The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.~~

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to ~~8.64~~ *16.94* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section. Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain Injury Fund for the 1997–98, 1998–99, and 1999–2000 fiscal years, may be expended by the State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to provide additional funding to the existing projects funded by the Traumatic Brain Injury Fund, to support new projects, or to do both.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

*(9) Once a month there shall be transferred into the Victim Trauma Recovery Fund created pursuant to subdivision (a) of Section 13974.6 of the Government Code an amount equal to 1.81 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.*

*(10) Once a month there shall be transferred into the Child Advocacy Center Fund created pursuant to subdivision (c) of Section 11166.6 an amount equal to 1.89 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.*

SEC. 5.8. Section 14027 of the Penal Code is amended to read:

14027. The Attorney General shall issue appropriate guidelines and may adopt regulations to implement this title. These guidelines shall include:

(a) A process whereby state and local agencies shall apply for reimbursement of the costs of providing witness protection services.

(b) ~~A 25-percent~~ *An appropriate level for the* match that shall be ~~required of~~ *made by* local agencies. The Attorney General may also establish a process through which to waive the required local match when appropriate.

SEC. 6. GANG AND STREET CRIME PENALTIES

SEC. 6.1. Section 594 of the Penal Code is amended to read:

594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:

(1) Defaces with graffiti or other inscribed material.

(2) Damages.

(3) Destroys.

Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

(b) (l) If the amount of defacement, damage, or destruction is four hundred dollars ($400) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars ($10,000) or more, by a fine of not more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.

(2) (A) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(B) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), and the defendant has been previously convicted of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7, vandalism is punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

*(3) More than one act of vandalism committed in any consecutive 12-month period may be aggregated for the purposes of paragraphs (1) and (2), if the vandalism was the result of a common scheme, purpose, or plan.*

(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court may, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine, or any part thereof, by the parent upon a finding of good cause.

(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design, that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(f) The court may order any person ordered to perform community service or graffiti removal pursuant to paragraph (1) of subdivision (c) to undergo counseling.

~~(g) This section shall become operative on January 1, 2002.~~

SEC. 6.2. Section 10851 of the Vehicle Code is amended to read:

10851. (a) Any person who drives or takes a vehicle not his or her own, without the consent of the owner thereof, and with intent either to permanently or temporarily deprive the owner thereof of his or her title to or possession of the vehicle, whether with or without intent to steal the vehicle, or any person who is a party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a public offense and, upon conviction thereof, shall be punished by imprisonment in a county jail for not more than one year or in the state prison or by a fine of not more than five thousand dollars ($5,000), or by both the fine and imprisonment.

(b) If the vehicle is (1) an ambulance, as defined in subdivision (a) of Section 165, (2) a distinctively marked vehicle of a law enforcement agency or fire department, ~~taken while the ambulance or vehicle is on an emergency call and this fact is known to the person driving or taking, or any person who is party or an accessory to or an accomplice in the driving or unauthorized taking or stealing,~~ or (3) a vehicle which has been modified for the use of a disabled veteran or any other disabled person and which displays a distinguishing license plate or placard issued pursuant to Section 22511.5 or 22511.9 and this fact is known or should reasonably have been known to the person driving or taking, or any person who is party or an accessory in the driving or unauthorized taking or stealing, the offense is a felony punishable by imprisonment in the state prison for two, three, or four years or by a fine of not more than ten thousand dollars ($10,000), or by both the fine and imprisonment.

(c) In any prosecution for a violation of subdivision (a) or (b), the consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of the owner's consent on a previous occasion to the taking or driving of the vehicle by the same or a different person.

(d) The existence of any fact which makes subdivision (b) applicable shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the *trier of fact* ~~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~~.

(e) Any person who has been convicted of one or more previous felony violations of this section, or felony grand theft of a vehicle in violation of subdivision (d) of Section 487 of the Penal Code, former subdivision (3) of Section 487 of the Penal Code, as that section read prior to being amended by Section 4 of Chapter 1125 of the Statutes of 1993, or Section 487h of the Penal Code, is punishable as set forth in Section 666.5 of the Penal Code. The existence of any fact that would bring a person under *subdivision (f), (g), (h), (i), or (j), or* Section 666.5 of the Penal Code shall be alleged in the ~~information or~~

~~indictment~~ *accusatory pleading* and either admitted by the defendant in open court, or found to be true by the *trier of fact* ~~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~~.

~~(f) This section shall become operative on January 1, 1997.~~

*(f) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle in exchange for consideration or for the purpose of sale or transport of the vehicle or its components, in addition to other penalties prescribed by law, is subject to an additional one year imprisonment in the state prison.*

*(g) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle that, prior to its recovery, is used in the commission of an offense that is a felony, in addition to other penalties prescribed by law is subject to an additional one year imprisonment in the state prison.*

*(h) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle and with intent to use the vehicle in the commission of a felony, in addition to other penalties prescribed by law is subject to an additional one year imprisonment in the state prison.*

*(i) A person who commits a felony violation of subdivison (a) as a principal or accessory to the taking of a vehicle that, prior to its recovery, is the subject of a pursuit in violation of Sections 2800.1, 2800.2, 2800.3, or 2800.4, in addition to other penalties prescribed by law is subject to an additional one year imprisonment in the state prison.*

*(j) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle that, prior to its recovery, is involved in a collision, in addition to other penalties prescribed by law, is subject to an additional one year imprisonment in the state prison and an additional and consecutive one year imprisonment in the state prison for each person, other than an accessory, who suffers personal injury as a proximate cause of that collision.*

SEC. 6.3. Section 666.5 of the Penal Code is amended to read:

666.5. (a) ~~Every~~ *A* person who, having been previously convicted of a ~~felony~~ violation of Section 10851 of the Vehicle Code, or ~~felony~~ grand theft involving an automobile in violation of subdivision (d) of Section 487 or former subdivision (3) of Section 487, as that section read prior to being amended by Section 4 of Chapter 1125 of the Statutes of 1993, or ~~felony~~ grand theft involving a motor vehicle, as defined in Section 415 of the Vehicle Code, a trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or a vessel, as defined in Section 21 of the Harbors and Navigation Code in violation of former Section 487h, or a ~~felony~~ violation of Section 496d regardless of whether or not the person actually served a prior prison term for those offenses, is subsequently convicted of any of these offenses shall be punished by imprisonment in the state prison for two, three, or four years, or a fine of ten thousand dollars ($10,000), or both the fine and the imprisonment.

(b) For the purposes of this section, the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels.

(c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the *accusatory pleading* ~~information or indictment~~ and either admitted by the defendant in open court, or found to be true by the *trier of fact* ~~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) A person who is subject to punishment under this section, having previously been convicted of two or more of the offenses enumerated in subdivision (a), may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this subdivision, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.*

SEC. 6.4. Section 707.005 is added to the Welfare and Institutions Code, to read:

*707.005. For purposes of subdivision (b) of Section 707, with regard to a minor, in any case in which the minor is alleged to be a person described in Section 602, when he or she was 14 years of age or older, by reason of a felony violation of Section 186.22 of the Penal Code, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon the evidence, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court, applying the criteria and subject to the procedures described in subdivision (b) of Section 707. If the minor is dealt with under the juvenile court law, he or she is eligible for commitment to the Department of Corrections and Rehabilitation's Division of Juvenile Facilities, notwithstanding Sections 731 and 731.1.*

SEC. 6.5. Section 32 of the Penal Code is amended to read:

32. *(a)* Every person who, after a felony has been committed, harbors, conceals or aids a principal in such felony, with the intent that said principal may avoid or escape from arrest, trial, conviction or punishment, having knowledge that said principal has committed such felony or has been charged with such felony or convicted thereof, is an accessory to such felony.

*(b) Any person who knowingly makes a materially false statement to a peace officer or prosecutor regarding facts relevant to investigation of a felony committed for the benefit of, at the direction of, or in association with a criminal street gang as described in Section 186.22, or a violent felony as described in subdivision (c) of Section 667.5, shall be an accessory to that felony if all of the following are true:*

*(1) Prior to making the false statement the person was not a principal or accessory to the felony.*

*(2) The statement was made with the intent that the principal may avoid or escape arrest, trial, conviction, or punishment.*

*(3) The person either had knowledge that said principal had committed such felony or the principal is convicted of the underlying felony.*

*(c) The provisions of subdivision (b) shall not be construed to limit prosecution for making false statements under any other provision of law.*

SEC. 6.6. Section 186.22 of the Penal Code is amended to read:

186.22. (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

(b) (1) Except as provided in paragraphs (4) and (5), any person who ~~is convicted of~~ *commits* a felony *or attempted felony* ~~committed~~ for the benefit of, at the direction of, or in association with any criminal street gang, with the

specific intent to promote, further, or assist in any criminal conduct by gang members, shall~~, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted,~~ be punished *by an additional and consecutive term of imprisonment in the state prison* as follows:

(A) Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court's discretion.

(B) If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

(C) If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

(2) If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

(3) ~~The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation.~~ The court shall state the reasons for its choice of sentencing enhancements on the record at the time of the sentencing.

(4) Any person who ~~is convicted of~~ *commits* a felony enumerated in this paragraph ~~committed~~ for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, ~~upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of~~ *in addition to any other enhancements or punishment provisions that may apply, be punished as follows*:

(A) ~~The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.~~

~~(B) Imprisonment~~ *By imprisonment* in the state prison for 15 years *to life*, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a *felony* violation of Section ~~12022.55~~ *12034*.

~~(C) Imprisonment~~ *(B) By imprisonment* in the state prison for ~~seven years~~ *life*, if the felony is extortion, as defined in Section 519; or threats to victims*,* ~~and~~ witnesses*, judges, jurors, prosecutors, public defenders, or peace officers*, as defined in Section 136.1.

(5) *(A)* Except as provided in paragraph (4) *and subparagraph (B)*, any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

*(B) For any felony described in subparagraph (A), if the punishment provided in paragraph (1) of this subdivision would result in a longer term of imprisonment, then it shall apply instead of the punishment provided in subparagraph (A).*

(c) If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

(d) Any person who ~~is convicted of~~ *commits* a public offense punishable as a felony or a misdemeanor~~, which is committed~~ for the benefit of, at the direction of or in association with, any criminal street gang with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section 12034.

(7) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(8) The intimidation *or threatening* of witnesses*,* ~~and~~ victims, *judges, jurors, prosecutors, public defenders, or peace officers,* as defined in Section 136.1.

(9) Grand theft, as defined in subdivision (a) or (c) of Section 487.

(10) Grand theft of any firearm, vehicle, trailer, or vessel.

(11) Burglary, as defined in Section 459.

(12) Rape, as defined in Section 261.

(13) Looting, as defined in Section 463.

(14) Money laundering, as defined in Section 186.10.

(15) Kidnapping, as defined in Section 207.

(16) Mayhem, as defined in Section 203.

(17) Aggravated mayhem, as defined in Section 205.

(18) Torture, as defined in Section 206.

(19) Felony extortion, as defined in Sections 518 and 520.

(20) Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

(21) Carjacking, as defined in Section 215.

(22) The sale, delivery, or transfer of a firearm, as defined in Section 12072.

(23) Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (1) of subdivision (a) of Section 12101.

(24) Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

(25) Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

(26) Felony theft of an access card or account information, as defined in Section 484e.

(27) Counterfeiting, designing, using, attempting to use an access card, as defined in Section 484f.

(28) Felony fraudulent use of an access card or account information, as defined in Section 484g.

(29) Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

(30) Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

(31) Prohibited possession of a firearm in violation of Section 12021.

(32) Carrying a concealed firearm in violation of Section 12025.

(33) Carrying a loaded firearm in violation of Section 12031.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) ~~Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or~~ *The court may* refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(h) Notwithstanding any other provision of law, for each person committed to the Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita institutional cost of the Division of Juvenile Facilities, pursuant to Section 912.5 of the Welfare and Institutions Code.

(i) In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

(j) A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of

subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

*(k) (1) Notwithstanding paragraph (4) of subdivision (a) of Section 166, any willful and knowing violation of any injunction issued pursuant to Section 3479 of the Civil Code against a criminal street gang, as defined in this section, or its individual members, shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.*

*(2) A second violation of any order described in paragraph (1) occurring within seven years of a prior violation of any of those orders is punishable by imprisonment in a county jail for not less than 90 days and not more than one year.*

*(3) A third or subsequent violation of any order described in paragraph (1) occurring within seven years of the prior violation of any of those orders shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in the county jail.*

*(4) The penalties in this subdivision shall apply unless a greater penalty is authorized by subdivision (d) or any other provision or provisions of law.*

*(l) Any person found guilty as an accessory to a felony, within the meaning of Section 32, shall be subject to one-half the punishment prescribed for a principal in such felony if it is pled and proved that the felony was committed for the benefit of, at the direction of, or in association with any criminal street gang unless a greater penalty is authorized by any other provision or provisions of law.*

SEC. 6.7. Section 186.22a of the Penal Code is amended to read:

186.22a. (a) Every building or place used by members of a criminal street gang for the purpose of the commission of the offenses listed in subdivision (e) of Section 186.22 or any offense involving dangerous or deadly weapons, burglary, or rape, and every building or place wherein or upon which ~~that~~ criminal conduct by gang members takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to subdivision (a), including an action filed by the Attorney General, shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code~~, except that all of the following shall apply:~~

~~(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.~~

~~(2) No order of eviction or closure may be entered.~~

~~(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.~~

~~(4) Suit may not be filed until 30-day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address~~.

(c) Whenever an injunction is issued pursuant to subdivision (a), or Section 3479 of the Civil Code, to abate gang activity constituting a nuisance, the Attorney General or any district attorney or any prosecuting city attorney may maintain an action for money damages on behalf of the community or neighborhood injured by that nuisance. Any money damages awarded shall be paid by or collected from assets of the criminal street gang or its members. Only members of the criminal street gang who created, maintained, or contributed to the creation or maintenance of the nuisance shall be personally liable for the payment of the damages awarded. In a civil action for damages brought pursuant to this subdivision, the Attorney General, district attorney, or city attorney may use, but is not limited to the use of, the testimony of experts to establish damages suffered by the community or neighborhood injured by the nuisance. The damages recovered pursuant to this subdivision shall be deposited into a separate segregated fund for payment to the governing body of the city or county in whose political subdivision the community or neighborhood is located, and that governing body shall use those assets solely for the benefit of the community or neighborhood that has been injured by the nuisance.

(d) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no governmental entity, shall be abated pursuant to subdivisions (a) and (b).

(e) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

(f) (1) Any firearm, ammunition which may be used with the firearm, or any deadly or dangerous weapon which is owned or possessed by a member of a criminal street gang for the purpose of the commission of any of the offenses listed in subdivision (e) of Section 186.22, or the commission of any burglary or rape, may be confiscated by any law enforcement agency or peace officer.

(2) In those cases where a law enforcement agency believes that the return of the firearm, ammunition, or deadly weapon confiscated pursuant to this subdivision, is or will be used in criminal street gang activity or that the return of the item would be likely to result in endangering the safety of others, the law enforcement agency shall initiate a petition in the superior court to determine if the item confiscated should be returned or declared a nuisance.

(3) No firearm, ammunition, or deadly weapon shall be sold or destroyed unless reasonable notice is given to its lawful owner if his or her identity and address can be reasonably ascertained. The law enforcement agency shall inform the lawful owner, at that person's last known address by registered mail, 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, ammunition, or deadly weapon as a nuisance.

(4) 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.

(5) At the hearing, the burden of proof is upon the law enforcement agency or peace officer to show by a preponderance of the evidence that the seized item is or will be used in criminal street gang activity or that return of the item would be likely to result in endangering the safety of others. All returns of firearms shall be subject to Section 12021.3.

(6) If the person does not request a hearing within 30 days of the notice or the lawful owner cannot be ascertained, the law enforcement agency may file a petition that the confiscated firearm, ammunition, or deadly weapon be declared a nuisance. If the items are declared to be a nuisance, the law enforcement agency shall dispose of the items as provided in Section 12028.

SEC. 6.8. Section 186.22b is added to the Penal Code, to read:

*186.22b. (a) A criminal street gang may be sued in the name it has assumed or by which it is known.*

*(b) Delivery by hand of a copy of any process against the criminal street gang to any natural person designated by it as agent for service of process shall constitute valid service on the criminal street gang. If designation of an agent for the purpose of service has not been made, or if the agent cannot with reasonable diligence be found, the court or judge shall make an order that service be made upon the criminal street gang by delivery by hand of a copy of the process to three or more members of the criminal street gang designated in the order who actively participate in the criminal street gang. The court may, in its discretion, order, in addition to the foregoing, that a summons be served in any manner that is reasonably calculated to give actual notice to the criminal street gang. Service in the manner ordered pursuant to this section shall constitute valid service on the criminal street gang.*

SEC. 6.9. Section 186.26 of the Penal Code is amended to read:

186.26. (a) Any person who solicits or recruits another to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, with the intent that the person solicited or recruited *actively participate in the criminal street gang* ~~participate in a pattern of criminal street gang activity, as defined in subdivision (e) of Section 186.22,~~ or with the intent that the person solicited or recruited promote, further, or assist in any felonious conduct by members of the criminal street gang, shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(b) Any person who threatens another person with physical violence on two or more separate occasions within any 30-day period with the intent to coerce, induce, or solicit any person to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Any person who uses physical violence to coerce, induce, or solicit another person to actively participate in any criminal street gang, as defined in subdivision (f) of Section 186.22, or to prevent the person from leaving a criminal street gang, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) If the person solicited, recruited, coerced, or threatened pursuant to subdivision (a), (b), or (c) is a minor, an additional term of three years shall be imposed in addition and consecutive to the penalty prescribed for a violation of any of these subdivisions.

*(e) If the person solicited, recruited, coerced, or threatened pursuant to subdivision (a), (b), or (c) is a minor under the age of 14, an additional term of*

*five years shall be imposed in addition and consecutive to the penalty prescribed for a violation of any of these subdivisions.*

*(f) Any person who violates subdivision (b) or (c) shall be a principal to any subsequent felony committed by the subject of his or her solicitation, recruitment, coercion, or threat in the event that:*

*(1) The subject commits a felony for the benefit of, at the direction of, or in association with the criminal street gang, and*

*(2) The felony occurs within one year of the last act constituting a violation of this section.*

~~(e)~~ *(g)* Nothing in this section shall be construed to limit prosecution under any other provision of law.

SEC. 6.10. Section 186.30 of the Penal Code is amended to read:

186.30. (a) *(1)* Any person described in subdivision (b) shall register with the chief of police of the city in which he or she resides, or the sheriff of the county if he or she resides in an unincorporated area *or a city that has no police department*, within 10 days of release from custody or within 10 days of his or her arrival in any city, county, or city and county to reside there, whichever occurs first*, and annually thereafter, and upon changing residence*.

*(2) If the person who is registering has more than one residential address at which he or she regularly resides, he or she shall register in each of the jurisdictions in which he or she regularly resides, in accordance with paragraph (1), regardless of the number of days or nights spent there. If all of the addresses are within the same jurisdiction, the person shall provide the registering authority with all of the addresses where he or she regularly resides.*

(b) Subdivision (a) shall apply to any person convicted in a criminal court or who has had a petition sustained in a juvenile court in this state for any of the following offenses:

(1) Subdivision (a) of Section 186.22.

(2) Any crime where the enhancement specified in subdivision (b) of Section 186.22 is found to be true.

(3) Any crime that the court finds is gang related at the time of sentencing or disposition.

*(c) (1) Any person who is required to register under this section based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.*

*(2) Any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior adjudication for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years. If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serves at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.*

*(d) For the purposes of this section and Section 186.32, imposition of the requirement to register shall be effective on the day the registrant is sentenced or on the day of disposition in the juvenile court unless he or she is in custody, in which case the requirement to register shall become effective upon the registrant's release from custody.*

*(e) The registration requirement shall terminate five years after the date it becomes effective unless the registrant is subsequently incarcerated in which case the court may toll the registration requirement or reimpose gang registration as a condition upon release from custody.*

SEC. 6.11. Section 186.34 is added to the Penal Code, to read:

*186.34. Beginning no later than July 1, 2009, the Department of Justice shall, on a monthly basis, search all disposition data submitted by California criminal justice agencies for all persons who have been convicted or adjudicated of a violation of subdivision (a) of Section 186.22 or as to whom a sentencing allegation has been found true pursuant to subdivision (b) of Section 186.22. The department shall make information regarding these persons electronically available only to California criminal justice agencies on a secured Gang Registry department site. The information shall include the person's full name, date of birth, and, as to each conviction or adjudication, the detaining agency, arresting, or booking agency, to the extent this information is available from the disposition data submitted to the department.*

SEC. 6.12. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison *provided however, that every person who possesses any controlled substance that is specified in paragraph (2) of subdivision (d) of Section 11055 shall be punished by imprisonment in the state prison.*

(b) (l) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of a violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

(2) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (g) of Section 11056 is guilty of a misdemeanor.

(c) In addition to any fine assessed under subdivision (b), the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates subdivision (a), with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 6.13. Section 11378 of the Health and Safety Code is amended to read:

11378. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is ~~(1)~~ *(a)*

classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, ~~(2)~~ *(b)* specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), ~~(3)~~ *(c)* specified in paragraph (11) of subdivision (c) of Section 11056, ~~(4)~~ *(d)* specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or ~~(5)~~ *(e)* specified in subdivision (d), (e), or (f), except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), of Section 11055, shall be punished by imprisonment in the state prison*, provided however, that every person who possesses for sale any controlled substance that is specified in paragraph (2) of subdivision (d) of Section 11055 shall be punished by imprisonment in the state prison for two, three, or four years*.

SEC. 6.14. Section 11379 of the Health and Safety Code is amended to read:

11379. (a) Except as otherwise provided in subdivision (b) and in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years*, provided however, that every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance that is specified in paragraph (2) of subdivision (d) of Section 11055 shall be punished by three, four, or five years*.

(b) Notwithstanding the penalty provisions of subdivision (a), any person who transports for sale any controlled substances specified in subdivision (a) within this state from one county to another noncontiguous county shall be punished by imprisonment in the state prison for three, six, or nine years.

SEC. 6.15. Section 12022.52 is added to the Penal Code, to read:

*12022.52. (a) Notwithstanding any other provision of law, any person prohibited from possessing a firearm because of a previous felony conviction or juvenile adjudication, upon conviction for violation of Section 12025 or 12031, shall be punished by an additional 10 years in prison if either of the following circumstances is pled and proved:*

*(1) The offender was previously convicted of, or adjudicated to have committed, any of the following:*

*(A) A felony violation involving possession of a firearm, as described in Section 12021 or 12021.1.*

*(B) Manufacture, sale, possession for sale, or transport of a controlled substance amounting to a felony, as described in Division 10 (commencing with Section 11000) of the Health and Safety Code.*

*(C) A felony violation involving assault or battery of a peace officer, as described in Section 243 or 245.*

*(D) A violent felony, as described in subdivision (c) of Section 667.5.*

*(E) A felony gang offense that constitutes a violation of subdivision (a) or (b) of Section 186.22.*

*(F) Any felony in which it was pled and proved that the offender personally used a firearm.*

*(2) If, at the time of the offense that resulted in conviction for violation of Section 12025 or 12031, any of the following apply:*

*(A) The offender was on felony probation, parole, free on bail, awaiting sentencing, or subject to a felony arrest warrant.*

*(B) The offender was in felony possession of a controlled substance.*

*(C) The offender feloniously assaulted or battered a peace officer.*

*(b) This section shall not be construed to permit imposition of dual penalties based upon the same factual circumstances that support a penalty enhancement for assaulting a peace officer with a firearm imposed pursuant to Section 12022.53.*

SEC. 6.16. Section 12022.53 of the Penal Code is amended to read:

12022.53. (a) This section applies to the following felonies:

(1) Section 187 (murder).

(2) Section 203 or 205 (mayhem).

(3) Section 207, 209, or 209.5 (kidnapping).

(4) Section 211 (robbery).

(5) Section 215 (carjacking).

(6) Section 220 (assault with intent to commit a specified felony).

(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).

(8) Section 261 or 262 (rape).

(9) Section 264.1 (rape or sexual penetration in concert).

(10) Section 286 (sodomy).

(11) Section 288 or 288.5 (lewd act on a child).

(12) Section 288a (oral copulation).

(13) Section 289 (sexual penetration).

(14) *Subdivision (a) of Section 460 (first-degree burglary).*

*(15)* Section 4500 (assault by a life prisoner).

~~(15)~~ *(16)* Section 4501 (assault by a prisoner).

~~(16)~~ *(17)* Section 4503 (holding a hostage by a prisoner).

~~(17)~~ *(18)* Any felony punishable by death or imprisonment in the state prison for life.

~~(18)~~ *(19)* Any attempt to commit a crime listed in this subdivision other than an assault.

(b) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply.

(c) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years.

(d) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 12034, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life.

(e) ~~(1)~~ The enhancements provided in this section shall apply to any person *charged as* ~~who is~~ a principal in the commission of an offense *that includes an allegation pursuant to this section.* ~~if both of the following are pled and proved:~~

~~(A) The person violated subdivision (b) of Section 186.22.~~

~~(B) Any principal in the offense committed any act specified in subdivision (b), (c), or (d).~~

~~(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.~~

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment for that enhancement pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another enhancement provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(*l*) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

SEC. 6.17. Section 12022.57 is added to the Penal Code, to read:

*12022.57. (a) In any case in which a person violates Section 12022.52 or commits a felony involving the use of a firearm and the offense occurs in whole or in part within a motor vehicle, or the firearm or the person and the firearm are found within a motor vehicle, the following conditions shall apply:*

*(1) If the subject motor vehicle is owned, driven, or controlled by the offender, in addition to any other applicable penalties, the Department of Motor Vehicles shall revoke the privilege of the offender to operate a motor vehicle pursuant to the procedures described in Section 13350 of the Vehicle Code.*

*(2) In the event the offender is incarcerated or subject to custodial treatment or house arrest as a consequence of the underlying offense, the revocation of the privilege to operate a motor vehicle described in paragraph (1) shall be tolled until his or her release from custody.*

*(3) If the subject vehicle is registered to the offender or other principal to the offense it may be impounded for up to 60 days.*

*(b) The registered and legal owner of a vehicle that is removed and seized under subdivision (a), or their agents, shall be provided the opportunity for a storage hearing to determine the validity of, or consider any mitigating circumstances attendant to the storage, in accordance with Section 22852 of the Vehicle Code.*

SEC. 6.18. Section 2933.25 is added to the Penal Code, to read:

*2933.25. (a) Notwithstanding any other provision of law, any person who is convicted of any felony offense that is punishable by imprisonment in the state prison for life shall be ineligible to receive any conduct credit reduction of his or her term of imprisonment pursuant to this chapter, Section 4019, or any other law providing for conduct credit reduction.*

*(b) As used in this section, life imprisonment includes all sentences for any crime or enhancement with a maximum term of life, whether with or without the possibility of parole, and whether with or without a specific minimum term or minimum period of confinement before eligibility for parole.*

*(c) This section shall apply only to offenses that are committed on or after the date that this section becomes operative.*

SEC. 6.19. Section 653.75 of the Penal Code is amended to read:

653.75. Any person who commits any public offense while in custody in any local detention facility, as defined in Section 6031.4, or any state prison, as defined in Section 4504, is guilty of a crime. That crime shall be punished as provided in the section prescribing the punishment for that public offense*, or in Section 4505*.

SEC. 6.20. Section 653.77 is added to the Penal Code, to read:

*653.77. (a) Any person who willfully removes or disables an electronic, global positioning system (GPS), or other monitoring device affixed to his or her person, or the person of another, knowing that the device was affixed as a condition of a criminal sentence, juvenile court disposition, parole, or probation, is guilty of a public offense.*

*(b) (1) Any person subject to electronic, GPS, or other monitoring device based on a misdemeanor conviction, or based on a juvenile adjudication for a misdemeanor offense, who willfully violates subdivision (a) is guilty of*

*a misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars ($1,000), or by both that fine and imprisonment.*

*(2) Except as provided in subdivision (e), any person who willfully removes or disables an electronic, GPS, or other monitoring device affixed to another person where that device was affixed to the other person based upon a misdemeanor conviction, or based upon a juvenile adjudication for a misdemeanor offense, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars ($1,000), or by both that fine and imprisonment.*

*(c) (1) Any person subject to electronic, GPS, or other monitoring device based on a felony conviction, juvenile adjudication for a felony offense, or on parole for a felony offense, who willfully violates subdivision (a) is guilty of a felony, punishable by imprisonment in the state prison for 16 months, or two or three years.*

*(2) Except as provided in subdivision (e), any person who willfully removes or disables an electronic, GPS, or other monitoring device affixed to another person where that device was affixed to the other person based upon a felony conviction, or based upon a juvenile conviction for a felony offense, is guilty of a felony, punishable by imprisonment in the state prison for 16 months, or two or three years.*

*(d) Nothing in this section shall be construed to prevent punishment pursuant to any other provision of law that imposes a greater or more severe punishment, including, but not limited to, Section 594.*

*(e) This section shall not apply to the removal or disabling of an electronic, GPS, or other monitoring device by a physician, emergency medical services technician, or any other emergency response or medical personnel when doing so is necessary during the course of medical treatment of the person subject to the electronic, GPS, or other monitoring device. This section shall also not apply where the removal or disabling of the electronic, GPS, or other monitoring device is authorized, or required, by a court of law or by the law enforcement, probation, or parole authority or other entity responsible for placing the electronic, GPS, or other monitoring device upon the person or, at the time, has the authority and responsibility to monitor the electronic, GPS, or other monitoring device.*

SEC. 6.21. Section 4504 of the Penal Code is amended to read:

4504. For purposes of this chapter:

(a) A person is deemed confined in a "state prison" if he *or she* is confined*, by order made pursuant to law,* in any of the prisons and institutions ~~specified in Section 5003 by order made pursuant to law, including, but not limited to, commitments to~~ *under the jurisdiction of* the Department of Corrections ~~or the Department of the Youth Authority~~ *and Rehabilitation*, regardless of the purpose of ~~such~~ *the* confinement and regardless of the validity of the order directing ~~such~~ *the* confinement, until a judgment of a competent court setting aside ~~such~~ *the* order becomes final.

(b) A person is deemed "confined in" a prison although, at the time of the offense, he *or she* is temporarily outside its walls or bounds for the purpose of serving on a work detail or for the purpose of confinement in a local correctional institution pending trial or for any other purpose for which a prisoner may be allowed temporarily outside the walls or bounds of the prison, but a prisoner who has been released on parole is not deemed "confined in" a prison for purposes of this chapter.

SEC. 6.22. Section 4505 is added to the Penal Code, to read:

*4505. (a) Any inmate who commits a felony for the benefit of, at the direction of, or in association with, a criminal street gang, as defined in Section 186.22, shall be sentenced to twice the punishment that is otherwise prescribed for the felony, unless another provision of law would prescribe a greater penalty.*

*(b) Any person who provides an inmate with a weapon, cell phone, or other item of contraband that is used in a felony described in subdivision (a) shall be deemed a principal, as defined in Section 31, and be subject to the same penalties as that inmate, even if the person does not specifically intend for the weapon, cell phone, or other item of contraband to be used in the commission of a crime.*

SEC. 7. INTENT REGARDING CONFLICTING PENALTIES

It is the intent of the people of the State of California in enacting this measure to strengthen and improve the laws that punish and control perpetrators of gang offenses, firearm offenses, and other specified crimes. It is also the intent of the people of the State of California that if any provision in this act conflicts with any other provision of law that provides for a greater penalty or longer period of imprisonment the latter provision shall apply.

SEC. 8. INTENT REGARDING CHANGES TO THE STEP ACT

(a) The amendments to paragraph (4) of subdivision (b) of Section 186.22 of the Penal Code, to delete the alternative minimum term computations and to include enhancements in the computation of the term, are intended to improve that statute by simplifying the computation procedure for the minimum term of the life sentence. The amendments repealing the alternative minimum term computations in that statute shall not be given any retroactive application, and shall not be construed to benefit any person who committed a crime or received a punishment while those provisions were in effect.

(b) The amendments to subparagraph (B) of paragraph (4) of subdivision (b) of Section 186.22, to delete the reference to Section 12022.55 and the reference to add Section 12034, are intended to increase the punishment for gang offenses involving shooting from a vehicle. These amendments shall not be given any retroactive application, and shall not be construed to benefit any person who committed a crime or received a punishment while the former version of this provision was in effect.

(c) The amendment to subdivision (g) of Section 186.22, to delete the provision regarding the court striking the punishment for an enhancement, is not intended to affect the court's authority under Section 1385.

SEC. 9. CONDITIONAL RELEASE AND REENTRY

SEC. 9.1. Section 667.21 is added to the Penal Code, to read:

*667.21. (a) Notwithstanding any other law, no person charged with a violent felony described in subdivision (c) of Section 667.5 or a gang-related felony in violation of subdivision (a) or (b) of Section 186.22 shall be eligible for bail or be released on his or her own recognizance pending trial, if, at the time of the alleged offense, he or she was illegally within the United States. The sheriff of the county in which the subject is being held shall as soon as practical notify federal Immigration Criminal Enforcement (ICE) of the person's arrest and charges.*

*(b) This section shall not be construed to authorize the arrest of any person based solely upon his or her alien status or for violation of federal immigration laws.*

*(c) The sheriff, district attorney, and trial courts of each county shall record the status of any illegal alien charged, booked, or convicted of a felony, to be reported to the Department of Justice for inclusion in that person's criminal history (CLETS) so that reimbursement may be sought from the federal government for the cost of incarceration.*

SEC. 9.2. Section 1319 of the Penal Code is amended to read:

1319. (a) No person arrested for a violent felony, as described in subdivision (c) of Section 667.5*, or a serious felony, as described in subdivision (c) of Section 1192.7*, may be released on his or her own recognizance until a hearing is held in open court before the magistrate or judge, and until the prosecuting attorney is given notice and a reasonable opportunity to be heard on the matter. In all cases, these provisions shall be implemented in a manner consistent with the defendant's right to be taken before a magistrate or judge without unreasonable delay pursuant to Section 825.

(b) A defendant charged with a violent felony, as described in subdivision (c) of Section 667.5, shall not be released on his or her own recognizance where it appears, by clear and convincing evidence, that he or she previously has been charged with a felony offense and has willfully and without excuse from the court failed to appear in court as required while that charge was pending. In all other cases, in making the determination as to whether or not to grant release under this section, the court shall consider all of the following:

(1) The existence of any outstanding felony warrants on the defendant.

(2) Any other information presented in the report prepared pursuant to Section 1318.1. The fact that the court has not received the report required by Section 1318.1, at the time of the hearing to decide whether to release the defendant on his or her own recognizance, shall not preclude that release.

(3) Any other information presented by the prosecuting attorney.

(c) The judge or magistrate who, pursuant to this section, grants or denies release on a person's own recognizance, within the time period prescribed in Section 825, shall state the reasons for that decision in the record. This statement shall be included in the court's minutes. The report prepared by the investigative staff pursuant to subdivision (b) of Section 1318.1 shall be placed in the court file for that particular matter.

SEC. 9.3. Section 1319.5 of the Penal Code is amended to read:

1319.5. (a) No person described in subdivision (b) who is arrested for a new offense may be released on his or her own recognizance until a hearing is held in open court before the magistrate or judge.

(b) Subdivision (a) shall apply to the following:

(1) Any person who is currently on felony probation or felony parole.

(2) Any person who has failed to appear in court as ordered, resulting in a warrant being issued, ~~three~~ *two* or more times over the three years preceding the current arrest, except for infractions arising from violations of the Vehicle Code, and who is arrested for any of the following offenses:

(A) Any felony offense.

(B) Any violation of the California Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).

(C) Any violation of Chapter 9 (commencing with Section 240) of Title 8 of Part 1 (assault and battery).

(D) A violation of Section 484 (theft).

(E) A violation of Section 459 (burglary).

(F) Any offense in which the defendant is alleged to have been armed with or to have personally used a firearm.

SEC. 9.4. Section 3044.5 is added to the Penal Code, to read:

*3044.5. (a) The Division of Adult Parole Operations staff shall report to the Board of Parole Hearings any parolee who is reasonably believed to have engaged in the following kinds of behavior:*

*(1) Any conduct described in subdivision (c) of Section 667.5, any conduct described in subdivision (c) of Section 1192.7, or any assaultive conduct resulting in serious injury to the victim.*

*(2) Possession, control, use of, or access to any firearms, explosives, or crossbow or possession or any use of a weapon as specified in subdivision (a) of Section 12020, or any knife having a blade longer than two inches, except as provided in Section 2512 of Title 15 of the California Code of Regulations.*

*(3) Involvement in fraudulent schemes involving more than one thousand dollars ($1,000).*

*(4) Sale, transportation, or distribution of any narcotic or other controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.*

*(5) A parolee whose whereabouts are unknown and has been unavailable for contact for 30 days.*

*(6) Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by Division of Adult Parole Operations staff, including repetitive parole violations and escalating criminal conduct.*

*(7) The refusal to sign any form required by the Department of Justice explaining the duty of the person to register under Section 290.*

*(8) The failure to provide two blood specimens, a saliva sample, right thumb print impressions, and full palm print impressions of each hand as provided in Sections 295 through 300.3, requiring specified offenders to give samples before release.*

*(9) The failure to register as provided in Section 290, if the parolee is required to register.*

*(10) The failure to sign conditions of parole.*

*(11) Violation of the special condition prohibiting any association with any member of a prison gang, disruptive group, or criminal street gang activity, as enumerated in subdivision (e) of Section 186.22, if that condition was imposed.*

*(12) Violation of the special condition prohibiting any association with any member of a prison gang, disruptive group, or criminal street gang, as defined in subdivision (e) of Section 2513 of Title 15 of the California Code of Regulations, or the wearing or displaying of any gang colors, signs, symbols, or paraphernalia associated with gang activity, if that condition was imposed.*

*(13) Violation of the special condition requiring compliance with any gang-abatement injunction, ordinance, or court order, if that condition was imposed.*

*(14) Conduct indicating that the parolee's mental condition has deteriorated such that the parolee is likely to engage in future criminal behavior.*

*(15) Violation of the residency restrictions set forth in Section 3003.5 for parolees required to register as provided in Section 290.*

*(b) For any parolee whose commitment offense is described in subdivision (c) of Section 667.5, or subdivision (c) of Section 1192.7, the Division of Adult Parole Operations shall report to the board any parolee whose conduct is reasonably believed to include the following kinds of behavior:*

*(1) Any behavior listed in subdivision (a).*

*(2) Any violent, assaultive, and or criminal conduct involving firearms.*

*(3) Any violation of a condition to abstain from alcoholic beverages.*

*(c) The mandatory reporting requirements enumerated in subdivisions (a) and (b) shall not preclude discretionary reporting of any conduct that the parole agent, unit supervisor, or district administrator feels is sufficiently serious to report, regardless of whether the conduct is being prosecuted in court.*

*(d) The board, as soon as practicable, shall require that all reports required by this section are transmitted electronically and that reports involving gang, firearm, and violent felonies are given appropriate priority.*

SEC. 9.5. Section 5072 is added to the Penal Code, to read:

*5072. (a) There is hereby established in the State Treasury the Parolee Reentry Fund for the purpose of funding contracts for parolee mentoring and workforce preparation programs to be awarded by the Secretary of the Department of Corrections and Rehabilitation. Recipients shall be required to have extensive expertise in designing, managing, monitoring, and evaluating mentoring, workforce, and comprehensive programs specific to parolees, including demonstrated evidence of an effective prisoner reentry program model. For purposes of awarding contracts, contract recipients are required to have extensive related experience working with federal, state, or local government agencies.*

*(b) The purpose of these programs is to target critical funding to assist and prepare offenders for return to their communities in an effort to reduce recidivism rates and the high costs and threat to public safety associated with the prevalent cycle of incarceration, release, and return to prison. The programs are also intended to provide support, opportunities, mentoring, education, and training to offenders on parole. Parameters of the programs shall be as follows:*

*(1) The programs shall focus on helping parolees make and sustain long-term attachments to the workforce.*

*(2) The programs shall offer parolees critical support services and referral for housing, addiction, and other services through a case management component. The program will also offer opportunities for positive social support through a mentoring component.*

*(3) The secretary may authorize programs that employ daily check-in facilities, GPS devices, voiceprints, or other technologies to monitor the daily activities of parolee participants, especially those who are not actively employed or participating in classes.*

*(c) The sum of twenty million dollars ($20,000,000) is hereby appropriated from the General Fund to the Parolee Reentry Fund for the 2009–10 fiscal year and annually thereafter, adjusted for cost of living changes pursuant to the California Consumer Price Index.*

*(d) It is the intent of the people that emphasis be placed upon programs that provide public safety through aggressive supervision of parolees. An offender's conduct during the months immediately following release from prison are of critical importance and generally determine whether he or she will return to custody. Parolees must be subject to conditions that include, at a minimum, the state's right to conduct warrantless searches. Programs that help monitor or assist parolees, including GPS, job training, mentoring, and education programs offer substantial promise but cannot be effectively implemented by parole agents who are routinely burdened by caseloads of 100 or more parolees per agent.*

*(e) Accordingly, the department shall, within six months of the effective date of this act, adopt a public plan designed to recruit and train sufficient*

*parole agents to reduce average caseloads below 50 parolees per agent with lower ratios for sex offenders, gang offenders, and other high-control groups. The overall caseload ratio shall be calculated based upon total parolees and total parole agents applying the same definitions and parole periods in place during the 2006–07 base year. The plan shall be fully implemented no later than December 31, 2010.*

SEC. 10. LAW ENFORCEMENT RESOURCES

SEC. 10.1. Section 30061.1 is added to the Government Code, to read:

*30061.1. (a) There is hereby created in the State Treasury the Citizens Option for Public Safety Fund (COPS), which may be allocated only for the purposes specified in this section.*

*(b) The sum of five hundred million dollars ($500,000,000) is hereby appropriated from the General Fund to the COPS Fund for the 2009–10 fiscal year, and annually each fiscal year thereafter, adjusted for cost of living pursuant to the California Consumer Price Index for the purpose of supporting local public safety, antigang, and juvenile justice programs.*

*(c) Of the amount appropriated to the COPS Fund, one-half shall be transferred by the Controller to local jurisdictions through each county's Supplemental Law Enforcement Services Fund (SLESF) for support of programs authorized by Section 30061 as of July 1, 2007, for the 2009–10 fiscal year, and annually each fiscal year thereafter.*

*(d) Of the amount appropriated to the COPS Fund, one-half shall be transferred by the Controller to the Safe Neighborhood Fund for the 2009–10 fiscal year, and annually each fiscal year thereafter, for public safety, antigang, and other programs newly authorized pursuant to Section 30061.15. These funds shall be distributed in accordance with the provisions of the act that added this section.*

SEC. 10.2. Section 30061.15 is added to the Government Code, to read:

*30061.15. (a) There is hereby created in the State Treasury the Safe Neighborhood Fund. Funds may only be distributed for the purposes specified in this section. All funding in this section shall be distributed according to the pro rata share of population as established annually by the Department of Finance, unless otherwise stated.*

*(b) The Comprehensive Safe Neighborhood Plan is hereby established to assist local law enforcement and communities throughout the state with a combination of programs that augment local enforcement and early intervention capacity and create regional and statewide antigang networks in order to deter crime, as well as enforce the law, as follows:*

*(1) Twelve percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to city uniformed law enforcement agencies to be used to target violent, gang, firearm, and other street crimes. The funds shall be distributed on a pro rata basis based upon the population of each city as determined by the Department of Finance. The funds allocated to each city shall be used to enhance uniformed law enforcement within the recipient city.*

*(2) Ten percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to county district attorneys to support violent felon, gang, and car theft vertical prosecution, to be deposited in each county's SLESF. Recipients are encouraged to expend a portion of the funding received pursuant to this subdivision, not to exceed 2 percent of a recipient's allocation, for training prosecutors in the effective use of the Street Terrorism Enforcement and Prevention (STEP) Act in gang prosecutions.*

*(3) Six percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to the Office of Public Safety Education and Information to support multiagency, regional gang task forces and for statewide gang enforcement training programs for uniformed police and sheriffs.*

*(4) Eight percent of the Safe Neighborhood Fund shall be annually allocated to county sheriffs, and midsized cities with populations under 300,000 who are not currently eligible for the minimum grant of one hundred thousand dollars ($100,000) under Section 30061, to address enforcement problems common to small, midsized, and fast growing communities so that they can more actively participate in county, regional, and statewide enforcement activities and programs to be distributed as follows:*

*(A) Two and thirty-two hundredths percent of the Safe Neighborhood Fund shall be distributed in equal amounts to county sheriffs.*

*(B) Five and sixty-eight hundredths percent of the Safe Neighborhood Fund to midsized cities, as defined in this paragraph, in pro rata shares based upon each city's population as determined by the Department of Finance.*

*(5) One percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to the Office of Public Safety Education and Information for the purpose of distributing to cities that actively enforce civil gang injunctions.*

*(6) Twenty-six percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to each participating county probation department according to its pro rata share of the population as follows:*

*(A) Twenty percent of the Safe Neighborhood Fund shall fund county probation programs to alleviate existing probation caseloads and to provide intensified supervision for adult offenders on probation.*

*(B) Six percent of the Safe Neighborhood Fund shall fund task forces to conduct searches of high-risk probationers to ensure compliance with their conditions of probation. Each participating county shall establish a Developing Increased Safety through Arms Recovery Management (DISARM) Team comprised of the county sheriff, at least one police chief from a city within the county, the district attorney, and the chief probation officer, and shall establish strategies, standards, and procedures to assist probation officers in removing firearms from high-risk probationers by ensuring compliance with their conditions of probation. For purposes of this subdivision, high-risk probationers shall include, but not be limited to, persons with at least one conviction for any of the following crimes:*

*(i) Assault with a deadly weapon, as defined in Section 245 of the Penal Code.*

*(ii) Attempted murder, as defined in Section 664 of the Penal Code.*

*(iii) Homicide, as provided in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code.*

*(iv) Robbery, as provided in Sections 211, 212, 213, and 214 of the Penal Code.*

*(v) Criminal street gang crimes as described in Section 186.22 of the Penal Code.*

*(7) One percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to support the California Early Intervention, Rehabilitation, and Accountability Commission authorized pursuant to Section 13921.*

*(8) Ten percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to county sheriffs to support the construction and operation of jails to be deposited in each county's SLESF.*

*(9) Four percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to the Department of Justice to support the California Witness Protection Program, or any successor program, created pursuant to Section 14020 of the Penal Code.*

*(10) Two percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to the Office of Public Safety Education and Information, which shall contract with the Department of Justice or other California enforcement agency to develop and implement a secure statewide gang data warehouse system that shall interface with the current state Cal-Gang database to provide a gang information sharing database system available to local, state, and federal law enforcement agencies to better target and prosecute gang crime. After the first year, the Office of Public Safety Education and Information shall allocate two million dollars ($2,000,000) each year to support and maintain this system and three million dollars ($3,000,000) each year to regional gang informational resource centers to help offset the costs of personnel who will staff these resource centers.*

*(11) (A) Six percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to counties for the purchase of Global Positioning System (GPS) tracking equipment to be used for monitoring high-risk individuals, including gang offenders, violent offenders, and sex offenders.*

*(i) Participating counties must submit to the Controller, no later than May 1 prior to the fiscal year in which funding is sought, a resolution adopted by the county board of supervisors requesting the amount sought to be used by the county sheriff or probation department to purchase and monitor GPS tracking equipment.*

*(ii) Funds shall be distributed to each participating county based on the sum requested by that county or that county's pro rata share of the total population of all participating counties, whichever is less.*

*(iii) If the total funds distributed is less than the annual allocation, the remainder shall be distributed to participating counties that sought a greater amount on the same basis as the initial distribution until the allocation is exhausted or all county requests have been honored.*

*(B) The cost of monitoring any offender who is subject to GPS tracking under conditions imposed by the state parole authority shall, for the duration of the GPS monitoring period, be a state expense. Any requirement that a county or local government monitor such an offender shall constitute a fully reimbursable state mandate.*

*(12) Four percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to multiagency narcotic task forces with an emphasis on those task forces focusing on border interdiction. Eligible task forces (police and sheriffs) may be formed pursuant to this subdivision or may preexist, provided that only multijurisdictional task forces that do not restrict agency participation or leadership roles shall receive funding.*

*(13) Six percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to the Office of Public Safety Education and Information for the purpose of disseminating criminal justice information to the public and administering public safety programs pursuant to Section 14260 of the Penal Code.*

*(14) Four percent of the Safe Neighborhood Fund shall be annually allocated by the Controller to the Office of Public Safety Education and Information for the purpose of matching local expenditures to fund law enforcement-run juvenile*

*recreational and community service programs. Any sheriff's department, police department, or regional association of such agencies may apply for grant funding to administer a juvenile recreation program with an emphasis on sports, education, and community service. Eligible programs must be administered by peace officers and require an equal match of local funding or in-kind services. The local match requirement may be met by the value of locally dedicated facilities or officer services or through charitable contributions. Priority shall be given to programs that provide services for at-risk juvenile populations, create alternatives to criminal street gang involvement, and ensure a long-term local commitment. Grants may be made for periods of up to 10 years.*

SEC. 10.3. Section 30062.1 is added to the Government Code, to read:

*30062.1. (a) There is hereby established the Safe Neighborhoods Compliance Enforcement Fund in the State Treasury to augment local government efforts to ensure that occupants of residential housing units paid for by vouchers issued pursuant to Section 8 of the United States Housing Act of 1937 (Section 1437f of Title 42 of the United States Code) comply with the regulations issued pursuant thereto and with the conditions of their publicly funded tenancies.*

*(b) The fund shall be administered by the Office of Public Safety Education and Information (OPSE), which shall match qualified increases in local agency expenditures to enhance regulatory capacity. The objective of this funding is to eliminate public funding of tenancies that are occupied by individuals who are involved in illegal gang, drug, or other criminal activity so that limited public resources can be used to assist law-abiding families in need of safe housing.*

*(c) There is hereby appropriated from the General Fund to the Safe Neighborhoods Compliance Enforcement Fund ten million dollars ($10,000,000) for the 2009–10 fiscal year and annually thereafter, adjusted for cost of living changes pursuant to the California Consumer Price Index.*

*(d) Every governmental agency authorized to enforce compliance with occupancy requirements of vouchers pursuant to Section 8 of the United States Housing Act of 1937 may apply for a matching grant from the Safe Neighborhoods Compliance Enforcement Fund as follows:*

*(1) No later than March 30, 2009, and each year thereafter, each applicant agency shall submit to the Office of Public Safety Education and Information a request for funding documenting the following in order to be eligible:*

*(A) The source of the agency's regulating authority.*

*(B) The amount and source of the local agency's new funding or additional in-kind services, which shall match in equal dollar amount the grant sought from the Safe Neighborhoods Compliance Enforcement Fund.*

*(C) The additional personnel, equipment, or compliance enforcement procedures, to be financed by the grant funds.*

*(D) The number of vouchers pursuant to Section 8 of the United States Housing Act of 1937 issued within the agency's jurisdiction.*

*(E) The agency's process for ensuring that all occupants of Section 8 tenancies within the agency's jurisdiction are subject to a criminal background check at least once each year.*

*(2) No funds shall be awarded unless the criteria in paragraph (1) are met.*

*(e) (1) The Office of Public Safety Education and Information shall, on or before June 30, 2009, and each year thereafter, following the deadline for grant applications tabulate the total number of vouchers pursuant to Section 8 of the United States Housing Act of 1937 issued by all of the applicant agencies and*

*shall assign to each agency a numerical factor (percentage) representing its proportionate share of the total number of vouchers pursuant to Section 8 of the United States Housing Act of 1937 issued by all applicant agencies.*

*(2) Each agency that timely complies with eligibility conditions and the application process shall be issued a 50-percent matching grant up to that percentage of the annual fund appropriation, which equals the agency's proportionate jurisdictional share (numerical factor) of all vouchers pursuant to Section 8 of the United States Housing Act of 1937 as calculated pursuant to subdivision (d).*

*(3) In the event that available funding is not exhausted pursuant to paragraph (1) of subdivision (d) the process shall be repeated so that each agency that has sought a grant greater in proportion to its percentage of total vouchers calculated pursuant to paragraph (1) shall participate in a second or subsequent pool.*

*(f) The Office of Public Safety Education and Information may use up to 3 percent of the total funding for necessary administration of the fund and oversight of recipient programs.*

SEC. 10.4. Section 4004.6 is added to the Penal Code, to read:

*4004.6. (a) This section applies to any county in which any of the following is true:*

*(1) The county is subject to federal court orders imposing population caps, or is subject to a self-imposed population cap.*

*(2) The county is releasing inmates early to avoid overcrowding exceeding 90 percent of jail capacity.*

*(3) The county has exceeded 90 percent of jail capacity on one or more occasions during each of six consecutive months.*

*(b) The sheriff of any county described in subdivision (a) or, in the case of Madera, Napa, and Santa Clara Counties, the board of supervisors or the Director of Corrections, shall, following a resolution adopted after notice and public hearing by the county board of supervisors, be authorized to employ and operate housing facilities that meet local health and safety codes for residential occupancy, and are deemed secure, as temporary jails or treatment facilities. Nothing in this section shall be construed to authorize the use of noncounty employees to staff temporary jail or treatment facilities. Facilities located within incorporated areas shall in addition require a resolution adopted by the city council.*

*(1) No inmate shall be housed in a temporary jail or treatment facility for a period exceeding 90 days based on a single sentence.*

*(2) Determinations regarding the placement of inmates and the security of jail facilities shall be made exclusively by the county sheriff upon consultation with the board of supervisors.*

*(3) The provisions of this act shall not be construed to limit or preclude any sheriff or, in the case of Madera, Napa, and Santa Clara Counties, the board of supervisors or the Director of Corrections, from employing lawfully authorized early release, electronic monitoring, or work release programs as necessary.*

*(4) Notwithstanding any other law or regulation, the use of an emergency jail facility authorized under this section is a discretionary act and shall not form the basis for civil liability on the part of the sheriff, the sheriff's department, or the county or municipality within which the facility is located.*

*(5) Any inmate who escapes from a temporary jail facility or other alternative housing facility shall, in accordance with current law, be in felony violation of Section 4532.*

*(c) In the event the condition constituting an emergency under this section is remedied and the total population of jail inmates within the subject county remains below 80 percent of permanent authorized capacity for 12 consecutive months, the sheriff or, in the case of Madera, Napa, and Santa Clara Counties, the board of supervisors or the Director of Corrections, shall, within a reasonable period of time, cease to admit inmates to emergency facilities or bring such facilities into compliance with all applicable laws and regulations for permanent inmate housing.*

*(d) The population of jail inmates shall, for purposes of this section, include any parole violators held in county jail facilities under contract with the Department of Corrections and Rehabilitation.*

SEC. 10.5. Section 14175 of the Penal Code is repealed.

~~14175. This title shall become inoperative on July 1, 2009, and is repealed as of January 1, 2010, unless a later enacted statute, which is enacted before January 1, 2010, deletes or extends that date.~~

SEC. 10.6. Section 14183 of the Penal Code is repealed.

~~14183. This title shall become inoperative on July 1, 2010, and is repealed as of January 1, 2011, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends those dates.~~

SEC. 11. FUNDING OF EXISTING PROGRAMS

The following existing programs shall be funded at or above the level of funding they received in the Budget Act of 2007:

(1) Jail Efficiency Fund as established under Item 9210-105-0001.

(2) California Multi-Jurisdictional Methamphetamine Enforcement Team (CAL-MMET) program under Item 0690-101-0001.

(3) Central Valley Rural Crime Prevention Program established in Chapter 497 of the Statutes of 2005.

(4) Central Coast Rural Crime Prevention Program established in Chapter 18 of the Statutes of 2003.

(5) Juvenile Probation Camp Funding under Item 5225-101-0001, Schedule 1.

SEC. 12. INTENT REGARDING EXISTING PROGRAMS

It is the intent of the people that the adoption of the Safe Neighborhoods Act shall elevate public safety as a statewide priority and limit volatility in the funding of law enforcement and complementary programs of crime deterrence and offender rehabilitation. All too often, short-term economic problems and a multitude of competing interests cause promising programs of deterrence and law enforcement to come to an end or force public safety agencies to work without adequate personnel or equipment. Under the best of circumstances, California police, sheriffs, and correctional officers are faced with much higher caseloads than their counterparts in other parts of the country. Providing our public safety agencies authorization to enforce the law and deter crime is meaningless if these agencies are not provided resources commensurate with their authority. Authorizing additional resources to combat methamphetamine interdiction will prove illusory if the recipient agencies simultaneously lose funding to combat street gangs and firearm violations. Accordingly, this act is designed to protect both new and existing programs and resources and to subject all of the enumerated programs to greater public scrutiny. The objective is to establish a higher commitment to both crime deterrence and enforcement and to sustain that level of commitment.

SEC. 13. EDUCATION FUNDING GUARANTEE

No provision within this act shall be construed to alter the calculation of the minimum state obligations under Section 8 of Article XVI of the California Constitution, nor diminish the actual state and local support for K–14 schools required by law except as authorized by the Constitution.

SEC. 14. INTENT REGARDING VOTER-APPROVED DRUG TREATMENT

No provision of this act shall be construed to change the eligibility of any person to participate in a voter-approved drug treatment program.

SEC. 15. NON-SUPPLANTATION CLAUSE

The funding authorized and/or made permanent under this act shall supplement and enhance the resources and capacity of public safety agencies and programs throughout California and, accordingly, the state, or any city, county, city and county, or other political subdivision is prohibited from reducing the level of funding received by any recipient agency or program below that amount received during the higher of the 2007–08 or the 2008–09 fiscal year so as to supplant or offset in whole or in part the enhanced level of funding authorized by this act.

SEC. 16. FUNDING FLOOR NOT CEILING

Nothing in this act shall preclude the Legislature from increasing or authorizing public safety appropriations greater than, or in addition to, those approved under this act.

SEC. 17. FUTURE FUNDING CLAUSE

Notwithstanding Section 13340 of the Government Code, any moneys allocated and appropriated under this act that are not encumbered or expended within any applicable period prescribed by law shall, together with the accrued interest on the amount, revert to and remain in the same account for encumbrance and expenditure for the next fiscal period. If any recipient program ceases to require funding authorized under this act or if such funds remain undistributed to eligible agencies for a period of two fiscal years after authorization, those funds shall revert to the General Fund.

SEC. 18. CONFLICTING BALLOT MEASURES

In the event that this measure relating to strengthening our communities by increasing prison sentences on violent offenders and criminal street gang members, or any other measure that reduces criminal penalties or authorizes early release of inmates, is approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and conflicting provisions in the said other measure or measures shall be rendered void and without any legal effect. If this measure is approved but does not receive a greater number of affirmative votes than said other measure or measures, this measure shall take effect to the extent permitted by law.

SEC. 19. STATUTORY REFERENCES

Unless otherwise indicated, all references within this act to a statute shall be construed to reference the statute as it existed on January 1, 2008.

SEC. 20. SEVERABILITY CLAUSE

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 21. AMENDMENT CLAUSE

The provisions of this act shall not be amended by the Legislature except by a statute passed in each house by rollcall vote entered in the journal, three-

fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters. However, the Legislature may amend the provisions of this act to expand the scope of their application or to increase punishments or penalties provided herein by a statute passed by majority vote in each house thereof.

*Number on ballot*

7. **Renewable Energy Generation.**

[Submitted by the initiative and rejected by electors November 4, 2008.]

## PROPOSED LAW

### THE SOLAR AND CLEAN ENERGY ACT OF 2008

SECTION 1. TITLE

This measure shall be known as "The Solar and Clean Energy Act of 2008."

SEC. 2. FINDINGS AND DECLARATIONS

The people of California find and declare the following:

A. Global warming and climate change is now a real crisis. With the polar ice caps continuing to melt, temperatures rising worldwide, increasing greenhouse gases, and dramatic climate changes occurring, we are quickly reaching the tipping point. California is facing a serious threat from rising sea levels, increased drought, and melting Sierra snowpack that feed our water supply. California needs solar and clean energy to attack the climate changes which threaten our state.

B. California suffers from drought, air pollution, poor water quality, and many other environmental problems. Very little has been done because the special energy interests block change. Californians must take energy reform into their own hands. The alternative to dirty energy is solar and clean energy.

C. California can provide the leadership needed to attack global warming and climate change.

D. The Solar and Clean Energy Act will help reduce air pollution in California. With this initiative, we can help clean up our air and build a healthier, cleaner environment for our children.

E. Our traditional sources of power rely too much on fossil fuels and foreign energy that are getting more and more expensive and less reliable. This initiative will encourage investment in solar and clean energy sources that in the long-run are cheaper and are located here in California, and in the short-term, California's investment in solar and clean energy will result in no more than a 3 percent increase in electric rates—a small price to pay for a healthier and cleaner environment.

F. The Solar and Clean Energy Act will put California on the path to energy independence by requiring all electric utilities to produce 50 percent of their electricity from clean energy sources like solar and wind by 2025. Right now, over 22 percent of California's greenhouse gases comes from electricity generation but around 10 percent of California's electricity comes from solar and clean energy sources, leaving Californians vulnerable to high energy costs, to political instability in the Middle East, and to being held hostage by big oil companies.

G. The Solar and Clean Energy Act encourages new technology to produce electricity. Many people are familiar with the solar power that comes from panels that can be placed on rooftops, but there is dramatic new technology that allows solar energy to be generated from concentrations of solar mirrors in the desert. These mirrors are so efficient that a large square array, eleven miles on a side, may be able to generate enough electricity to meet all of California's needs and at a lower cost than we are paying today. The desert could lead us to energy independence.

H. The current law says we are supposed to have 20 percent solar and clean energy but we are still at around 10 percent and even big government-owned utilities like those in Los Angeles and Sacramento lobbied successfully to exempt themselves from the law. The Solar and Clean Energy Act provides incentives, tough standards, and penalties for those who do not comply.

I. The Solar and Clean Energy Act will benefit California's economy. Building facilities for solar and clean energy sources and transmission lines to transport that electricity will create good jobs that pay the prevailing wage. These jobs will bring new investments and new jobs to California and strengthen California's economy.

J. Global warming and California's reliance on fossil fuels and foreign energy are a matter of statewide concern, as is the implementation of statewide standards for the sources of electricity production and the permitting of solar and clean energy plants and related transmission facilities. Accordingly, the people find that these matters are not municipal affairs, as that term is used in Section 5 of Article XI of the California Constitution, but are instead matters of statewide concern.

SEC. 3. PURPOSE AND INTENT

It is the intent of the people of California in enacting this measure to:

A. Address global warming and climate change, and protect the endangered Sierra snowpack by reducing California's carbon-based greenhouse gas emissions;

B. Tap proven technologies such as solar, geothermal, wind, biomass, and small hydroelectric to generate clean energy throughout California and meet renewable energy targets without raising taxes on any California taxpayer;

C. Require all California utilities—including government-owned utilities like the Los Angeles Department of Water and Power—to procure electricity from solar and clean energy resources, in the following timeframes:

1. 20 percent by 2010;
2. 40 percent by 2020; and,
3. 50 percent by 2025;

D. Fast-track all approvals for the development of solar and clean energy plants and related transmission facilities while guaranteeing all environmental protections—including the Desert Protection Act;

E. Create production incentives for the development and construction of solar and clean energy plants and related transmission facilities;

F. Assess penalties upon all utilities that fail to meet renewable resource targets, and prohibit these utilities from passing on these penalties to consumers;

G. Permit long-term 20 year contracts for solar and clean energy to assure marketability and financing of solar and clean energy plants;

H. Cap price impacts on consumers' electricity bills at less than 3 percent. Over the long-term, studies have shown that consumer electricity costs will decline;

I. Grant the Public Utilities Commission the powers to enforce compliance of the renewables portfolio standard upon privately owned utilities, assess penalties for non-compliance, and prohibit utilities from passing on penalties to consumers;

J. Grant the California State Energy Resources Conservation and Development Commission (the Energy Commission) the powers to:

1. Enforce compliance of the renewables portfolio standard upon government-owned utilities, assess penalties to those utilities for non-compliance, and prohibit the utilities from passing on penalties to consumers;

2. Adopt rules to fast-track all approvals for the development of solar and clean energy resources and plants while guaranteeing all environmental protections—including the Desert Protection Act;

3. Allocate funds to purchase, sell, or lease real property, personal property or rights-of-way for the development and use of the property and rights-of-way for the generation and/or transmission of solar and clean energy, and to upgrade existing transmission lines; and,

4. Identify and designate Solar and Clean Energy Zones—primarily in the desert.

SEC. 4. Section 387 of the Public Utilities Code is amended to read:

387. (a) Each governing body of a local publicly owned electric utility, as defined in Section 9604, shall ~~be responsible for implementing and enforcing a~~ *implement the* renewables portfolio standard *as established and defined in this article* ~~that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement~~.

(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the State Energy Resources Conservation and Development Commission, the following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12~~, except that the electricity is delivered to the local publicly owned electric utility and not a retail seller~~. Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard ~~if it were delivered to a retail seller~~.

(3) The utility's status in implementing a renewables portfolio standard pursuant to subdivision (a) and the utility's progress toward attaining the standard following implementation.

SEC. 5. Section 399.25 of the Public Utilities Code is amended to read:

399.25. ~~(a) Notwithstanding any other provision in Sections 1001 to 1013, inclusive, an application of an electrical corporation for a certificate authorizing the construction of new transmission facilities shall be deemed to be necessary to the provision of electric service for purposes of any determination made under Section 1003 if the commission finds that the new facility is necessary to facilitate achievement of the renewable power goals established in Article 16 (commencing with Section 399.11).~~

~~(b)~~ *(a)* With respect to ~~a transmission facility described in subdivision (a)~~ *any transmission facilities deemed to be necessary by the Energy Commission to facilitate achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11) of the Public Utilities Code*, the commission shall take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission are fully reflected in any retail rates established by the commission. These actions shall include, but are not limited to:

(1) Making findings, where supported by an evidentiary record, that those transmission facilities provide benefit to the transmission network and are necessary to facilitate the achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).

(2) Directing the utility to which the generator will be interconnected, where the direction is not preempted by federal law, to seek the recovery through general transmission rates of the costs associated with the transmission facilities.

(3) Asserting the positions described in paragraphs (1) and (2) to the Federal Energy Regulatory Commission in appropriate proceedings.

(4) Allowing recovery in retail rates of any increase in transmission costs incurred by ~~an electrical corporation~~ *a retail seller* resulting from the construction of the transmission facilities that are not approved for recovery in transmission rates by the Federal Energy Regulatory Commission after the commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.

*(b) Notwithstanding subdivision (a), a retail seller shall not recover any costs paid through the Solar and Clean Energy Transmission Account to facilitate the construction of any transmission facilities.*

SEC. 6. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The ~~Legislature~~ *people* ~~finds~~ *find* and ~~declares~~ *declare* all of the following:

(a) In order to attain ~~a~~ *the* ~~target~~ *targets* of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, *40 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2020, and 50 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2025,* and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix *to address global warming and climate change, and to protect the endangered Sierra snowpack*, it is the intent of the ~~Legislature~~ *people* that the commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state*, address global warming and climate change, protect the endangered Sierra snowpack,* and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewables portfolio standard targets.

SEC. 7. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Conduit hydroelectric facility" means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use.

(b) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(c) "Eligible renewable energy resource" means ~~an electric generating~~ *a solar and clean energy* facility that meets the definition of "in-state renewable electricity generation facility" in Section 25741 of the Public Resources Code, subject to the following limitations:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(B) Notwithstanding subparagraph (A), a conduit hydroelectric facility of 30 megawatts or less that commenced operation before January 1, 2006, is an eligible renewable energy resource. A conduit hydroelectric facility of 30 megawatts or less that commences operation after December 31, 2005, is an eligible renewable energy resource so long as it does not cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(2) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable *energy* resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

(d) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(e) "Local publicly owned electric utility" has the same meaning as provided in subdivision (d) of Section 9604.

(f) "Procure" means that a retail seller receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(g) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to this article.

(h) (1) "Renewable energy credit" means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant

to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimus quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.

(i) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

~~(C) A local publicly owned electric utility.~~

SEC. 8. Section 399.13 of the Public Utilities Code is amended to read:

399.13. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (b) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from ~~electrical corporations~~ *retail sellers*, the Energy Commission shall request data from the commission. The commission shall

collect data from ~~electrical corporations~~ *retail sellers* and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

(d) Certify, for purposes of compliance with the ~~renewable~~ *renewables* portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that the following conditions have been satisfied:

(1) The local publicly owned electric utility that is procuring the electricity is in compliance with the requirements of Section 387.

(2) The local publicly owned electric utility has established ~~an~~ *the* annual renewables portfolio standard *targets* ~~target comparable to those applicable to an electrical corporation~~ *required by Section 399.15*, is procuring sufficient eligible renewable energy resources to satisfy the targets, and will not fail to satisfy the targets in the event that the renewable energy credit is sold to another retail seller.

*(e) Institute a rulemaking proceeding to determine the manner in which a local publicly owned electric utility will comply with Section 387 and implement the renewables portfolio standard program. The Energy Commission shall utilize the same processes and have the same powers to enforce the renewables portfolio standard program with respect to local publicly owned electric utilities as the commission has with respect to retail sellers, including, but not limited to, those processes and powers specified in Sections 399.14 and 399.15 related to the review and adoption of a renewable energy procurement plan, establishment of flexible rules for compliance, and imposition of annual penalties for failure to comply with a local publicly owned electric utility's renewable energy procurement plan. The Energy Commission shall not have any authority to approve or disapprove the terms, conditions, or pricing of any renewable energy resources contract entered into by a local publicly owned electric utility, or authority pursuant to Section 2113.*

SEC. 9. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) (1) The commission shall direct each ~~electrical corporation~~ *retail seller* to prepare a renewable energy procurement plan that includes the matter in paragraph (3), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each ~~electrical corporation~~ *retail seller* to review and update its renewable energy procurement plan as it determines to be necessary.

(2) The commission shall adopt, by rulemaking, all of the following:

~~(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources.~~

~~(B)~~*(A)* A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total

cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources.

~~(C)~~*(B)* (i) Flexible rules for compliance, including rules permitting retail sellers to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years. The flexible rules for compliance shall apply to all years, including years before and after a retail seller procures at least ~~20~~ *50* percent of total retail sales of electricity from eligible renewable energy resources.

(ii) The flexible rules for compliance shall address situations where, as a result of insufficient transmission, a retail seller is unable to procure eligible renewable energy resources sufficient to satisfy the requirements of this article. Any rules addressing insufficient transmission shall require a finding by the commission that the retail seller has undertaken all reasonable efforts to do all of the following:

(I) Utilize flexible delivery points.

(II) Ensure the availability of any needed transmission capacity.

(III) If the retail seller is an electric corporation, to construct needed transmission facilities.

(IV) Nothing in this subparagraph shall be construed to revise any portion of Section 454.5.

~~(D)~~*(C)* Standard terms and conditions to be used by all ~~electrical corporations~~ *retail sellers* in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by ~~an electrical corporation~~ *a retail seller* shall include all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Provisions for employing available compliance flexibility mechanisms established by the commission.

(C) A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.

(4) In soliciting and procuring eligible renewable energy resources, each ~~electrical corporation~~ *retail seller* shall offer contracts of no less than ~~10~~ *20* years in duration, unless the commission approves of a contract of shorter duration.

(5) In soliciting and procuring eligible renewable energy resources, each ~~electrical corporation~~ *retail seller* may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) The commission may authorize a retail seller to enter into a contract of less than ~~10~~ *20* years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least ~~10~~ *20* years' duration or from new facilities commencing commercial operations on or after January 1, 2005.

(c) The commission shall review and accept, modify, or reject each ~~electrical corporation's~~ *retail seller's* renewable energy procurement plan prior to the commencement of renewable procurement pursuant to this article by ~~an electrical corporation~~ *a retail seller*.

(d) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by ~~an electrical corporation~~ *a retail seller* and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the ~~electrical corporation~~ *retail seller* to renegotiate the contracts or conduct a new solicitation.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. ~~The commission shall enforce comparable penalties on any other retail seller that fails to meet annual procurement targets established pursuant to Section 399.15.~~

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for deliveries of eligible renewable energy resources to satisfy annual renewables portfolio standard obligations. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(g) Procurement and administrative costs associated with long-term contracts entered into by ~~an electrical corporation~~ *a retail seller* for eligible renewable energy resources pursuant to this article, ~~and approved by the commission~~ *no more than 10 percent over the market price determined by the Energy Commission pursuant to subdivision (c) of Section 399.15*, shall be deemed reasonable per se *for electricity delivered on or before January 1, 2030*, and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives *or funding* pursuant to ~~Section~~ *Sections* 25742*, 25743 or 25751.5* of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

*(i) The commission shall impose annual penalties up to the amount of the shortfall in kilowatthours multipied by one cent ($0.01) per kilowatthour on any retail seller that fails to meet the annual procurement targets established pursuant to Section 399.15. The commission shall not cap the penalty that may be*

*imposed on a retail seller under this section. All penalties assessed and collected pursuant to this section shall be paid or transferred annually to the Solar and Clean Energy Transmission Account administered by the Energy Commission pursuant to Section 25751.5 of the Public Resources Code and shall be used for programs designed to foster the development of new in-state transmission and renewable electricity generation facilities. Penalties paid or transferred by any retail seller pursuant to this section shall not be recoverable by the retail seller either directly or indirectly in rates.*

*(j) Penalties assessed pursuant to subdivision (i) may be waived upon a finding by the commission that there is good cause for a retail seller's failure to comply with a commission order adopting a renewable energy procurement plan. A finding by the commission that there is good cause for failure to comp1y with a commission order adopting a renewable energy procurement plan shall be made if the commission determines that any one of the following conditions are met:*

*(1) The deadline or milestone changed due to circumstances beyond the retail seller's control, including, but not limited to, administrative and legal appeals, seller non-performance, insufficient response to a competitive solicitation for eligible renewable energy resources, and lack of effective competition.*

*(2) The retail seller demonstrates a good faith effort to meet the target, including, but not limited to, executed contracts that provide future deliveries sufficient to satisfy current year deficits.*

*(3) The target was missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.*

*(4) The retail seller is unable to receive energy from eligible renewable energy resources due to inadequate electric transmission lines.*

*(5) For any year up to and including December 31, 2013, a local publicly owned electric utility demonstrates that, despite its good faith effort, it has had insufficient time to meet the annual procurement targets established in Section 399.15.*

SEC. 10. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, *reduce greenhouse gas emissions, address global warming and climate change, protect the endangered Sierra snowpack, and lessen California's dependence on fluctuating fuel prices,* the commission shall establish a renewables portfolio standard requiring all ~~electrical corporations~~ *retail sellers* to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year~~, subject to limits on the total amount of costs expended above the market prices determined in subdivision (c), to achieve the targets established under this article~~.

(b) The commission shall implement annual procurement targets for each retail seller as follows:

(1) *Notwithstanding Section 454.5, each* ~~Each~~ retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional ~~1~~ *2* percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010*, 40 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020, and 50 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2025*. ~~A retail seller with 20 percent of retails sales procured~~

~~from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources in the following year.~~

(2) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each retail seller based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and to the extent applicable, adjusted going forward pursuant to Section 399.12.

(3) Only for purposes of establishing these targets, the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by ~~an electrical corporation~~ *a retail seller.*

(4) *A retail seller is required to accept all bilateral offers for electricity generated by eligible renewable energy resources that are less than or equal to the market prices established pursuant to subdivision (c), except that a retail seller is not obligated to accept a bilateral offer for any year in which the retail seller has procured sufficient renewable energy resources to meet its annual target established pursuant to this subdivision.* ~~In the event that a retail seller fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall, subject to the limitation on costs for electrical corporations established pursuant to subdivision (d).~~

(c) The *Energy Commission* ~~commission~~ shall *determine by a rulemaking proceeding* ~~establish a methodology to determine~~ the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources~~,~~ *and the methodology for making that determination that considers* ~~in consideration of~~ the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to ~~an electrical corporation's~~ *a retail seller's* general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

(3) The value of different products including baseload, peaking, and as-available electricity.

*(4) Natural gas price forecasts that are consistent with forecasts used for procurement of other resources, including loading order resources.*

*(5) The value and benefits of renewable resources, including, but not limited to, hedging value and carbon emissions reductions.*

*(6) The value and benefits of baseload generation.*

(d) *A retail seller shall not be required to enter into long-term contracts with operators of eligible renewable energy resources that exceed by more than 10 percent the market prices established pursuant to subdivision (c) for electricity delivered on or before January 1, 2030. The commission shall allow a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured at no more than 10 percent over the market price established pursuant to subdivision (c). Indirect costs associated with the purchase of eligible renewable energy resources by a retail seller, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades, are recoverable in rates, as authorized by the commission.* ~~The commission shall establish, for each electrical corporation, a limitation on the total costs expended above the market prices determined in subdivision (c)~~

~~for the procurement of eligible renewable energy resources to achieve the annual procurement targets established under this article.~~

~~(1) The cost limitation shall be equal to the amount of funds transferred to each electrical corporation by the Energy Commission pursuant to subdivision (b) of Section 25743 of the Public Resources Code and the 51.5 percent of the funds which would have been collected through January 1, 2012, from the customers of the electrical corporation based on the renewable energy public goods charge in effect as of January 1, 2007.~~

~~(2) The above market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:~~

~~(A) The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision (d) of Section 399.14.~~

~~(B) The contract covers a duration of no less than 10 years.~~

~~(C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.~~

~~(D) No purchases of renewable energy credits may be eligible for consideration as an above market cost.~~

~~(E) The above market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.~~

~~(3) If the cost limitation for an electrical corporation is insufficient to support the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources satisfying the conditions of paragraph (2), the commission shall allow the electrical corporation to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c).~~

~~(4) Nothing in this section prevents an electrical corporation from voluntarily proposing to procure eligible renewable energy resources at above market prices that are not counted toward the cost limitation. Any voluntary procurement involving above market costs shall be subject to commission approval prior to the expense being recovered in rates.~~

(e) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

(f) The *Energy Commission* ~~commission~~ shall consult with the ~~Energy Commission~~ *commission* in calculating market prices under subdivision (c). ~~and~~ *The Energy Commission and the commission shall consult with each other in* establishing ~~other~~ renewables portfolio standard policies.

SEC. 11. Section 1001 of the Public Utilities Code is amended to read:

1001. *Except as otherwise provided in Division 15 (commencing with Section 25000) of the Public Resources Code, no* ~~No~~ railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation, water corporation, or sewer system corporation shall begin the construction of a street railroad, or of a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.

This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within

which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable.

SEC. 12. Section 25107 of the Public Resources Code is amended to read:

25107. "Electric transmission line" means any electric powerline carrying electric power from a thermal powerplant *or a solar and clean energy plant* located within the state to a point of junction with any interconnected transmission system. "Electric transmission line" does not include any replacement on the existing site of existing electric powerlines with electric powerlines equivalent to such existing electric powerlines or the placement of new or additional conductors, insulators, or accessories related to such electric powerlines on supporting structures in existence on the effective date of this division or certified pursuant to this division.

SEC. 13. Section 25110 of the Public Resources Code is amended to read:

25110. "Facility" means any electric transmission line*,* ~~or~~ thermal powerplant*, or solar and clean energy plant*, or both electric transmission line and thermal powerplant *or solar and clean energy plant, and extensions, modifications, upgrades of existing electric transmission lines*, regulated according to the provisions of this division.

SEC. 14. Section 25137 is added to the Public Resources Code, to read:

*25137. "Solar and clean energy plant" means any electrical generating facility using wind, solar photovoltaic, solar thermal, biomass, biogas, geothermal, fuel cells using renewable fuels, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current technologies, with a generating capacity of 30 megawatts or more, or small hydroelectric generation of 30 megawatts or less, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a renewable project or a renewable development project are not appurtenant facilities for the purposes of this division.*

SEC. 15. Section 25502 of the Public Resources Code is amended to read:

25502. Each person proposing to construct a thermal powerplant*, solar and clean energy plant,* or electric transmission line on a site shall submit to the commission a notice of intention to file an application for the certification of the site and related facility or facilities. The notice shall be an attempt primarily to determine the suitability of the proposed sites to accommodate the facilities and to determine the general conformity of the proposed sites and related facilities with standards of the commission and assessments of need adopted pursuant to Sections 25305 to 25308, inclusive. The notice shall be in the form prescribed by the commission and shall be supported by such information as the commission may require.

Any site and related facility once found to be acceptable pursuant to Section 25516 is, and shall continue to be, eligible for consideration in an application for certification without further proceedings required for a notice under this chapter.

SEC. 16. Section 25517 of the Public Resources Code is amended to read:

25517. Except as provided in Section 25501, no construction of any thermal powerplant*, solar and clean energy plant,* or electric transmission line shall be commenced by any electric utility without first obtaining certification as prescribed in this division. Any onsite improvements not qualifying as construction may be required to be restored as determined by the commission to be necessary to protect the environment, if certification is denied.

SEC. 17. Section 25522 of the Public Resources Code is amended to read:

25522. (a) Except as provided in subdivision (c) of Section 25520.5 *and Section 25550*, within 18 months of the filing of an application for certification, or within 12 months if it is filed within one year of the commission's approval of the notice of intent, or at any later time as is mutually agreed by the commission and the applicant, the commission shall issue a written decision as to the application.

(b) The commission shall determine, within 45 days after it receives the application, whether the application is complete. If the commission determines that the application is complete, the application shall be deemed filed for purposes of this section on the date that this determination is made. If the commission determines that the application is incomplete, the commission shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the application, the commission shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the application complete. The application shall be deemed filed on the date when the commission determines the application is complete if the commission has adopted regulations specifying the informational requirements for a complete application, but if the commission has not adopted regulations, the application shall be deemed filed on the last date the commission receives any additional data that completes the application.

SEC. 18. Section 25531 of the Public Resources Code is amended to read:

25531. (a) The decisions of the commission on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact are final and are not subject to review, except as provided in this article. These questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding

before the commission, or to stop or delay the construction or operation of any thermal powerplant *or solar and clean energy plant* except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the commission certifies any site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire the site and related facility.

(e) No decision of the commission pursuant to Section 25516, 25522, or 25523 shall be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

SEC. 19. Section 25540.6 of the Public Resources Code is amended to read:

25540.6. (a) Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:

(1) A thermal powerplant which will employ cogeneration technology, a thermal powerplant that will employ natural gas-fired technology, or a *solar and clean energy plant* ~~solar thermal powerplant~~.

(2) A modification of an existing facility.

(3) A thermal powerplant *or solar and clean energy plant* which it is only technologically or economically feasible to site at or near the energy source.

(4) A thermal powerplant with a generating capacity of up to 100 megawatts.

(5) A thermal powerplant *or solar and clean energy plant* designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.

(b) Projects exempted from the notice of intention requirement pursuant to paragraph (1), (4), or (5) of subdivision (a) shall include, in the application for certification, a discussion of the applicant's site selection criteria, any alternative sites that the applicant considered for the project, and the reasons why the applicant chose the proposed site. That discussion shall not be required for cogeneration projects at existing industrial sites. The commission may also accept an application for a noncogeneration project at an existing industrial site without requiring a discussion of site alternatives if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.

SEC. 20. Section 25541 of the Public Resources Code is amended to read:

25541. The commission may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts, ~~and~~ modifications to existing generating facilities that do not add capacity in excess of 100 megawatts, *and solar and clean energy plants*, if the commission finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

SEC. 21. Section 25541.1 of the Public Resources Code is amended to read:

25541.1. It is the intent of the ~~Legislature~~ *people* to encourage the development of thermal powerplants *or solar and clean energy plants* using resource recovery (waste-to-energy) technology. Previously enacted incentives for the production of electrical energy from nonfossil fuels in commercially scaled projects have failed to produce the desired results. At the same time, the state faces a growing problem in the environmentally safe disposal of its solid waste. The creation of electricity by a thermal powerplant *or solar and clean energy plant* using resource recovery technology addresses both problems by doing all of the following:

(a) Generating electricity from a nonfossil fuel of an ample, growing supply.

(b) Conserving landfill space, thus reducing waste disposal costs.

(c) Avoiding the health hazards of burying garbage.

Furthermore, development of resource recovery facilities creates new construction jobs, as well as ongoing operating jobs, in the communities in which they are located.

SEC. 22. Section 25542.5 is added to the Public Resources Code, to read:

*25542.5. The Energy Commission shall, on an annual basis, publish a report that identifies and designates Solar and Clean Energy Zones in the state of California based on geographic areas identified by the Energy Commission's Public Interest Energy Research Program as having potential for solar and clean energy resources.*

SEC. 23. Section 25550 is added to the Public Resources Code, to read:

*25550. (a) Notwithstanding subdivision (a) of Section 25522, and Section 25540.6, the commission shall establish a process to issue its final certification for any solar and clean energy plant and related facilities within six months after the filing of the application for certification that, on the basis of an initial review, shows that there is substantia1 evidence that the project will not cause a significant adverse impact on the environment or electrical transmission and distribution system and will comp1y with all applicable standards, ordinances, or laws. For purposes of this section, filing has the same meaning as in Section 25522.*

*(b) Solar and clean energy plants and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission, by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed solar and clean energy plant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed solar and clean energy plant and related facilities.*

*(c) After acceptance of an application under this section, the commission shall not be required to issue a six-month final decision on the application if it determines there is substantial evidence in the record that the solar and clean energy plant and related facilities will likely result in a significant adverse impact on the environment or electrical system or does not comply with an applicable*

*standard, ordinance, or law. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.*

*(d) For an application that the commission accepts under this section, all local, regional, and state agencies that would have had jurisdiction over the proposed solar and clean energy plant and related facilities, but for the exclusive jurisdiction of the commission, shall provide their final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control boards, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.*

*(e) Applicants of solar and clean energy plants and related facilities that demonstrate superior environmental or efficiency performance shall receive priority in review.*

*(f) With respect to a solar and clean energy plant and related facilities reviewed under the process established by this section, it shall be shown that the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.*

*(g) With respect to a solar and clean energy plant and related facilities reviewed under the process established by this section, it shall be shown that the solar and clean energy plant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.*

*(h) This section shall not apply to an application filed with the commission on or before January 1, 2009.*

*(i) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including without limitation, Section 11349.6 of the Government Code, 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, safety, and general welfare.*

*(j) All solar and clean energy plants receiving certification pursuant to this section shall be considered a public works project subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.*

SEC. 24. Chapter 6.6 (commencing with Section 25560) is added to Division 15 of the Public Resources Code, to read:

*25560. No electrical corporation as defined in Section 218 of the Public Utilities Code shall begin the construction of a transmission line or of any extension, modification, or upgrade thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.*

*This chapter shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its transmission line or system, and not theretofore served by a public utility*

*of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line or system, interferes or is about to interfere with the operation of the line or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, and in consultation with the Public Utilities Commission make such order and prescribe such terms and conditions for the location of the lines or systems affected as to it may seem just and reasonable.*

*25561. (a) The commission shall exempt the construction of any line or system, or extension thereof, located outside the boundaries of the state from the requirements of Section 25560, upon the application of the public utility constructing that line or system, or extension thereof, if the public utility derives 75 percent or more of its operating revenues from outside the state, as recorded in the fiscal period immediately before the filing of the application, unless the commission determines that the public interest requires that the construction should not be exempt from Section 25560.*

*(b) Except as provided in subdivision (c), the commission shall make the determination denying the exemption, as specified in subdivision (a), within 90 days after the public utility files the application for exemption with the commission. If the commission fails to make this determination within that 90-day period, the construction of that line or system, or extension thereof, is exempt from the requirements of Section 25560.*

*(c) The commission and the public utility filing the application for exemption may, if both agree, extend the time period within which the commission is required to make the determination denying the exemption, for not more than an additional 60 days after the expiration of the 90-day period specified in subdivision (b).*

*25562. (a) The commission, as a basis for granting any certificate pursuant to Section 25560, shall give consideration to the following factors:*

*(1) Community values.*

*(2) Recreational and park areas.*

*(3) Historical and aesthetic values.*

*(4) Influence on environment, except that in the case of any line or system or extension thereof located in another state which will be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (Chapter 55 (commencing with Section 4321) of Title 42 of the United States Code) or similar state laws in the other state, the commission shall not consider influence on the environment unless any emissions or discharges therefrom would have a significant influence on the environment of this state.*

*(5) Proximity to and related effect on populated areas and whether alternative locations are reasonably available and appropriate.*

*(6) Value and benefits of baseload generation.*

*(b) With respect to any electrical transmission line required to be constructed, modified, or upgraded to provide transmission from a thermal powerplant or a solar and clean energy plant, and for which a certificate is required pursuant to the provisions of Division 15 (commencing with Section 25000), the decision granting such other certificate shall be conclusive as to all matters determined thereby and shall take the place of the requirement for consideration by the commission of the six factors specified in subdivision (a) of this section.*

*(c) As a condition for granting any certificate pursuant to Section 25560, the commission shall require compliance with the California Desert Protection Act of 1994 (commencing with Section 410aaa of Title 16 of the United States Code).*

*25563. In considering an application for a certificate for an electric transmission facility pursuant to Section 25560, the commission shall consider cost-effective alternatives to transmission facilities that meet the need for an efficient, reliable, and affordable supply of electricity, including, but not limited to, demand-side alternatives such as targeted energy efficiency, ultraclean distributed generation, as defined in Section 353.2 of the Public Utilities Code, and other demand reduction resources. The provisions of this section shall not apply to any electrical transmission line required to be constructed, modified, or upgraded to provide transmission from a solar and clean energy plant.*

*25564. Every electrical corporation submitting an application to the commission for a certificate authorizing the new construction of any electric transmission line or extension, not subject to the provisions of Chapter 6 (commencing with Section 25500), shall include all of the following information in the application in addition to any other required information:*

*(a) Preliminary engineering and design information on the project. The design information provided shall include preliminary data regarding the operating characteristics of the line or extension.*

*(b) A project implementation plan showing how the project would be contracted for and constructed. This plan shall show how all major tasks would be integrated and shall include a timetable identifying the design, construction, completion, and operation dates for each major component of the line or extension.*

*(c) An appropriate cost estimate, including preliminary estimates of the costs of financing, construction, and operation of the line or extension.*

*(d) The corporation shall demonstrate the financial impact of the line or extension construction on the corporation's ratepayers, stockholders, and on the cost of the corporation's borrowed capital. The cost analyses shall be performed for the projected useful life of the line or extension.*

*(e) A design and construction management and cost control plan which indicates the contractual and working responsibilities and interrelationships between the corporation's management and other major parties involved in the project. This plan shall also include a construction progress information system and specific cost controls.*

*25565. Every electrical corporation submitting an application to the commission for a certificate authorizing the new construction of an electric transmission line or extension, which is subject to the provisions of Chapter 6 (commencing with Section 25500), shall include in the application the information specified in subdivisions (b), (c), and (e) of Section 25564, in addition to any other required information. The corporation may also include in the application any other information specified in Section 25564.*

*25566. Before any certificate may issue under this chapter, every applicant for a certificate shall file in the office of the commission a certified copy of the applicant's articles of incorporation or charter. Every applicant for a certificate shall file in the office of the commission such evidence as is required by the commission to show that the applicant has received the required consent, franchise, or permit of the proper county, city and county, city, or other public authority.*

*25567. (a) The commission may, with or without hearing, issue the certificate as requested for, or refuse to issue it, or issue it for the construction*

*of a portion only of the contemplated electric transmission line or extension thereof, or for the partial exercise only of the right or privilege, and may attach to the exercise of the rights granted by the certificate such terms and conditions, including provisions for the acquisition by the public of the franchise or permit and all rights acquired thereunder and all works constructed or maintained by authority thereof, as in its judgment the public convenience and necessity require; provided, however, that before issuing or refusing to issue the certificate, the commission shall hold one or more hearings addressing any issues raised in a timely application for a hearing by any person entitled to be heard.*

*(b) When the commission issues a certificate for the new construction of an electric transmission line or extension, the certificate shall specify the operating and cost characteristics of the transmission line or extension, including, but not limited to, the size, capacity, cost, and all other characteristics of the transmission line or extension which are specified in the information which the electrical corporations are required to submit, pursuant to Section 25564 or 25565.*

*(c) Notwithstanding any other provision in this chapter, an application for a certificate authorizing the construction of new transmission facilities shall be deemed to be necessary to the provision of electric service for purposes of any determination made under Section 25564 if the commission finds that the new facility is necessary to facilitate achievement of the renewables portfolio standard as established in Article 16 (commencing with Section 399.11) of the Public Utilities Code and the eligible renewable energy resources requirement as established in Chapter 8.6 (commencing with Section 25740) of this division.*

*25568. (a) Whenever the commission issues to an electrical corporation a certificate authorizing the new construction of a transmission line, or of any extension, modification, or upgrade thereof estimated to cost greater than fifty million dollars ($50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility. The commission shall determine the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.*

*(b) After the certificate has been issued, the corporation may apply to the commission for an increase in the maximum cost specified in the certificate. The commission may authorize an increase in the specified maximum cost if it finds and determines that the cost has in fact increased and that the present or future public convenience and necessity require construction of the project at the increased cost; otherwise, it shall deny the application.*

*(c) After construction has commenced, the corporation may apply to the commission for authorization to discontinue construction. After a showing to the satisfaction of the commission that the present or future public convenience and necessity no longer require the completion of construction of the project, and that the construction costs incurred were reasonable and prudent, the commission may authorize discontinuance of construction and the Public Utilities Commission may authorize recovery of those construction costs which the commission determines were reasonable and prudent.*

*(d) In any decision by the Public Utilities Commission establishing rates for an electrical corporation reflecting the reasonable and prudent costs of the new construction of any transmission line, or of any extension, modification, or upgrade thereof, when the commission has found and determined that the addition or extension is used and useful, the Public Utilities Commission shall*

*consider whether or not the actual costs of construction are within the maximum cost specified by the commission.*

SEC. 25. Section 25740 of the Public Resources Code is amended to read:

25740. It is the intent of the ~~Legislature~~ *people* in establishing this program, to *address global warming and climate change, and protect the endangered Sierra snowcaps by increasing* ~~increase~~ the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 20 percent of total retail sales of electricity in California per year by December 31, 2010~~.~~*, at least 40 percent of total retail sales of electricity in California per year by December 31, 2020, and at least 50 percent of total retail sales of electricity in California per year by December 31, 2025.*

SEC. 26. Section 25740.1 is added to the Public Resources Code, to read:

*25740.1. The people find that the construction of electric transmission facilities necessary to facilitate the achievement of California's renewables portfolio standard targets will provide the maximum economic benefit to all customer classes that funded the New Renewable Resources Account.*

SEC. 27. Section 25743 of the Public Resources Code is amended to read:

25743. (a) The commission shall terminate all production incentives awarded from the New Renewable Resources Account prior to January 1, 2002, unless the project began generating electricity by January 1, 2007.

(b) (1) The commission shall, by March 1, 2008, transfer to electrical corporations serving customers subject to the renewable energy public goods charge the remaining unencumbered funds in the New Renewable Resources Account.

(2) The Public Utilities Commission shall ensure that each electrical corporation allocates funds received from the commission pursuant to paragraph (1) in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account. *In considering and approving each electrical corporation's proposed allocations, and consistent with Section 25740.1, the Public Utilities Commission shall encourage and give the highest priority to allocations for the construction of, or payment to supplement the construction of, any new or modified electric transmission facilities necessary to facilitate the state achieving its renewables portfolio standard targets.*

*(c) All projects receiving funding, in whole or in part, pursuant to this section shall be considered public works projects subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.*

SEC. 28. Section 25745 is added to the Public Resources Code, to read:

*25745. The Energy Commission shall use its best efforts to attract and encourage investment in solar and clean energy resources, facilities, research and development from companies based in the United States to fulfill the purposes of this chapter.*

SEC. 29. Section 25751.5 is added to the Public Resources Code, to read:

*25751.5. (a) The Solar and Clean Energy Transmission Account is hereby established within the Renewable Resources Trust Fund.*

*(b) Beginning January 1, 2009, the total annual adjustments adopted pursuant to subdivision (d) of Section 399.8 of the Public Utilities Code shall be allocated to the Solar and Clean Energy Transmission Account.*

*(c) Funds in the Solar and Clean Energy Transmission Account shall be used, in whole or in part, for the following purposes:*

*(1) The purchase of property or right-of-way pursuant to the commission's authority under Chapter 8.9 (commencing with Section 25790).*

*(2) The construction of, or payment to supplement the construction of, any new or modified electric transmission facilities necessary to facilitate the state achieving its renewables portfolio standard targets.*

*(d) Title to any property or project paid for in whole pursuant to this section shall vest with the commission. Title to any property or project paid for in part pursuant to this section shall vest with the commission in a part proportionate to the commission's share of the overall cost of the property or project.*

*(e) Funds deposited in the Solar and Clean Energy Transmission Account shall be used to supplement, and not to supplant, existing state funding for the purposes authorized by subdivision (c).*

*(f) All projects receiving funding, in whole or in part, pursuant to this section shall be considered public works projects subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.*

SEC. 30. Chapter 8.9 (commencing with Section 25790) is added to Division 15 of the Public Resources Code, to read:

*25790. The Energy Commission may, for the purposes of this chapter, purchase and subsequently sell, lease to another party for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber, or otherwise dispose of any real or personal property or any interest in property. Any such lease or sale shall be conditioned on the development and use of the property for the generation and/or transmission of renewable energy.*

*25791. Any lease or sale made pursuant to this chapter may be made without public bidding but only after a public hearing.*

SEC. 31. Severability

The provisions of this act are severable. If any provision of this act, or part thereof, is for any reason held to be invalid under state or federal law, the remaining provisions shall not be affected, but shall remain in full force and effect.

SEC. 32. Amendment

The provisions of this act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SEC. 33. Conflicting Measures

(a) This measure is intended to be comprehensive. It is the intent of the people that in the event that this measure and another initiative measure relating to the same subject appear on the same statewide election ballot, the provisions of the other measure or measures are deemed to be in conflict with this measure. In the event this measure shall receive the greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

SEC. 34. Legal Challenge

Any challenge to the validity of this act must be filed within six months of the effective date of this act.

*Number on ballot*

10. **Alternative Fuel Vehicles and Renewable Energy. Bonds.**

[Submitted by the initiative and rejected by electors November 4, 2008.]

## PROPOSED LAW

### THE CALIFORNIA RENEWABLE ENERGY AND CLEAN ALTERNATIVE FUEL ACT.

SECTION 1. Title.

This measure shall be known and may be cited as "The California Renewable Energy and Clean Alternative Fuel Act."

SECTION 2. Findings and declarations.

The people of California find and declare the following:

A. California's excessive dependence on petroleum products threatens our health, our environment, our economy and our national security.

B. Transportation accounts for 40 percent of California's annual greenhouse gas emissions, and we rely on petroleum-based fuels for an overwhelming 96 percent of our transportation needs. This petroleum dependency contributes to climate change and leaves workers, consumers and businesses vulnerable to price spikes from an unstable energy market.

C. The landmark California Global Warming Solutions Act of 2006 requires California to reduce statewide greenhouse gas emissions to 1990 levels by 2020.

D. Governor Schwarzenegger has issued an executive order establishing a groundbreaking low carbon fuel standard that will reduce the carbon intensity of California's passenger vehicle fuels by at least 10 percent by 2020. This standard is expected to triple the state's renewable fuels market and put 20 times the number of alternative fuel or hybrid vehicles on our roads.

E. Government should provide public funds to meet these policy goals by creating incentives for businesses and consumers to conserve energy and use alternative energy sources.

F. A comprehensive alternative energy strategy must be implemented. This strategy should concentrate on three areas: renewable electricity generation, clean alternative fuels for transportation, and energy efficiency and conservation.

G. A variety of clean domestic fuels are available to power automobiles, including natural gas, cellulosic ethanol, biodiesel and hydrogen.

H. Clean and renewable domestic sources of energy are available for the generation of electricity, including solar, wind, geothermal and tidal power.

I. An effective clean energy strategy must consist of short- and long-term objectives. The strategy must utilize clean energy technologies and clean alternative fuels that are commercially available while investing in clean energy technologies and fuels for the future. Emissions reduction and energy efficiency are an important component of this strategy.

J. Energy conservation will increase as the public is educated in the use of new, clean energy alternatives, such as improved computerized monitoring and control systems, energy-efficient appliances and more efficient engines for vehicles.

K. Local governments can play an important role in educating the public on the use of alternative energy by creating alternative energy demonstration projects in communities throughout California.

L. California's history of technological innovation and entrepreneurship, international leadership in promoting energy efficiency, abundance of world-leading academic institutions, and national leadership in environmental stewardship qualifies California to lead the way into an era of renewable energy and clean alternative fuels.

SECTION 3. Purpose and intent.

It is the intent of the people of California in enacting this measure to:

A. Invest five billion dollars ($5,000,000,000) in projects and programs designed to enhance California's energy independence and to reduce our dependence on foreign oil, reduce greenhouse gas emissions, implement the California Global Warming Solutions Act of 2006 and improve air quality.

B. Provide incentives for the engineering, design and construction of facilities and related infrastructure for the large-scale production of electricity using renewable energy technologies, such as solar, wind, geothermal, and tidal power.

C. Provide incentives for individuals and businesses to purchase or lease and install equipment in California for the production of electrical energy utilizing renewable energy technologies.

D. Provide rebates for individuals and businesses to purchase clean alternative energy vehicles, including hybrid, plug-in hybrid and natural-gas-powered vehicles. Funds will also be provided for testing and certification of alternative fuel vehicles and research and development of low-carbon fuels.

E. Provide funds for local governments to create renewable energy demonstration projects and educational projects in their communities.

F. Provide grants to California public universities, colleges and community colleges for the purpose of training students to work with clean and renewable energy technologies.

G. Provide consumer education on the availability and use of clean and renewable energy products and services.

H. Make full use of California's resources and its capability for innovation to develop new ways to meet the state's important long-term goals: the Renewable Portfolio Standard, Control of Greenhouse Gas Emissions and Criteria Air Pollutants from Motor Vehicles and the state's petroleum reduction goals set forth in this act.

I. Ensure that the revenues from this measure are invested wisely in commercially viable technology achieving short-term and longer-term measurable results while supporting research and new technologies, and require mandatory independent audits and annual progress reports so that project administrators are accountable to the people of California.

SECTION 4. Addition of Division 16.6, commencing with Section 26410, to the Public Resources Code. Division 16.6 (commencing with Section 26410) is added to the Public Resources Code, to read:

*DIVISION 16.6. THE CALIFORNIA RENEWABLE ENERGY AND CLEAN ALTERNATIVE FUEL ACT*

*CHAPTER 1. GENERAL PROVISIONS*

*26410. This division shall be known and may be cited as "The California Renewable Energy and Clean Alternative Fuel Act."*

*26411. Each state agency that is designated by this division to administer or expend money appropriated from the California Renewable Energy and Clean Alternative Fuel Fund accounts established pursuant to subdivision (a)*

*of Section 26416 shall perform the following functions in addition to its other powers, duties and responsibilities:*

*(a) Administer and expend money in the accounts appropriated from the fund within 10 years of the effective date of this act to achieve the objectives of the act from either the proceeds of bonds or other resources of the agency or the fund accounts. Notwithstanding the preceding, to the maximum extent permitted, reasonable efforts should be used to award the rebates provided by subdivision (a) of Section 26419 within five years of the effective date of this act. The agency shall expend any additional amounts remaining in the fund and appropriated to the agency in furtherance of the purposes of this act.*

*(b) Adopt milestones to measure the agency's success in meeting the goals of this act. For the purposes of this subdivision, "milestones" means interim goals prescribed by the agency that indicate the nature, level, and timing of progress expected from the implementation of this act.*

*(c) Ensure the completion of an annual independent financial audit of the agency's operations and issue public reports regarding the agency's activities, including without limitation the expenditures and programs authorized in accordance with this act.*

*(d) Notwithstanding Section 11005 of the Government Code, accept additional revenue and real and personal property, including, but not limited, to gifts, bequests, royalties, interest, and appropriations to supplement the agency's funding. Notwithstanding Chapter 5 (commencing with Section 26426), donors may earmark gifts for any particular purpose authorized by this act.*

*(e) Apply for federal matching funds where possible.*

*(f) Establish standards requiring that all research grants made pursuant to this act shall be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from the research with the need to ensure that such research is not unreasonably hindered by those intellectual property agreements.*

*(g) Establish procedures, standards, and forms for the oversight of the agency's award of incentives including, but not limited to, grants, loans, loan guarantees, credits, buydowns, and rebates made under this act to ensure compliance with all applicable terms and requirements. The standards shall include periodic reporting, including financial and performance audits, to ensure the purposes of this act are being met.*

*(h) Adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) as necessary to implement this act.*

*CHAPTER 2. DEFINITIONS*

*26412. As used in this act, the following terms have the following meanings:*

*(a) "Buydown" means a cash payment to individual consumers and entities for the purchase of equipment for the production of electrical energy utilizing renewable energy technologies.*

*(b) "Clean alternative fuel" means natural gas and any fuel that achieves a reduction of at least 10 percent carbon intensity as contained in Governor Schwarzenegger's Executive Order S-01-07.*

*(c) "Clean alternative fuel vehicle" means a vehicle produced by an original equipment manufacturer or a small volume manufacturer that is powered by a clean alternative fuel and has the ability to meet applicable vehicular emission standards, that, relative to petroleum use, produces no net material increase in air pollution (including global warming emissions and air quality pollutants),*

*water pollution, or any other substances that are known to damage human health, and that meets all applicable safety certifications and standards necessary to operate in California.*

*(d) "Dedicated clean alternative fuel vehicle" means a clean alternative fuel vehicle, as defined in subdivision (c), that is powered exclusively by biomethane, electricity, hydrogen, natural gas, or propane, or any combination thereof, but which may use no more than 10 percent of diesel for the primary purpose of ignition in a diesel compression cycle engine.*

*(e) "Energy efficiency technologies" means methods of obtaining greater benefits using less energy, compared with typical current practices in California.*

*(f) "Full fuel cycle assessment," also known as a "well-to-wheels analysis," means an evaluation and comparison of the full environmental and health impacts of each step in the life cycle of a fuel, including, but not limited to, all of the following:*

*(1) Feedstock production, extraction, transport, and storage.*

*(2) Fuel production, distribution, transport, and storage.*

*(3) Vehicle operation, including refueling, combustion, or conversion, and evaporation.*

*(g) "Fund" means the California Renewable Energy and Clean Alternative Fuel Fund established by Section 26413.*

*(h) "Heavy-duty vehicle" means a vehicle of 25,000 or more pounds in gross vehicle weight.*

*(i) "Heavy-medium-duty vehicle" means a vehicle of 14,000 pounds or more in gross vehicle weight and less than 25,000 pounds in gross vehicle weight.*

*(j) "High fuel economy vehicle" means a light-duty vehicle produced by an original equipment manufacturer or a small volume manufacturer that can achieve a combined fuel economy of not less than 45 miles per gallon for highway use as determined by the United States Environmental Protection Agency and that meets the criteria air emission standards of the State Air Resources Board.*

*(k) "Light-duty vehicle" means a vehicle less than 8,500 pounds in gross vehicle weight that is authorized to be operated on all roads and highways in California.*

*(l) "Light-medium-duty vehicle" means a vehicle of 8,500 pounds or more in gross vehicle weight and less than 14,000 pounds in gross vehicle weight.*

*(m) "Original purchaser" means an individual or entity that purchases a new home clean alternative fuel refueling system or an individual consumer or private (non-governmental) entity that purchases a new or repowered clean alternative fuel vehicle produced by an original equipment manufacturer or a small volume manufacturer that is certified by the State Air Resources Board. An original purchaser for purposes of a rebate in connection with a new or repowered clean alternative fuel vehicle under Section 26419 shall include a lessee of a vehicle with a lease term of not less than 24 months.*

*(n) "Petroleum reduction" means methods of reducing total petroleum use in California either through increased energy efficiency, clean alternative fuels, or a combination of both.*

*(o) "Rebate" means a cash payment to an original purchaser of a clean alternative fuel vehicle, a dedicated clean alternative fuel vehicle, a high fuel economy vehicle, a very high fuel economy vehicle, or a home clean alternative fuel refueling system pursuant to Section 26419.*

*(p) "Renewable energy technologies" means energy production techniques, products, or systems, distribution techniques, products, or systems and*

*transportation machinery, products, or systems, all of which solely utilize energy resources that are naturally regenerated over a short time period and delivered directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower facilities, and photosynthetic energy stored in biomass), or from other natural movements or mechanisms of the environment, such as geothermal, wave, and tidal energy.*

*(q) "Repowered" means a new or used vehicle that is modified to operate on a system certified by the State Air Resources Board and is powered by a dedicated clean alternative fuel and is produced by an original equipment manufacturer or a small volume manufacturer that is certified by the State Air Resources Board.*

*(r) "Very high fuel economy vehicle" means a light-duty vehicle produced by an original equipment manufacturer or a small volume manufacturer that can achieve a combined fuel economy of not less than 60 miles per gallon for highway use as determined by the United States Environmental Protection Agency and that meets the criteria air emission standards of the State Air Resources Board.*

*CHAPTER 3. CALIFORNIA RENEWABLE ENERGY AND CLEAN ALTERNATIVE FUEL FUND*

*26413. The California Renewable Energy and Clean Alternative Fuel Fund is hereby created.*

*26414. All money deposited into the fund shall be used only for the purposes and in the amounts set forth in this division and for no other purpose.*

*26415. Except as otherwise expressly provided in this division, upon a finding by the state agency designated by this division to administer or expend money appropriated from the fund that a particular project or program for which money had been allocated or granted cannot be completed, or that the amount that was appropriated, allocated, or granted is in excess of the total amount needed, each such state agency may reappropriate the money for other high-priority needs consistent with this division.*

*CHAPTER 4. ALLOCATION OF FUNDS*

*26416. (a) Funds in the California Renewable Energy and Clean Alternative Fuel Fund shall be allocated as follows:*

*(1) One billion two hundred fifty million dollars ($1,250,000,000) shall be allocated to the Solar, Wind, and Renewable Energy Account, which is hereby created in the fund.*

*(2) Three billion four hundred twenty-five million dollars ($3,425,000,000) shall be allocated to the Clean Alternative Fuels Account, which is hereby created in the fund.*

*(3) Two hundred million dollars ($200,000,000) shall be allocated to the Demonstration Projects and Public Education Account, which is hereby created in the fund.*

*(4) One hundred twenty-five million dollars ($125,000,000) shall be allocated to the Education, Training, and Outreach Account, which is hereby created in the fund.*

*(b) Any funds allocated to the accounts established by subdivision (a) that are not encumbered or expended in any fiscal year shall remain in the same account for the next fiscal year.*

*(c) Money deposited in the accounts of the fund created in subdivision (a) shall, to the maximum extent permitted, be used to supplement, and not to supplant, existing state funding for research, technological development, vocational training and deployment involving renewable energy, clean alternative fuels, and energy efficiency.*

*(d) Not more than 1 percent of the funds in each account may be expended for the purpose of administering the implementation of the act.*

*26417. Based on the standards set forth in Section 26418, the funds in the Solar, Wind, and Renewable Energy Account shall be appropriated and expended by the State Energy Resources Conservation and Development Commission for the primary purpose of developing solar, wind, and other means of electrical energy generation using renewable sources to displace traditional generation sources, for the following categories of expenditures:*

*(a) The sum of two hundred fifty million dollars ($250,000,000) shall be awarded for market-based incentives, including, but not limited to, conventional, low and zero interest loans, loan guarantees, credits, buydowns and grants, for the purchase or lease and installation of equipment in California for the production of electrical energy utilizing renewable energy technologies, such as solar, wind, geotherma1, wave, and tidal power.*

*(b) The sum of one billion dollars ($1,000,000,000) shall be awarded for grants and other incentives for the research, development, construction, and production of advanced renewable electric generation technology for the purpose of reducing the cost and greenhouse gas content of California's in-state electric generation sources and to contribute to the state's greenhouse gas reduction targets. For purposes of this subdivision, "advanced technologies" means technological advancements in electric generation or storage capacities that have the potential to significantly reduce greenhouse gas emissions in a cost-effective manner, relative to current technologies. "Advanced technologies" include, but are not limited to, large-scale solar thermal, solar voltaic, energy storage, biogas, wave, and tidal current. For purposes of this subdivision, "energy storage" and "storage technologies" means technologies that allow electricity produced by renewable sources during off-peak electric demand hours and utilized during peak electric demand hours.*

*26418. Standards for Solar, Wind, and Renewable Energy Account Expenditures.*

*(a) The State Energy Resources Conservation and Development Commission shall make expenditures pursuant to Section 26417 consistent with the goal of improving the economic viability and accelerating the commercialization of renewable electrical energy resources, such as solar, wind, geothermal, wave, and tidal current.*

*(b) Funding priority shall be given to proposals that utilize solar technology for the production of electrical energy, and not less than 80 percent of the total amount deposited in this account shall be used for such solar technology. Thereafter, priority shall be given to proposals that utilize more abundant renewable electrical energy resources, that offer the greatest potential for technological breakthroughs, and that minimize variable and fixed rate costs.*

*(c) All expenditures made pursuant to subdivision (b) of Section 26417 shall be based upon a competitive selection process established by the State Energy Resources Conservation and Development Commission. The commission shall, at a minimum:*

*(1) Ensure that the expenditure is for research in renewable electrical energy technologies or electrical energy efficiency technologies.*

*(2) Ensure, to the maximum extent permitted, that the expenditure does not supplant funds authorized or appropriated by the Legislature pursuant to Article 11 (commencing with Section 44125) of Chapter 5 of, and Chapter 8.9*

*(commencing with Section 44270) of, Part 5 of Division 26 of the Health and Safety Code.*

*(3) Evaluate the quality of the research proposal, the potential for achieving significant results, including consideration of how the expenditure will aid or result in the commercialization, or significant and permanent deployment, of renewable electrical energy technologies and resources, and the time frame for achieving that goal.*

*(4) Ensure that the expenditure is consistent with any applicable strategic plan adopted by the State Energy Resources Conservation and Development Commission.*

*(d) All expenditures made pursuant to subdivision (a) of Section 26417 shall be in accordance with procedures, standards and forms adopted by the State Energy Resources Conservation and Development Commission to substantiate and verify the award of incentives.*

*26419. Based on the standards set forth in Section 26420, the funds in the Clean Alternative Fuels Account shall be appropriated and expended for the primary purposes of improving air quality, decreasing greenhouse gas emissions, and reducing dependence on foreign oil, for the following categories of expenditures:*

*(a) Two billion eight hundred seventy-five million dollars ($2,875,000,000) shall be allocated to the Alternative Fuel Vehicle Rebate Subaccount hereby established in the Clean Alternative Fuels Account, and expended as rebates pursuant to, and in accordance with, subdivision (a) of Section 26420, as follows:*

*(1) The sum of two thousand dollars ($2,000) to the original purchaser of any new high fuel economy vehicle. One hundred ten million dollars ($110,000,000) shall be allocated for this purpose.*

*(2) The sum of four thousand dollars ($4,000) to the original purchaser of any new very-high-fuel-economy vehicle. Two hundred thirty million dollars ($230,000,000) shall be allocated for this purpose.*

*(3) The sum of ten thousand dollars ($10,000) to the original purchaser of any new or repowered light-duty dedicated clean alternative fuel vehicle. Five hundred fifty million dollars ($550,000,000) shall be allocated for this purpose.*

*(4) The sum of twenty-five thousand dollars ($25,000) to the first 5,000 original purchasers of any new or repowered light-medium-duty dedicated clean alternative fuel vehicle, and the sum of fifteen thousand dollars ($15,000) to subsequent original purchasers of such vehicles. The first 5,000 original purchasers shall be determined by the State Board of Equalization based on the date and time of its receipt of requests for rebates. Three hundred ten million dollars ($310,000,000) shall be allocated for this purpose.*

*(5) The sum of thirty-five thousand dollars ($35,000) to the first 10,000 original purchasers of any new or repowered heavy-medium-duty dedicated clean alternative fuel vehicle, and the sum of twenty-five thousand dollars ($25,000) to subsequent original purchasers of such vehicles. The first 10,000 original purchasers shall be determined by the State Board of Equalization based on the date and time of its receipt of requests for rebates. Six hundred fifty million dollars ($650,000,000) shall be allocated for this purpose.*

*(6) The sum of fifty thousand dollars ($50,000) to the first 5,000 original purchasers of any new or repowered heavy-duty dedicated clean alternative fuel vehicle, the sum of forty thousand dollars ($40,000) to the subsequent 5,000 original purchasers of such vehicles, and the sum of thirty thousand dollars ($30,000) to each subsequent original purchaser of such vehicles. The first*

*5,000 original purchasers and the subsequent 5,000 original purchasers shall be determined by the State Board of Equalization based on the date and time of its receipt of requests for rebates. One billion dollars ($1,000,000,000) shall be allocated for this purpose.*

*(7) The sum of two thousand dollars ($2,000) to the original purchaser of any new clean alternative fuel home refueling appliance. Each purchaser must demonstrate ownership of a clean alternative fuel vehicle utilizing such appliance. Twenty-five million dollars ($25,000,000) shall be allocated to this category.*

*(b) Five hundred fifty million dollars ($550,000,000) shall be allocated to a Clean Alternative Fuel Research, Development, and Demonstration Program Subaccount, hereby established in the Clean Alternative Fuel Research, Development, and Demonstration Program, to be administered and expended by the State Air Resources Board as follows:*

*(1) The sum of one hundred million dollars ($100,000,000) shall be available for incentives, including, but not limited to, conventional, low and zero interest loans, loan guarantees, credits, and grants, for the development or demonstration, or both, of dedicated clean alternative fuel vehicles in California and, in addition, those vehicles that combine clean alternative fuels and high efficiency vehicle technology.*

*(2) The sum of four hundred million dollars ($400,000,000) shall be available as incentives to support research and development for technologies of efficient and cost-effective production of liquid and gaseous low-carbon and non-carbon fuels. Of this sum, two hundred million dollars ($200,000,000) shall be available for liquid low-carbon and non-carbon fuel development, and two hundred million dollars ($200,000,000) shall be available for gaseous low-carbon and non-carbon fuel development.*

*(3) The sum of fifty million dollars ($50,000,000) shall be available for incentives, including, but not limited to, conventional, low and zero interest loans, loan guarantees, credits, and grants for reasonable costs associated with the testing and certification of dedicated clean alternative fuel vehicles.*

*26420. Standards for Clean Alternative Fuels Account Expenditures.*

*(a) The rebates authorized pursuant to subdivision (a) of Section 26419 shall be implemented in the following manner:*

*(1) Rebates shall be paid only after funds have been allocated to the Alternative Fuel Vehicle Rebate Subaccount. Notwithstanding the foregoing, qualifying purchases or leases from and after January 1, 2009, shall be eligible to receive rebates promptly after funds have been allocated to the Alternative Fuel Vehicle Rebate Subaccount.*

*(2) The licensed dealer of a vehicle eligible for a rebate is required, prior to the time of purchase or lease, to provide written notification to the original purchaser of such eligibility and the options, steps, and requirements to obtain the rebate.*

*(3) An original purchaser entitled to a rebate may either obtain the full amount of the rebate from the State Board of Equalization or, with the written consent of the licensed dealer of the vehicle at the time of purchase or lease, assign the right to receive the rebate to the dealer.*

*(4) An original purchaser or the original purchaser's assignee electing to obtain the rebate from the State Board of Equalization shall submit proof of residency, proof of purchase or lease, proof that the vehicle is eligible for the rebate and proof of vehicle registration in California. The State Board of*

*Equalization shall adopt such regulations and forms as deemed necessary to administer this provision.*

*(5) In the event a licensed dealer agrees at the time of purchase or lease to accept the original purchaser's assignment of the right to receive the rebate, the dealer shall notify the State Board of Equalization at the same time the dealer reports the sale or lease to the State Board of Equalization for the purpose of transmitting the sales or use tax owed by the original purchaser. Within five business days of its receipt of the report of sale or lease, the State Board of Equalization shall remit the amount of the rebate to the dealer or credit the dealer's tax prepayment account. The State Board of Equalization shall adopt such forms as necessary to administer and further implement this provision.*

*(6) The State Board of Equalization shall calculate the sales or use tax applicable to the sale or lease of a vehicle at the full purchase or lease price of the vehicle without regard to any possible rebate under subdivision (a) of Section 26419.*

*(7) Only one rebate pursuant to subdivision (a) of Section 26419 shall be allowed for a specific vehicle.*

*(b) For expenditures pursuant to subdivision (b) of Section 26419, the State Air Resources Board shall make expenditures consistent with the goal of reducing the rate of petroleum consumption, and causing permanent and long-term reductions in petroleum consumption in California by not less than 20 percent by 2020 and not less than 30 percent by 2030. In addition, such expenditures shall be based upon a competitive selection process established by the State Air Resources Board. The board shall, at a minimum:*

*(1) Ensure, to the maximum extent permitted, that the expenditure does not supplant, but supplements, existing state funding for the reduction of petroleum consumption in California.*

*(2) Ensure, to the maximum extent permitted, that the expenditure does not supplant funds authorized or appropriated by the Legislature pursuant to Article 11 (commencing with Section 44125) of Chapter 5 of, and Chapter 8.9 (commencing with Section 44270) of, Part 5 of Division 26 of the Health and Safety Code.*

*(3) Evaluate the quality of the proposal for funding, including the availability of private matching funds, and the potential for achieving significant results, including the level of petroleum reduction within the state that is expected to be achieved as a result of the expenditure. Proposals with significant business validation and leverage from private equity funding or subordinate debt funding from private sources shall be prioritized and given preference to establish the market viability of the proposals.*

*(4) Evaluate the probability that the proposal will result in a sustained, unsubsidized market-competitive technology or technologies that can achieve substantial consumer or business acceptance beyond the subsidy or incentive period.*

*(5) Ensure that the expenditure is consistent with any applicable strategic plan adopted by the State Air Resources Board.*

*26421. Based on the standards in Section 26422, the funds in the Demonstration Projects and Public Education Account shall be administered and expended by the State Energy Resources Conservation and Development Commission for grants in the following amounts to the following local governments for the purpose of capital projects and operating expenses promoting and demonstrating the actual use of alternative and renewable energy*

*in park, recreation, and cultural venues, including the education of students, residents, and the visiting public about these technologies and practices.*

*(a) The sum of twenty-five million dollars ($25,000,000) shall be available to the City of Los Angeles.*

*(b) The sum of twenty-five million dollars ($25,000,000) shall be available to the City of San Diego.*

*(c) The sum of twenty-five million dollars ($25,000,000) shall be available to the City of Long Beach.*

*(d) The sum of twenty-five million dollars ($25,000,000) shall be available to the City of Irvine.*

*(e) The sum of twenty-five million dollars ($25,000,000) shall be available to the City and County of San Francisco.*

*(f) The sum of twenty-five million dollars ($25,000,000) shall be available to the City of Oakland.*

*(g) The sum of twenty-five million dollars ($25,000,000) shall be available to the City of Fresno.*

*(h) The sum of twenty-five million dollars ($25,000,000) shall be available to the City of Sacramento.*

*26422. Standards for Demonstration Projects and Public Education Account Expenditures:*

*(a) The State Energy Resources Conservation and Development Commission shall allocate funds to each public entity identified in Section 26421 upon the entity's submittal and the commission's approval of a proposed capital project and/or operating expense program that complies with and conforms to the purpose specified in Section 26421.*

*(b) All projects and programs proposed by each public entity identified in Section 26421 shall comply with state content standards for educational programs that serve children in kindergarten and grades 1 to 12, inclusive.*

*26423. Based on the standards in Section 26424, the funds in the Education, Training, and Outreach Account shall be appropriated and expended by the State Energy Resources Conservation and Development Commission for the following purposes:*

*(a) Make grants to California public universities, colleges, and community colleges for:*

*(1) Staff development, training grants, and research to train students to work with and to improve the economic viability and accelerate the commercialization of renewable energy technologies, energy efficiency technologies, and clean alternative fuels in buildings, equipment, electricity generation, and vehicles.*

*(2) Tuition assistance for low-income students and former fossil fuel energy workers and certified vehicle mechanics to obtain training to work with renewable energy technologies, such as solar, geothermal, wind, wave, and tidal technologies, clean alternative fuels, and energy efficiency technologies, in buildings, equipment, electricity generation, and vehicles.*

*(b) The sum of twenty-five million dollars ($25,000,000) shall be available for outreach to provide public information concerning the importance, availability, and accessibility of clean alternative fuels and clean alternative fuel vehicles, energy efficiency devices and technologies, and renewable energy technologies.*

*(c) Such other programs as may be determined by the State Energy Resources Conservation and Development Commission to advance the purpose and intent of this act consistent with its stated goals and objectives.*

*26424. Standards for Education, Training, and Outreach Account Expenditures.*

*(a) The State Energy Resources Conservation and Development Commission shall make expenditures pursuant to Section 26423 consistent with the goals of training students to work with renewable energy technologies, such as solar, geothermal, wind, wave, and tidal power technologies, or energy efficiency technologies, in buildings, equipment, electricity generation, clean alternative fuels, and clean alternative fuel vehicles.*

*(b) All expenditures made pursuant to Section 26423 shall, as deemed necessary or appropriate by the State Energy Resources Conservation and Development Commission, be based upon a competitive selection process established by the State Energy Resources Conservation and Development Commission.*

*26425. The Legislature shall enact such legislation as is necessary, if any, to implement this chapter.*

*CHAPTER 5. FISCAL PROVISIONS*

*26426. Bonds in the total amount of five billion dollars ($5,000,000,000), not including the amount of any refunding bonds issued in accordance with Section 26435, or so much thereof as is necessary, may be issued and sold to be used for carrying out the purposes set forth in this division and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.*

*26427. The bond proceeds shall be deposited into the California Renewable Energy and Clean Alternative Fuel Fund created by Section 26413. 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 they become due and payable.*

*26428. The bonds authorized by this division 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 provisions of that law shall apply to the bonds and to this division; provided, however, that the limitations set forth in Section 16727 of the Government Code shall not apply to the bonds and to this division.*

*26429. (a) Solely for purposes of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the California Renewable Energy and Clean Alternative Fuel Finance Committee is hereby created. For purposes of this division, the California Renewable Energy and Clean Alternative Fuel Finance Committee is "the committee" as that term is defined and used by the State General Obligation Bond Law. The committee shall consist of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.*

*(b) For the purposes of this chapter, the Secretary of the Resources Agency shall be "the board" as that term is defined and used by the State General Obligation Bond Law.*

*26430. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division in order to carry out the actions specified in this division 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. The committee shall, to the maximum extent permitted, give priority to the issuance and sale of bonds necessary to allocate funds to the Alternative Fuel Vehicle Rebate Subaccount established in subdivision (a) of Section 26419.*

*26431. There shall be collected annually 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 maturing 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 so and perform each and every act that is necessary to collect that additional sum.*

*26432. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund, for purposes of this division, an amount that will equal the total of (a) the sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable, and (b) the sum that is necessary to carry out the provisions of Section 26433, appropriated without regard to fiscal years.*

*26433. For the purposes of carrying out this division, 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 that have been authorized to be sold for the purposes of carrying out this division. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds that would otherwise be deposited in that fund.*

*26434. All money derived from premium and accrued interest on bonds sold shall be reserved and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.*

*26435. Any bonds issued or sold pursuant to this division may be refunded by the issuance 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. Approval by the electors of the state for the issuance of the bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.*

*26436. The people of California hereby find and declare that inasmuch as the proceeds from the sale of bonds authorized by this division 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 limitation imposed by that article.*

### *Chapter 6. Accountability*

*26437. In addition to any other required reports, the State Energy Resources Conservation and Development Commission, the State Air Resources Board, and the Controller shall each issue an annual report to the Governor, the Legislature, and the public that sets forth their activities and accomplishments relating to this act and future program directions. Each annual report shall include, but not be limited to, the following information: the number and dollar amounts of incentives, including but not limited to grants, loans, loan guarantees, credits, buydowns, and rebates; the recipients of incentives for the prior year; the administrative expenses relating to the act; a summary of research findings,*

*including promising new research areas and technological innovations; and an assessment of the relationship between the award of incentives and any applicable strategic plan.*

SECTION 5. Competing, regulatory alternative.

A. In the event that another measure ("competing measure") appears on the same ballot as this act that seeks to adopt or impose provisions or requirements that differ in any regard to, or supplement, the provisions or requirements contained in this act, the voters hereby expressly declare their intent that if both the competing measure and this act receive a majority of votes cast, and this act receives a greater number of votes than the competing measure, this act shall prevail in its entirety over the competing measure without regard to whether specific provisions of each measure directly conflict with each other.

B. In the event that both the competing measure and this act receive a majority of votes cast, and the competing measure receives a greater number of votes than this act, this act shall be deemed complementary to the competing measure. To this end, and to the maximum extent permitted by law, the provisions of this act shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with each other on a "provision-by-provision" basis pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978.

SECTION 6. Amendment. The provisions of this act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SECTION 7. Severability. 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 this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

# LIST OF OFFICERS

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## 2008

### STATE CAPITOL AND OTHER BUILDINGS

**Sacramento 95814**

| Name | Office | Residence |
|---|---|---|
| Arnold Schwarzenegger | Governor | Los Angeles |
| John Garamendi | Lieutenant Governor | Walnut Grove |
| Debra Bowen | Secretary of State | Marina del Rey |
| John Chiang | Controller | Los Angeles |
| Bill Lockyer | Treasurer | Sacramento |
| Edmund G. Brown Jr. | Attorney General | Oakland |
| Steve Poizner | Insurance Commissioner | Los Gatos |
| Jack O'Connell | Superintendent of Public Instruction | San Luis Obispo |
| Diane F. Boyer-Vine | Legislative Counsel | Sacramento |

## OFFICE OF GOVERNOR

Susan P. Kennedy ..... Chief of Staff
John Cruz ..... Appointments Secretary
Sharon Majors-Lewis ..... Judicial Appointments Secretary
Dan Dunmoyer ..... Cabinet Secretary
Andrea Hoch ..... Legal Affairs Secretary
Chris Kahn ..... Legislative Affairs Secretary
Aaron McLear ..... Press Secretary
Elizabeth Beisler ..... Director of Scheduling
Matthew David ..... Deputy Chief of Staff Communications
Kevin Luiz ..... Director of Advance

Offices: State Capitol, Sacramento 95814

## STATE BOARD OF EQUALIZATION

**450 N Street, Sacramento 95814**

| Name | Office | Residence |
|---|---|---|
| Betty T. Yee | Board Member, First District | San Francisco |
| Bill Leonard | Board Member, Second District | Sacramento |
| Michelle Steel. | Board Member, Third District | Rolling Hills Estates |
| Judy Chu | Board Member, Fourth District | Monterey Park |
| John Chiang (Controller) | Ex-Officio Member | Los Angeles |

# LEGISLATIVE DEPARTMENT

## UNITED STATES SENATORS

Dianne Feinstein (D)..... 331 Hart Senate Office Building, Room 331
Washington, D.C. 20510
One Post Street, Suite 2450, San Francisco 94104

Barbara Boxer (D).....112 Hart Senate Office Building
Washington, D.C. 20510
1700 Montgomery Street, Suite 240, San Francisco 94111

## REPRESENTATIVES IN CONGRESS

| Name | Party | District | Counties | Main District Office* |
|---|---|---|---|---|
| Baca, Joe ..... | D | 43 | San Bernardino..... | 201 N.E. Street, Suite 102<br>San Bernardino 92401 |
| Becerra, Xavier ..... | D | 31 | Los Angeles..... | 1910 Sunset Blvd., #560<br>Los Angeles 90026 |
| Berman, Howard L. ..... | D | 28 | Los Angeles..... | 14546 Hamlin St., Suite 202<br>Van Nuys 91411 |
| Bilbray, Brian P. ..... | R | 50 | San Diego..... | 462 Stevens Ave., Suite 107<br>Solana Beach 92075 |
| Bono, Mary ..... | R | 45 | Riverside ..... | 707 E. Tahquitz Canyon Way,<br>Suite 9,<br>Palm Springs 92262;<br>1600 E. Florida Ave., Suite 301<br>Hemet 92544 |
| Calvert, Ken ..... | R | 44 | Orange, Riverside..... | 3400 Central Ave., #200<br>Riverside 92506;<br>26111 Antonio Pky., Suite 300<br>Las Flores 92688 |
| Campbell, John ..... | R | 48 | Orange..... | 610 Newport Center Drive,<br>Suite 330<br>Newport Beach 92660 |
| Capps, Lois ..... | D | 23 | San Luis Obispo,<br>Santa Barbara, Ventura..... | 1216 State St., #403<br>Santa Barbara 93101;<br>1411 Marsh St., Suite 205<br>San Luis Obispo 93401;<br>141 S. A St., Suite 204<br>Oxnard 93030 |
| Cardoza, Dennis A. ..... | D | 18 | Fresno, Madera, Merced,<br>San Joaquin, Stanislaus..... | 2222 M St., Suite 305<br>Merced 95340;<br>137 E. Weber Ave.,<br>Stockton 95202;<br>1010 10th St., Suite 5800<br>Modesto 95354 |
| Costa, Jim ..... | D | 20 | Fresno, Kern, Kings ..... | 855 M St., Suite 940, Fresno 93721;<br>2700 M St., Suite 225<br>Bakersfield 93301 |
| Davis, Susan A. ..... | D | 53 | San Diego..... | 4305 University Ave., Suite 515<br>San Diego 92105 |
| Doolittle, John T. ..... | R | 4 | Butte, El Dorado, Lassen,<br>Modoc, Nevada, Placer,<br>Plumas, Sacramento, Sierra | 4230 Douglas Blvd., #200<br>Granite Bay 95746 |
| Dreier, David ..... | R | 26 | Los Angeles,<br>San Bernardino..... | 2220 E. Route 66, Suite 225<br>Glendora 91740 |
| Eshoo, Anna G. ..... | D | 14 | San Mateo, Santa Clara,<br>Santa Cruz..... | 698 Emerson St.<br>Palo Alto 94301 |
| Farr, Sam..... | D | 17 | Monterey, San Benito,<br>Santa Cruz..... | 100 W. Alisal St.<br>Salinas 93901;<br>701 Ocean St., Room 318<br>Santa Cruz 95060 |
| Filner, Bob ..... | D | 51 | Imperial, San Diego ..... | 333 F St., Suite A<br>Chula Vista 91910;<br>1101 Airport Road, Suite D<br>Imperial 92251 |
| Gallegly, Elton ..... | R | 24 | Santa Barbara, Ventura..... | 2829 Townsgate Road, Suite 315<br>Thousand Oaks 91361-3018;<br>485 Alisal Road, Suite G-1A<br>Solvang 93463 |

**REPRESENTATIVES IN CONGRESS—Continued**

| Name | Party | District | Counties | Main District Office* |
|---|---|---|---|---|
| Harman, Jane | D | 36 | Los Angeles | 2321 E. Rosecrans Ave., Suite 3270<br>El Segundo 90245 |
| Herger, Wally | R | 2 | Butte, Colusa, Glenn, Shasta, Siskiyou, Sutter, Tehama, Trinity, Yolo, Yuba | 55 Independence Circle, #104<br>Chico 95973;<br>410 Hemsted Drive, Suite 115<br>Redding 96002 |
| Honda, Michael M. | D | 15 | Santa Clara | 1999 S. Bascom Ave., Suite 815<br>Campbell 95008 |
| Hunter, Duncan | R | 52 | San Diego | 1870 Cordell Ct., Suite 206<br>El Cajon 92020 |
| Issa, Darrell E. | R | 49 | Riverside, San Diego | 1800 Thibodo Road, Suite 310<br>Vista 92083 |
| Lee, Barbara | D | 9 | Alameda | 1301 Clay St., #1000N<br>Oakland 94612 |
| Lewis, Jerry | R | 41 | Riverside, San Bernardino | 1150 Brookside Ave., #J-5<br>Redlands 92373 |
| Lofgren, Zoe | D | 16 | Santa Clara | 635 N. First St., Suite B<br>San Jose 95112 |
| Lungren, Daniel E. | R | 3 | Alpine, Amador, Calaveras, Sacramento, Solano | 11246 Gold Express Drive,<br>Suite 101<br>Gold River 95670 |
| Matsui, Doris O. | D | 5 | Sacramento | 501 I St., #12-600<br>Sacramento 95814 |
| McCarthy, Kevin | R | 22 | Kern, Los Angeles, San Luis Obispo | 1523 Longworth HOB,<br>Washington, D.C. 20515 |
| McKeon, Howard P. "Buck" | R | 25 | Inyo, Los Angeles, Mono, San Bernardino | 26650 The Old Road, Suite 203<br>Santa Clarita 91381;<br>1008 W. Avenue M-14, Suite E-1<br>Palmdale 93551 |
| McNerney, Jerry | R | 11 | Alameda, Contra Costa, San Joaquin, Santa Clara | 312 Cannon HOB,<br>Washington, D.C. 20515 |
| Miller, Gary G. | R | 42 | Los Angeles, Orange, San Bernardino | 1800 E. Lambert Road, Suite 150<br>Brea 92821;<br>200 Civic Center,<br>Mission Viejo 92691 |
| Miller, George | D | 7 | Contra Costa, Solano | 1333 Willow Pass Road, #203<br>Concord 94520;<br>3220 Blume Drive, Suite 281<br>Richmond 94806;<br>375 G Street, Suite 1<br>Vallejo 94592 |
| Napolitano, Grace F. | D | 38 | Los Angeles | 11627 E. Telegraph Road, #100<br>Santa Fe Springs 90670 |
| Nunes, Devin | R | 21 | Fresno, Tulare | 113 N. Church St., Suite 208<br>Visalia 93291;<br>264 Clovis Avenue, Suite 206<br>Clovis 93612 |
| Pelosi, Nancy | D | 8 | San Francisco | 450 Golden Gate Ave.,<br>14th Floor<br>San Francisco 94102 |
| Radanovich, George P. | R | 19 | Fresno, Madera, Mariposa, Stanislaus, Tuolumne | 1040 E. Herndon, Suite 201<br>Fresno 93720;<br>121 Main St., Suite I<br>Turlock 95380 |
| Richardson, Laura | D | 37 | Los Angeles | 2233 Rayburn HOB,<br>Washington, DC 20515 |
| Rohrabacher, Dana | R | 46 | Los Angeles, Orange | 101 Main St., #380<br>Huntington Beach 92648 |
| Roybal-Allard, Lucille | D | 34 | Los Angeles | 255 E. Temple St., #1860<br>Los Angeles 90012 |
| Royce, Edward R. | R | 40 | Orange | 305 N. Harbor Blvd., #300<br>Fullerton 92832 |
| Sanchez, Linda T. | D | 39 | Los Angeles | 17906 Crusader Ave., Suite 100<br>Cerritos 90703 |
| Sanchez, Loretta | D | 47 | Orange | 12397 Lewis St., #101<br>Garden Grove 92840 |
| Schiff, Adam B. | D | 29 | Los Angeles | 87 N. Raymond Ave., Suite 800<br>Pasadena 91103 |

**REPRESENTATIVES IN CONGRESS—Continued**

| Name | Party | District | Counties | Main District Office* |
|---|---|---|---|---|
| Sherman, Brad ..... | D | 27 | Los Angeles..... | 5000 Van Nuys Blvd., Suite 420<br>Sherman Oaks 91403 |
| Solis, Hilda L. ..... | D | 32 | Los Angeles..... | 4401 Santa Anita Ave., #211<br>El Monte 91731 |
| Speier, Jackie ..... | D | 12 | San Francisco, San Mateo..... | 440 S. El Camino Real, Suite 410<br>San Mateo 94402 |
| Stark, Fortney Pete ..... | D | 13 | Alameda ..... | 39300 Civic Center Drive, #220<br>Fremont 94538 |
| Tauscher, Ellen O. ..... | D | 10 | Alameda, Contra Costa,<br>Sacramento, Solano..... | 2121 N. California Blvd., #555<br>Walnut Creek 94596;<br>420 W. 3rd St., Antioch 94509;<br>2000 Cadenasso Drive, Suite A<br>Fairfield 94533 |
| Thompson, Mike ..... | D | 1 | Del Norte, Humboldt,<br>Lake, Mendocino, Napa,<br>Sonoma, Yolo ..... | 1040 Main St., #101<br>Napa 94559;<br>317 3rd St., Suite 1<br>Eureka 95501;<br>430 N. Franklin St.,<br>PO Box 2208, Fort Bragg 95437;<br>712 Main St., Suite 1<br>Woodland 95695 |
| Waters, Maxine ..... | D | 35 | Los Angeles..... | 10124 S. Broadway, #1<br>Los Angeles 90003 |
| Watson, Diane E. ..... | D | 33 | Los Angeles..... | 4322 Wilshire Blvd., Suite 302<br>Los Angeles 90010 |
| Waxman, Henry A. ..... | D | 30 | Los Angeles..... | 8436 W. 3rd St., #600<br>Los Angeles 90048 |
| Woolsey, Lynn C. ..... | D | 6 | Marin, Sonoma..... | 1050 Northgate Drive, Suite 354<br>San Rafael 94903;<br>1101 College Ave., Suite 200<br>Santa Rosa 95404 |

* During Sessions of Congress, mail for Members of the Senate may be addressed: Senate Office Building, Washington, D.C. 20510, and Members of the House of Representatives: House Office Building, Washington, D.C. 20515.

# THE STATE LEGISLATURE

## MEMBERS OF THE SENATE

| Name | Occupation | Party | Dist. | Counties | District Address |
|---|---|---|---|---|---|
| Aanestad, Sam | Oral Surgeon | R | 4 | Butte, Colusa, Del Norte, Glenn, Nevada, Placer, Shasta, Siskiyou, Sutter, Tehama, Trinity, Yuba | 411 Main St., 3rd Floor Chico 95928 Ph: (530) 895-6088; 2967 Davison Court, Suite A-1, Colusa 95932 Ph: (530) 458-4161; 200 Providence Mine Road, Suite 108, Nevada City 95959 Ph: (530) 470-1846; 2400 Washington Ave., Suite 301, Redding 96001 Ph: (530) 225-3142 |
| Ackerman, Dick | Attorney | R | 33 | Orange | 17821 E. 17th Street, Suite 180, Tustin 92780 Ph: (714) 573-1853 |
| Alquist, Elaine | Educator | D | 13 | Santa Clara | 100 Paseo de San Antonio, Suite 209, San Jose 95113 Ph: (408) 286-8318 |
| Ashburn, Roy | Full-time Legislator | R | 18 | Inyo, Kern, San Bernardino, Tulare | 5001 California Ave., Suite 105, Bakersfield 93309 Ph: (661) 323-0443 |
| Battin, Jim | Businessman | R | 37 | Riverside | 13800 Heacock, Suite C112, Moreno Valley 92553 Ph: (951) 653-9502; 73-710 Fred Waring Drive, Suite 112, Palm Desert 92260 Ph: (760) 568-0408 |
| Calderon, Ron | Full-time Legislator | D | 30 | Los Angeles | 400 N. Montebello Blvd., Suite 100, Montebello 90640. Ph: (323) 890-2795 |
| Cedillo, Gilbert | Full-time Legislator | D | 22 | Los Angeles | 617 S. Olive St., Suite 710, Los Angeles 90014 Ph: (213) 612-9566 |
| Cogdill, Dave | Private Business Owner | R | 14 | Fresno, Madera, Mariposa, San Joaquin, Stanislaus, Tuolumne | 4974 E. Clinton, Suite 100, Fresno 93727 Ph: (559) 253-7122; 1308 W. Main St., Suite B, Ripon 95366 Ph: (209) 599-8540 |
| Corbett, Ellen | Attorney | D | 10 | Alameda, Santa Clara | 43081 Mission Blvd., Suite 103, Fremont 94539 Ph: (510) 413-5960 |
| Correa, Lou | Full-time Legislator | D | 34 | Orange | 12397 Lewis St., Suite 103, Garden Grove 92840 Ph: (714) 705-1580 |
| Cox, Dave | Businessman/ Legislator | R | 1 | Alpine, Amador, Calaveras, El Dorado, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, Sierra | 33C Broadway, Jackson 95642. Ph: (209) 223-9140; 1020 N St., Room 568, Sacramento 95814 Ph: (916) 327-9034; 2140 Professional Drive, Suite 140, Roseville 95661 Ph: (916) 783-8232; 2094 E. Main St., Quincy 95971. Ph: (530) 283-3437 |
| Denham, Jeff | Agriculture Business | R | 12 | Madera, Merced, Monterey, San Benito, Stanislaus | 1640 N St., Suite 210, Merced 95340 Ph: (209) 726-5495; 1231 8th St., Suite 175, Modesto 95354 Ph: (209) 577-6592; 369 Main St., #208, Salinas 93901 Ph: (831) 769-8040 |

**MEMBERS OF THE SENATE—Continued**

| Name | Occupation | Party | Dist. | Counties | District Address |
|---|---|---|---|---|---|
| Ducheny, Denise Moreno | Attorney | D | 40 | Imperial, Riverside, San Diego | 637 3rd Ave., Suite C, Chula Vista 91910 Ph: (619) 409-7690; 53-990 Enterprise Way, Suite 14, Coachella 92236 Ph: (760) 398-6442; 1224 State St., Suite D, El Centro 92243 Ph: (760) 335-3442 |
| Dutton, Robert. | Small Business Owner | R | 31 | Riverside, San Bernardino | 8577 Haven Ave., Suite 210, Rancho Cucamonga 91730 Ph: (909) 466-4180; 3560 University Ave., Riverside 92501 Ph: (951) 715-2625 |
| Florez, Dean | Businessman | D | 16 | Fresno, Kern, Kings, Tulare | 1800 30th St., Suite 350, Bakersfield 93301 Ph: (661) 395-2620; 2550 Mariposa Mall, Suite 2016, Fresno 93721 Ph: (559) 264-3070 |
| Harman, Tom | Attorney | R | 35 | Orange | 950 S. Coast Drive, Suite 240, Costa Mesa 92626 Ph: (714) 957-4555 |
| Hollingsworth, Dennis | Farmer's Representative/ Businessman... | R | 36 | Riverside, San Diego | 1870 Cordell Court, Suite 107, El Cajon 92020 Ph: (619) 596-3136; 27555 Ynez Road, Suite 204, Temecula 92591 Ph: (951) 676-1020 |
| Kehoe, Christine | Full-time Legislator | D | 39 | San Diego | 2445 Fifth Ave., Suite 200, San Diego 92101 Ph: (619) 645-3133 |
| Kuehl, Sheila James | Full-time Legislator | D | 23 | Los Angeles, Ventura | 10951 W. Pico Blvd., #202, Los Angeles 90064 Ph: (310) 441-9084; 300 W. Third Street, Oxnard 93030 Ph: (805) 486-3776 |
| Lowenthal, Alan | Professor | D | 27 | Los Angeles | 115 Pine Ave., Suite 430, Long Beach 90802 Ph: (562) 495-4766 |
| Machado, Mike | Farmer/ Businessman... | D | 5 | Sacramento, San Joaquin, Solano, Yolo | 1020 N Street, Suite 506, Sacramento 95814 Ph: (916) 323-4306; 31 E. Channel St., Room 440, Stockton 95202 Ph: (209) 948-7930; 1010 Nut Tree Road, Suite 185, Vacaville 95687 Ph: (707) 454-3808 |
| Maldonado, Abel | Businessman | R | 15 | Monterey, San Luis Obisbo, Santa Barbara, Santa Clara, Santa Cruz | 590 Calle Principal, Monterey 93940 Ph: (831) 657-3675; 100 Paseo de San Antonio, Suite 206, San Jose 95113 Ph: (408) 277-9461; 1356 Marsh St., San Luis Obispo 93401 Ph: (805) 549-3784 |
| Margett, Bob | Businessman | R | 29 | Los Angeles, Orange, San Bernardino | 2605 E. Foothill Blvd., Suite A, Glendora 91740 Ph: (626) 914-5046 |
| McClintock, Tom | Budget Reduction Analyst | R | 19 | Los Angeles, Santa Barbara, Ventura | 223 E. Thousand Oaks Blvd., Suite 326, Thousand Oaks 91360. Ph: (805) 494-8808 |

**MEMBERS OF THE SENATE—Continued**

| Name | Occupation | Party | Dist. | Counties | District Address |
|---|---|---|---|---|---|
| Migden, Carole ..... | Full-time Legislator..... | D | 3 | Marin, San Francisco, Sonoma..... | 3501 Civic Center, Room 425, San Rafael 94903 Ph: (415) 479-6612; 455 Golden Gate Ave., Suite 14800, San Francisco 94102. Ph: (415) 557-1300 |
| Negrete McLeod, Gloria ..... | Full-time Legislator..... | D | 32 | Los Angeles, San Bernardino..... | 4959 Palo Verde St., Suite 100B, Montclair 91763 Ph: (909) 621-2783 |
| Oropeza, Jenny..... | Full-time Legislator..... | D | 28 | Los Angeles..... | 2512 Artesia Blvd., Suite 200, Redondo Beach 90278. Ph: (310) 318-6994 |
| Padilla, Alex ..... | Full-time Legislator..... | D | 20 | Los Angeles..... | 6150 Van Nuys Blvd., Suite 400, Van Nuys 91401 Ph: (818) 901-5588 |
| Perata, Don ..... | Speaker pro Tempore/ Teacher ..... | D | 9 | Alameda, Contra Costa..... | 1515 Clay St., Suite 2202 Oakland 94612 Ph: (510) 286-1333; 300 S. Spring St., Suite 8501, Los Angeles 90013 Ph: (213) 620-3000 |
| Ridley-Thomas, Mark..... | Full-time Legislator..... | D | 26 | Los Angeles..... | Administrative Offices East, 700 State Drive, Los Angeles 90037 Ph: (213) 745-6656 |
| Romero, Gloria ..... | Professor ..... | D | 24 | Los Angeles..... | 149 S. Mednik Avenue, Suite 202, Los Angeles 90022 Ph: (323) 881-0100 |
| Runner, George ..... | Full-time Legislator..... | R | 17 | Los Angeles, San Bernardino, Ventura ..... | 848 W. Lancaster Blvd., Suite 101, Lancaster 93534 Ph: (661) 729-6232; 23920 Valencia Blvd., Suite 250, Santa Clarita 91355 Ph: (661) 286-1471; 14343 Civic Drive, PO Box 5001, Victorville 92392 Ph: (760) 843-8414 |
| Scott, Jack ..... | Legislator/ Professor..... | D | 21 | Los Angeles..... | 215 N. Marengo Avenue, Suite 185, Pasadena 91101 Ph: (626) 683-0282 |
| Simitian, Joseph..... | Full-time Legislator..... | D | 11 | San Mateo, Santa Clara, Santa Cruz . | 160 Town and Country Village, Palo Alto 94301 Ph: (650) 688-6384; 701 Ocean Street, Room 318A, Santa Cruz 95060 Ph: (831) 425-0401 |
| Steinberg, Darrell.... | Attorney ..... | D | 6 | Sacramento..... | 1020 N St., Suite 576 Sacramento 95814 Ph: (916) 324-4937 |
| Torlakson, Tom ..... | Educator ..... | D | 7 | Contra Costa..... | 2801 Concord Blvd., Concord 94519 Ph: (925) 602-6593; 420 W. 3rd Street, Antioch 94509 Ph: (925) 754-1461 |
| Vincent, Edward ..... | Legislator ..... | D | 25 | Los Angeles..... | 1 Manchester Boulevard, Suite 600, Inglewood 90301. Ph: (310) 412-0393 |
| Wiggins, Patricia "Pat"..... | Full-time Legislator..... | D | 2 | Humboldt, Lake, Mendocino, Napa, Solano, Sonoma ... | 710 E St., Suite 150, Eureka 95501 Ph: (707) 445-6508; 50 D St., Suite 120A, Santa Rosa 95404 Ph: (707) 576-2771; 444 Georgia St., Vallejo 94590. Ph: (707) 648-5312 |

## MEMBERS OF THE SENATE—Continued

| Name | Occupation | Party | Dist. | Counties | District Address |
|---|---|---|---|---|---|
| Wyland, Mark ..... | Full-time Legislator..... | R | 38 | Orange, San Diego .. | 27126A Paseo Espada, Suite 1621, San Juan Capistrano 92675. Ph: (949) 489-9838; 1910 Palomar Point Way, Suite 105, Carlsbad 92008 Ph: (760) 931-2455 |
| Yee, Leland Y. ..... | Child Psychologist ... | D | 8 | San Francisco, San Mateo ..... | 455 Golden Gate Ave., Suite 14200, San Francisco 94102. Ph: (415) 557-7857; 400 S. El Camino Real, Suite 630, San Mateo 94402. Ph: (650) 340-8840 |

## OFFICERS AND ATTACHÉS OF THE SENATE

| Title | Name | Capitol Office |
|---|---|---|
| President of Senate | John Garamendi | 1114 State Capitol |
| President pro Tempore | Don Perata | 205 State Capitol |
| Secretary of Senate | Gregory Schmidt | 3044 State Capitol |
| Sergeant at Arms | Tony Beard, Jr. | 3030 State Capitol |
| Chaplain | Rev. Cannon James D. Richardson | 3044 State Capitol |
| Chief Assistant Secretary | David Valverde | 3044 State Capitol |
| Minute Clerk | Paula K. Rossetto | 3044 State Capitol |
| History Clerk | Neva Marie Parker | 3044 State Capitol |
| Assistant Secretary | Bernadette McNulty | 3044 State Capitol |
| File Clerk | Marlissa Hernandez | 3044 State Capitol |
| Engrossing and Enrolling Clerk | Joan Middlekauff | B30 State Capitol |

## MEMBERS OF THE ASSEMBLY

| Name | Occupation | Party | Dist. | Capitol Office | Counties | District Office Mailing Address |
|---|---|---|---|---|---|---|
| Adams, Anthony.. | Full-time Legislator..... | R | 59 | 4015 | Los Angeles, San Bernardino..... | 540 West Baseline Road, Suite 16, Claremont 91711 |
| Aghazarian, Greg | Small Businessman..... | R | 26 | 4167 | San Joaquin, Stanislaus ..... | 4557 Quail Lakes Drive, Suite C3, Stockton 95207; 222 S. Thor Street, Suite 21C, Turlock 95380 |
| Anderson, Joel..... | Businessman ..... | R | 77 | 2111 | San Diego..... | 500 Fesler St., Suite 201, El Cajon 92020 |
| Arambula, Juan ... | Legislator ..... | D | 31 | 2141 | Fresno, Tulare ..... | 2550 Mariposa Mall, Room 5031, Fresno 93721 |
| Bass, Karen ..... | Majority Floor Leader/ Legislator..... | D | 47 | 319 | Los Angeles..... | 5750 Wilshire Blvd., Suite 565, Los Angeles 90036 |
| Beall, Jr., Jim..... | Full-time Legislator..... | D | 24 | 5016 | Santa Clara..... | 100 Paseo de San Antonio, Suite 300, San Jose 95113 |
| Benoit, John J. .... | Law Enforcement | R | 64 | 4144 | Riverside ..... | 1223 University Ave., Suite 230, Riverside 92507 |
| Berg, Patty..... | Social Worker/ Legislator..... | D | 1 | 4146 | Del Norte, Humboldt, Lake, Mendocino, Sonoma, Trinity.... | 235 Fourth Street, Suite C, Eureka 95501; 50 D Street, Suite 450, Santa Rosa 95404; 311 N. State St., Ukiah 95482 |
| Berryhill, Tom..... | Small Businessman..... | R | 25 | 4116 | Calaveras, Madera, Mariposa, Mono, Stanislaus, Tuolumne ..... | 1912 Standiford Ave., Suite 4, Modesto 95350 |
| Blakeslee, Sam ... | Legislator ..... | R | 33 | 4117 | San Luis Obispo, Santa Barbara ..... | 1104 Palm St., San Luis Obispo 93401; 509 W. Morrison Ave., Suite 9, Santa Maria 93458 |
| Brownley, Julia.... | Marketing Management..... | D | 41 | 6011 | Los Angeles, Ventura ..... | 6355 Topanga Canyon Blvd., Suite 205, Woodland Hills 91367 |
| Caballero, Anna... | Attorney ..... | D | 28 | 5119 | Monterey, San Benito, Santa Clara, Santa Cruz ..... | 365 Fourth St., Hollister 95023; 100 W. Alisal St., Suite 134, Salinas 93901; 231 Union St., Watsonville 95077 |
| Calderon, Charles M. ..... | Attorney ..... | D | 58 | 2117 | Los Angeles..... | 13181 N. Crossroads Pky., Suite 160, City of Industry 91746 |
| Carter, Wilmer Amina ..... | Businesswoman... | D | 62 | 2175 | San Bernardino..... | 335 N. Riverside Ave., Rialto 92376 |
| Cook, Paul..... | College Professor | R | 65 | 5164 | Riverside, San Bernardino..... | 34932 Yucaipa Blvd., Yucaipa 92399 |
| Coto, Joe ..... | Legislator ..... | D | 23 | 2013 | Santa Clara..... | 100 Paseo De San Antonio, Suite 319, San Jose 95113 |
| Davis, Mike..... | Full-time Legislator..... | D | 48 | 2160 | Los Angeles..... | Administrative Offices West, 700 State Drive, Los Angeles 90037; 694 S. Oxford Ave., 2nd Floor, Los Angeles 90005 |
| De La Torre, Hector ..... | Legislator ..... | D | 50 | 4016 | Los Angeles..... | 8724 Garfield Ave., Suite 104, South Gate 90280 |

**MEMBERS OF THE ASSEMBLY—Continued**

| Name | Occupation | Party | Dist. | Capitol Office | Counties | District Office Mailing Address |
|---|---|---|---|---|---|---|
| De León | Full-time Legislator | D | 45 | 4140 | Los Angeles | 360 W. Ave. 26, Suite 121, Los Angeles 90031 |
| DeSaulnier, Mark | Small Business Owner | D | 11 | 4162 | Contra Costa | 420 W. Third St., Antioch 94531 |
| DeVore, Chuck | Legislator | R | 70 | 4102 | Orange | 3 Park Plaza, Suite 275, Irvine 92614 |
| Duvall, Michael D. "Mike" | Insurance Broker | R | 72 | 4177 | Orange | 210 W. Birch St., Suite 202, Brea 92821 |
| Dymally, Mervyn M. | University Professor | D | 52 | 6005 | Los Angeles | 322 W. Compton Blvd., Suite 100, Compton 90220 |
| Emmerson, Bill | Legislator | R | 63 | 4158 | Riverside, San Bernardino | 10681 Foothill Blvd., Suite 325, Rancho Cucamonga 91730 |
| Eng, Mike | College Professor/ Attorney | D | 49 | 6025 | Los Angeles | 9420 Telstar Avenue, Suite 103, El Monte 91731 |
| Evans, Noreen | Legislator | D | 7 | 3152 | Napa, Solano, Sonoma | 1040 Main St., Suite 205, Napa 94559; 50 D St., Suite 301, Santa Rosa 95404; 1713 Sonoma Blvd., Vallejo 94591 |
| Feuer, Mike | Attorney/Educator | D | 42 | 4005 | Los Angeles | 9200 Sunset Blvd., PH 15, West Hollywood 90069 |
| Fuentes, Felipe | Legislator | D | 39 | 3132 | Los Angeles | 9300 Laurel Canyon Blvd., First Floor, Arleta 91331 |
| Fuller, Jean | Property Manager | R | 32 | 3098 | Kern, San Bernardino | 4900 California Ave., Suite 100B, Bakersfield 93309 |
| Furutani, Warren | Legislator | D | 55 | 5144 | Los Angeles | 4201 Long Beach Blvd., Suite 327, Long Beach 90807 |
| Gaines, Ted | Business Owner | R | 4 | 2002 | Alpine, El Dorado, Placer, Sacramento | 1700 Eureka Road, Suite 160, Roseville 95661 |
| Galgiani, Cathleen | Full-time Legislator | D | 17 | 2170 | Merced, San Joaquin, Stanislaus | 806 W. 18th St., Merced 95340; 31 E. Channel St., Suite 306, Stockton 95202 |
| Garcia, Bonnie | Businesswoman | R | 80 | 4009 | Imperial, Riverside | 68-700 Avenida Lalo Guerrero, Suite B, Cathedral City 92234; 1450 S. Imperial Ave., El Centro 92243 |
| Garrick, Martin | Business Owner | R | 74 | 2016 | San Diego | 1910 Palomar Point Way, Suite 106, Carlsbad 92008 |
| Hancock, Loni | Legislator | D | 14 | 4126 | Alameda, Contra Costa | 712 El Cerrito Plaza, El Cerrito 94530 |
| Hayashi, Mary | Health Care Director | D | 18 | 2188 | Alameda | 22320 Foothill Blvd., Suite 540, Hayward 94541 |
| Hernandez, Edward P. | Optometrist | D | 57 | 4112 | Los Angeles | 1520 W. Cameron Ave., Suite 165, West Covina 91790 |
| Horton, Shirley | Businesswoman | R | 78 | 2174 | San Diego | 7144 Broadway, Lemon Grove 91945 |

**MEMBERS OF THE ASSEMBLY—Continued**

| Name | Occupation | Party | Dist. | Capitol Office | Counties | District Office Mailing Address |
|---|---|---|---|---|---|---|
| Houston, Guy S... | Mortgage Broker/ Real Estate..... | R | 15 | 2130 | Alameda, Contra Costa, Sacramento, San Joaquin ..... | 740 Third Street, Brentwood 94513; 1635 Chestnut Street, Suite A, Livermore 94551; 1666 N. Main St., Room 353, Walnut Creek 94596 |
| Huff, Bob ..... | Legislator ..... | R | 60 | 4098 | Los Angeles, Orange, San Bernardino..... | 23355 E. Golden Springs Drive, Diamond Bar 91765 |
| Huffman, Jared.... | Attorney ..... | D | 6 | 4139 | Marin, Sonoma..... | 3501 Civic Center Dr., Room 412, San Rafael 94903; 11 English St., Petaluma 94952 |
| Jeffries, Kevin ..... | Investor/Fire Department Manager ..... | R | 66 | 5128 | Riverside, San Diego | 41391 Kalmia St., Suite 220 Murrieta 92562 |
| Jones, Dave ..... | Attorney/ Legislator..... | D | 9 | 3146 | Sacramento..... | 915 L St., Suite 110, Sacramento 95814 |
| Karnette, Betty .... | Legislator ..... | D | 54 | 2136 | Los Angeles..... | 3711 Long Beach Blvd., Suite 801, Long Beach 90807 |
| Keene, Rick ..... | Attorney ..... | R | 3 | 2158 | Butte, Lassen, Nevada, Placer, Plumas, Sierra, Yuba ..... | 1550 Humboldt Road, Suite 4, Chico 95928 |
| Krekorian, Paul ... | Attorney ..... | D | 43 | 5135 | Los Angeles..... | 620 N. Brand Blvd., Suite 403, Glendale 91203 |
| La Malfa, Doug... | Farmer..... | R | 2 | 4164 | Butte, Colusa, Glenn, Modoc, Shasta, Siskiyou, Sutter, Tehama, Yolo ..... | 1527 Starr Drive, Suite U, Yuba City 95993; 2865 Churn Creek Road, Suite B, Redding 96002 |
| Laird, John ..... | Legislator ..... | D | 27 | 6026 | Monterey, Santa Clara, Santa Cruz ..... | 99 Pacific Street, Suite 555D, Monterey 93940; 701 Ocean Street, Room 318B, Santa Cruz 95060 |
| Leno, Mark..... | Business Owner .. | D | 13 | 2114 | San Francisco ..... | 455 Golden Gate Ave., Suite 14300, San Francisco 94102 |
| Levine, Lloyd E... | Legislator ..... | D | 40 | 5136 | Los Angeles..... | 6150 Van Nuys Blvd., Suite 300, Van Nuys 91401 |
| Lieber, Sally J. .... | Speaker pro Tempore/ Legislator..... | D | 22 | 3013 | Santa Clara ..... | 274 Castro St., Suite 202, Mountain View 94041 |
| Lieu, Ted W. ..... | Attorney ..... | D | 53 | 3173 | Los Angeles..... | 500 Center St., El Segundo 90245 |
| Ma, Fiona ..... | CPA ..... | D | 12 | 2176 | San Francisco, San Mateo ..... | 455 Golden Gate Ave., Suite 14600, San Francisco 94102 |
| Maze, Bill..... | Building Contractor/ Farmer ..... | R | 34 | 5160 | Inyo, Kern, San Bernardino, Tulare ..... | 5959 S. Mooney, Visalia 93277 |
| Mendoza, Tony.... | Elementary School Teacher ..... | D | 56 | 3126 | Los Angeles, Orange..... | 12501 E. Imperial Hwy., Suite 210, Norwalk 90650 |
| Mullin, Gene ..... | Educator ..... | D | 19 | 2163 | San Mateo ..... | 1528 S. El Camino Real, Suite 302, San Mateo 94402 |
| Nakanishi, Alan... | Physician ..... | R | 10 | 5175 | Amador, El Dorado, Sacramento, San Joaquin ..... | 218 W. Pine Street, Lodi 95240 |

**MEMBERS OF THE ASSEMBLY—Continued**

| Name | Occupation | Party | Dist. | Capitol Office | Counties | District Office Mailing Address |
|---|---|---|---|---|---|---|
| Nava, Pedro ..... | Legislator ..... | D | 35 | 2148 | Santa Barbara, Ventura ..... | 101 W. Anapamu St., Suite A, Santa Barbara 93101; 201 E. Fourth St., Suite 209A, Oxnard 93030 |
| Niello, Roger..... | Legislator ..... | R | 5 | 6027 | Placer, Sacramento.. | 4811 Chippendale Drive, Suite 501, Sacramento 95841 |
| Núñez, Fabian ..... | Speaker/Full-time Legislator..... | D | 46 | 219 | Los Angeles..... | 320 W. 4th Street, Room 1050, Los Angeles 90013 |
| Parra, Nicole..... | Legislator ..... | D | 30 | 5155 | Fresno, Kern, Kings, Tulare ..... | 601 24th Street, Suite A, Bakersfield 93301; 321 N. Douty St., Suite B, Hanford 93230 |
| Plescia, George A. ..... | Legislator ..... | R | 75 | 3141 | San Diego..... | 9909 Mira Mesa Blvd., Suite 130, San Diego 92131 |
| Portantino, Anthony ..... | Legislator ..... | D | 44 | 2003 | Los Angeles..... | 215 N. Marengo Ave., Suite 115, Pasadena 91101 |
| Price, Jr., Curren D. ..... | Educator/Business Consultant ..... | D | 51 | 2179 | Los Angeles..... | One Manchester Blvd., Suite 601, PO Box 6500, Inglewood 90301 |
| Runner, Sharon ... | Businesswoman... | R | 36 | 5158 | Los Angeles, San Bernardino..... | 747 W. Lancaster Blvd., Lancaster 93534; 14343 Civic Drive, Victorville 92392 |
| Ruskin, Ira ..... | Legislator ..... | D | 21 | 3123 | San Mateo, Santa Clara ..... | 5050 El Camino Real, Suite 117, Los Altos 94022 |
| Salas, Mary ..... | Full-time Legislator..... | D | 79 | 2137 | San Diego..... | 678 Third Avenue, Suite 105, Chula Vista 91910 |
| Saldaña, Lori..... | Legislator ..... | D | 76 | 5150 | San Diego..... | 1557 Columbia St., San Diego 92101 |
| Silva, Jim..... | Educator/Realtor | R | 67 | 3147 | Orange..... | 17011 Beach Blvd., Suite 570, Huntington Beach 92647 |
| Smyth, Cameron ..... | Government/ Public Relations Consultant ..... | R | 38 | 4153 | Los Angeles, Ventura ..... | 23734 Valencia Blvd., Suite 303, Santa Clarita 91355 |
| Solorio, Jose..... | Full-time Legislator..... | D | 69 | 2196 | Orange..... | 2400 E. Katella Ave., Suite 640, Anaheim 92806 |
| Soto, Nell ..... | Full-time Legislator..... | D | 61 | 3091 | Los Angeles, San Bernardino..... | 822 N. Euclid Ave., Ontario 91762 |
| Spitzer, Todd ..... | Attorney ..... | R | 71 | 5126 | Orange, Riverside.... | 1940 N. Tustin St., Suite 102, Orange 92865 |
| Strickland, Audra ..... | Full-time Legislator..... | R | 37 | 4208 | Los Angeles, Ventura ..... | 2659 Townsgate Rd., Suite 236, Westlake Village 91361 |
| Swanson, Sandre R. ..... | Retirement Trustee..... | D | 16 | 6012 | Alameda ..... | 1515 Clay St., Suite 2204, Oakland 94612 |
| Torrico, Alberto .. | Legislator ..... | D | 20 | 3160 | Alameda, Santa Clara ..... | 39510 Paseo Padre Pky., Suite 280, Fremont 94538 |
| Tran, Van ..... | Legislator ..... | R | 68 | 4130 | Orange..... | 1503 S. Coast Drive, Suite 205, Costa Mesa 92626 |
| Villines, Michael N. ..... | Minority Floor Leader/ Legislator..... | R | 29 | 3104 | Fresno, Madera, Tulare ..... | 6245 N. Fresno St., Suite 106, Fresno 93710 |

## MEMBERS OF THE ASSEMBLY—Continued

| Name | Occupation | Party | Dist. | Capitol Office | Counties | District Office Mailing Address |
|---|---|---|---|---|---|---|
| Walters, Marian .. | Legislator ..... | R | 73 | 6031 | Orange, San Diego .. | 24031 El Toro Road, Suite 210, Laguna Hills 92653; 302 N. Coast Hwy., Oceanside 92054 |
| Wolk, Lois ..... | Teacher..... | D | 8 | 3120 | Solano, Yolo ..... | 555 Mason Street, Suite 275, Vacaville 95688 |

## OFFICERS OF THE ASSEMBLY

| Name | Title | Mailing Address |
|---|---|---|
| Núñez , Fabian ..... | Speaker..... | 320 W. 4th Street, Room 1050, Los Angeles 90013 |
| Lieber, Sally ..... | Speaker pro Tempore ..... | 274 Castro St., Suite 202, Mountain View 94041 |
| Bass, Karen ..... | Majority Floor Leader.... | 5750 Wilshire Blvd., Suite 565, Los Angeles 90036 |
| Villines, Michael ..... | Minority Floor Leader.... | 6245 N. Fresno St., Suite 106, Fresno 93710 |
| Wilson, E. Dotson ..... | Chief Clerk..... | State Capitol, Room 3196, Sacramento 95814 |
| Pane, Ronald ..... | Sergeant-at-Arms ..... | State Capitol, Room 3171, Sacramento 95814 |

# STATE JUDICIAL DEPARTMENT

## SUPREME COURT JUSTICES AND OFFICERS

### Terms of Court

Sessions of Court are held at San Francisco, Los Angeles and Sacramento

JUSTICES

Hon. Ronald M. George ..... Chief Justice
Hon. Carlos R. Moreno ..... Associate Justice
Hon. Kathryn M. Werdegar ..... Associate Justice
Hon. Joyce L. Kennard ..... Associate Justice
Hon. Ming W. Chin ..... Associate Justice
Hon. Marvin R. Baxter ..... Associate Justice
Hon. Carol A. Corrigan ..... Associate Justice
Frederick K. Ohlrich ..... Clerk/Administrator

# COURTS OF APPEAL

## FIRST APPELLATE DISTRICT

DIVISION ONE

Hon. James J. Marchiano ..... Presiding Justice
Hon. Douglas E. Swager ..... Associate Justice
Hon. William D. Stein ..... Associate Justice
Hon. Sandra L. Margulies ..... Associate Justice

DIVISION TWO

Hon. J. Anthony Kline ..... Presiding Justice
Hon. James R. Lambden ..... Associate Justice
Hon. Paul R. Haerle ..... Associate Justice
Hon. James A. Richman ..... Associate Justice

DIVISION THREE

Hon. William R. McGuiness ..... Admin. Presiding Justice
Hon. Martin J. Jenkins ..... Associate Justice
Hon. Stuart R. Pollak ..... Associate Justice
Hon. Peter Siggins ..... Associate Justice

DIVISION FOUR

Hon. Ignazio J. Ruvolo ..... Presiding Justice
Hon. Timothy A. Reardon ..... Associate Justice
Hon. Patricia K. Sepulveda ..... Associate Justice
Hon. Maria P. Rivera ..... Associate Justice

DIVISION FIVE

Hon. Barbara J.R. Jones ..... Presiding Justice
Hon. Mark B. Simons ..... Associate Justice
Hon. Henry E. Needham, Jr. ..... Associate Justice
Vacant ..... Associate Justice
Diana Herbert ..... Clerk/Administrator

350 McAllister Street, San Francisco 94102

## SECOND APPELLATE DISTRICT

DIVISION ONE

Hon. Robert M. Mallano ..... Presiding Justice
Hon. Miriam A. Vogel ..... Associate Justice
Hon. Frances Rothschild ..... Associate Justice
Vacant ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION TWO

Hon. Roger W. Boren ..... Admin. Presiding Justice
Hon. Judith M. Ashmann-Gerst ..... Associate Justice
Hon. Kathryn Doi Todd ..... Associate Justice
Hon. Victoria M. Chavez ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION THREE

Hon. Joan D. Klein ..... Presiding Justice
Hon. Richard D. Aldrich ..... Associate Justice
Hon. Patti S. Kitching ..... Associate Justice
Hon. H. Walter Croskey ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION FOUR

Hon. Norman L. Epstein ..... Presiding Justice
Hon. Thomas L. Willhite, Jr. ..... Associate Justice
Hon. Nora M. Manella ..... Associate Justice
Hon. Steven C. Suzukawa ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION FIVE

Hon. Paul Turner ..... Presiding Justice
Hon. Orville A. Armstrong ..... Associate Justice
Hon. Sandy R. Kriegler ..... Associate Justice
Hon. Richard M. Mosk ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION SIX

Hon. Arthur Gilbert ..... Presiding Justice
Hon. Steven Z. Perren ..... Associate Justice
Hon. Kenneth R. Yegan ..... Associate Justice
Hon. Paul H. Coffee ..... Associate Justice

200 East Santa Clara St., Ventura 93001

DIVISION SEVEN

Hon. Dennis M. Perluss ..... Presiding Justice
Hon. Frank Y. Jackson ..... Associate Justice
Hon. Fred Woods ..... Associate Justice
Hon. Laurie D. Zelon ..... Associate Justice

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

DIVISION EIGHT

Hon. Candace D. Cooper ..... Presiding Justice
Hon. Patricia A. Bigelow ..... Associate Justice
Hon. Laurence D. Rubin ..... Associate Justice
Hon. Madeleine I. Flier ..... Associate Justice
Joseph A. Lane ..... Clerk/Administrator

300 So. Spring St., North Tower, 2nd Floor, Los Angeles 90013

## THIRD APPELLATE DISTRICT

Hon. Arthur G. Scotland ..... Presiding Justice
Hon. Coleman A. Blease ..... Associate Justice
Hon. M. Kathleen Butz ..... Associate Justice
Hon. Rick Sims ..... Associate Justice
Hon. Rodney Davis ..... Associate Justice
Hon. George W. Nicholson ..... Associate Justice
Hon. Vance W. Raye ..... Associate Justice
Hon. Fred K. Morrison ..... Associate Justice
Hon. Tani G. Cantil-Sakauye ..... Associate Justice
Hon. Harry E. Hull Jr. ..... Associate Justice
Hon. Ronald B. Robie ..... Associate Justice
Deena Fawcett ..... Clerk/Administrator

914 Capitol Mall Court, Sacramento 95814

## FOURTH APPELLATE DISTRICT

DIVISION ONE

Hon. Judith D. McConnell ..... Admin. Presiding Justice
Hon. Judith L. Haller ..... Associate Justice
Hon. Joan K. Irion ..... Associate Justice
Hon. Alex C. McDonald ..... Associate Justice
Hon. Patricia D. Benke ..... Associate Justice
Hon. Richard D. Huffman ..... Associate Justice
Hon. James A. McIntyre ..... Associate Justice
Hon. Gilbert Nares ..... Associate Justice
Hon. Terry B. O'Rourke ..... Associate Justice
Hon. Cynthia G. Aaron ..... Associate Justice
Stephen M. Kelly ..... Clerk/Administrator

750 B St., Suite 300, San Diego 92101

DIVISION TWO

Hon. Manuel A. Ramirez ..... Presiding Justice
Hon. Barton C. Gaut ..... Senior Justice
Hon. Thomas E. Hollenhorst ..... Associate Justice
Hon. Betty A. Richli ..... Associate Justice
Hon. Art W. McKinster ..... Associate Justice
Hon. Jeffrey King ..... Associate Justice
Hon. Douglas P. Miller ..... Associate Justice

3389 12th St., Riverside 92501

DIVISION THREE

Hon. David G. Sills ..... Presiding Justice
Hon. Richard D. Fybel ..... Associate Justice
Hon. Kathleen E. O'Leary ..... Associate Justice
Hon. Eileen C. Moore ..... Associate Justice
Hon. William F. Rylaarsdam ..... Associate Justice
Hon. William W. Bedsworth ..... Associate Justice
Hon. Richard M. Aronson ..... Associate Justice
Hon. Raymond J. Ikola ..... Associate Justice

925 No. Spurgeon St., Santa Ana 92701

## FIFTH APPELLATE DISTRICT

Hon. James A. Ardaiz ..... Admin. Presiding Justice
Hon. Herbert I. Levy ..... Associate Justice
Hon. Dennis A. Cornell ..... Associate Justice
Hon. Nikolas J. Dibiaso ..... Associate Justice
Hon. Steven M. Vartabedian ..... Associate Justice
Hon. Betty L. Dawson ..... Associate Justice
Hon. Thomas A. Harris ..... Associate Justice
Hon. Rebecca A. Wiseman ..... Associate Justice
Hon. Gene M. Gomes ..... Associate Justice
Hon. Brad R. Hill ..... Associate Justice
Leisa Biggers ..... Clerk/Administrator

2525 Capitol Street, Fresno 93721

## SIXTH APPELLATE DISTRICT

Hon. Conrad L. Rushing ..... Admin. Presiding Justice
Hon. Patricia Bamattre-Manoukian ..... Associate Justice
Hon. Franklin D. Elia ..... Associate Justice
Hon. Eugene M. Premo ..... Associate Justice
Hon. Wendy C. Duffy ..... Associate Justice
Hon. Nathan D. Mihara ..... Associate Justice
Hon. Richard J. McAdams ..... Associate Justice
Michael Yerly ..... Clerk/Administrator

333 West Santa Clara Street, Suite 1060, San Jose 95113

## PUBLIC UTILITIES COMMISSION

Michael R. Peevey ..... President
Dian Grueneich ..... Commissioner
John Bohn ..... Commissioner
Rachelle Chong ..... Commissioner
Timothy Simon ..... Commissioner
Paul Clanon ..... Executive Director

## WORKERS' COMPENSATION APPEALS BOARD

Joseph M. Miller ..... Chairperson
Frank M. Brass ..... Member
James C. Cuneo ..... Member
Deidra E. Lowe ..... Member
Ronnie Caplane ..... Member
Alfonso J. Moresi ..... Member
Vacant ..... Member

# TABLE OF LAWS ENACTED

# TABLE OF RESOLUTIONS AND PROPOSED CONSTITUTIONAL AMENDMENTS ADOPTED BY THE LEGISLATURE

## 2008

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2007–08 FIRST EXTRAORDINARY SESSION
2007–08 SECOND EXTRAORDINARY SESSION
2007–08 THIRD EXTRAORDINARY SESSION
2007–08 FOURTH EXTRAORDINARY SESSION

# TABLE OF LAWS ENACTED

## 2008

### 2007–08 Regular Session

| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| 1 | — | 608 | Wiggins, Migden, and Negrete McLeod |
| 2 | — | 692 | Ashburn |
| 3 | — | 344 | Machado |
| 4 | — | 562 | Wiggins (Principal coauthor: Assembly Member Berg) |
| 5 | 1100 | — | Ruskin |
| 6 | 963 | — | Adams |
| 7 | — | 1063 | Committee on Local Government (Senators Negrete McLeod (Chair), Cox, Harman, Kehoe, and Machado) |
| 8 | 1251 | — | Tran |
| 9 | 1491 | — | Jones |
| 10 | — | 1061 | Committee on Local Government (Senators Negrete McLeod (Chair), Cox, Harman, Kehoe, and Machado) |
| 11 | 242 | — | Blakeslee |
| 12 | 450 | — | Emmerson |
| 13 | 602 | — | DeVore |
| 14 | 1158 | — | Benoit |
| 15 | 2215 | — | Berryhill |
| 16 | 2574 | — | Emmerson |
| 17 | — | 1040 | Kehoe (Coauthor: Senator Oropeza) (Coauthor: Assembly Member Eng) |
| 18 | 23 | — | Ma |
| 19 | 813 | — | Portantino and Price |
| 20 | 1856 | — | Jeffries |
| 21 | — | 579 | Wiggins |
| 22 | — | 1068 | Ducheny |
| 23 | 164 | — | Smyth |
| 24 | 1895 | — | Silva |
| 25 | 1922 | — | Hernandez |
| 26 | 2693 | — | Karnette |
| 27 | 2906 | — | Tran and Huff (Principal coauthors: Assembly Members Duvall, Solorio, and Walters) (Principal coauthors: Senators Correa and Harman) (Coauthors: Assembly Members DeVore, Silva, and Spitzer) (Coauthor: Senator Wyland) |
| 28 | — | 607 | Wiggins (Principal coauthor: Senator Maldonado) (Principal coauthor: Assembly Member De Leon) (Coauthors: Senators Denham and Migden) (Coauthors: Assembly Members Aghazarian, Berryhill, DeSaulnier, Evans, Huffman, Jeffries, Mendoza, Plescia, Silva, and Wolk) |
| 29 | 1699 | — | Duvall |
| 30 | 1893 | — | Garrick (Principal coauthor: Assembly Member Saldana) (Principal coauthor: Senator Ducheny) (Coauthors: Assembly Members Adams, Anderson, Horton, Huff, Plescia, and Smyth) (Coauthor: Senator Wyland) |
| 31 | — | 853 | Perata (Coauthor: Assembly Member Emmerson) |
| 32 | — | 602 | Torlakson |
| 33 | — | 797 | Ridley-Thomas |
| 34 | 66 | — | Dymally |
| 35 | 1545 | — | Eng (Coauthor: Assembly Member Emmerson) (Coauthors: Senators Perata and Ridley-Thomas) |
| 36 | 1667 | — | La Malfa |
| 37 | 2597 | — | Leno |
| 38 | — | 1126 | Cedillo |
| 39 | 1252 | — | Caballero and Saldana (Coauthor: Assembly Member Jones) |
| 40 | 1892 | — | Smyth |
| 41 | 2302 | — | Bass and Feuer (Principal coauthor: Assembly Member Lieu) (Coauthors: Assembly Members Brownley, DeVore, Evans, Horton, Maze, Nava, and Salas) |
| 42 | 2688 | — | De La Torre (Coauthor: Assembly Member Duvall) |
| 43 | 3043 | — | Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Mullin, Soto, and Torrico) (Principal coauthor: Senator Wiggins) |
| 44 | — | 1159 | Cox |
| 45 | — | 1196 | Runner |
| 46 | — | 1206 | Calderon |
| 47 | — | 612 | Simitian, Cogdill, and Margett |
| 48 | — | 1343 | Battin and Romero (Principal coauthor: Assembly Member Cook) |
| 49 | — | 1356 | Yee and Romero (Coauthors: Senators Kuehl and Padilla) (Coauthor: Assembly Member Lieber) |
| 50 | 1679 | — | Evans |
| 51 | 1824 | — | Beall |
| 52 | 2014 | — | Tran |
| 53 | 2248 | — | Spitzer and Ma |
| 54 | 2960 | — | La Malfa |
| 55 | 3060 | — | Committee on Labor and Employment (Swanson (Chair), DeSaulnier, Fuentes, Laird, Leno, and Ruskin) |
| 56 | — | 1182 | Ackerman |
| 57 | — | 1255 | Harman |
| 58 | — | 1333 | Ashburn |
| 59 | — | 242 | Torlakson |
| 60 | — | 1236 | Padilla (Principal coauthor: Assembly Member Davis) (Coauthors: Senators Cedillo and Romero) (Coauthors: Assembly Members Jones and Ma) |
| 61 | — | 1304 | Simitian |
| 62 | — | 1696 | Yee |
| 63 | — | 1732 | Romero (Principal coauthor: Assembly Member Lieber) (Coauthor: Senator McClintock) (Coauthor: Assembly Member Portantino) |
| 64 | 1263 | — | Caballero |
| 65 | 2148 | — | Jeffries |
| 66 | 2335 | — | Nakanishi |
| 67 | 2452 | — | Davis |
| 68 | 3047 | — | Committee on Local Government (Caballero (Chair), Houston (Vice Chair), De La Torre, Lieber, Saldana, Smyth, and Soto) |
| 69 | — | 1137 | Perata, Corbett, and Machado (Principal coauthors: Assembly Members Bass and Lieu) (Coauthors: Senators Calderon, Cedillo, Ducheny, Migden, Ridley-Thomas, Romero, Scott, and Wiggins) (Coauthors: Assembly Members Arambula, Berg, Brownley, Caballero, Carter, Coto, DeSaulnier, Fuentes, Hancock, Hayashi, Hernandez, |

# TABLE OF LAWS ENACTED—Continued

## 2008

| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| | | | Jones, Nava, Parra, Ruskin, Torrico, and Wolk) |
| 70 | — | 1191 | Alquist (Principal coauthor: Assembly Member Berg) (Coauthor: Senator Hollingsworth) (Coauthor: Assembly Member Lieber) |
| 71 | 1964 | — | Evans (Principal coauthor: Senator Wiggins) (Coauthor: Assembly Member Blakeslee) |
| 72 | 2041 | — | Fuentes |
| 73 | 2079 | — | Emmerson |
| 74 | 2156 | — | Hernandez |
| 75 | 2397 | — | Aghazarian |
| 76 | 2482 | — | Maze and Bass |
| 77 | 2524 | — | Benoit |
| 78 | 2731 | — | Emmerson |
| 79 | 3024 | — | Duvall |
| 80 | 3055 | — | Committee on Insurance (Coto (Chair), Benoit (Vice Chair), Berg, Charles Calderon, Carter, De Leon, Duvall, Lieber, and Parra) |
| 81 | — | 1164 | Scott |
| 82 | — | 1436 | Ducheny |
| 83 | — | 1685 | Kehoe |
| 84 | 591 | — | Dymally |
| 85 | 1115 | — | Sharon Runner |
| 86 | 1771 | — | Ma (Coauthors: Assembly Members Aghazarian, Berg, Dymally, Horton, and Portantino) |
| 87 | 1810 | — | Galgiani |
| 88 | 1864 | — | DeVore |
| 89 | 1976 | — | Benoit |
| 90 | 2010 | — | DeSaulnier |
| 91 | 2039 | — | Arambula |
| 92 | 2060 | — | Jeffries |
| 93 | 2080 | — | La Malfa (Principal coauthor: Assembly Member Plescia) (Coauthors: Assembly Members Jeffries, Price, Silva, Strickland, Tran, and Villines) |
| 94 | 2092 | — | De La Torre |
| 95 | 2188 | — | Arambula |
| 96 | 2245 | — | Soto |
| 97 | 2273 | — | Fuentes |
| 98 | 2330 | — | Gaines |
| 99 | 2437 | — | Ruskin (Principal coauthor: Assembly Member Lieber) (Coauthors: Assembly Members Beall, Coto, Hayashi, Mullin, Swanson, and Torrico) (Coauthors: Senators Alquist, Corbett, and Simitian) |
| 100 | 2503 | — | Wolk |
| 101 | 2559 | — | Smyth |
| 102 | 2778 | — | Mendoza |
| 103 | 2802 | — | Houston |
| 104 | 2803 | — | Horton |
| 105 | 2827 | — | Sharon Runner |
| 106 | 3020 | — | Salas |
| 107 | 3057 | — | Committee on Insurance (Coto (Chair), Benoit (Vice Chair), Berg, Charles Calderon, Carter, Duvall, Garrick, Lieber, and Parra) |
| 108 | 3070 | — | Committee on Elections and Redistricting (Price (Chair), Adams (Vice Chair), Leno, Levine, Mendoza, and Saldana) |
| 109 | — | 129 | Kuehl |
| 110 | — | 610 | Corbett |
| 111 | — | 1033 | Runner (Coauthor: Senator Negrete McLeod) |
| 112 | — | 1116 | Alquist (Coauthor: Assembly Member Horton) |
| 113 | — | 1207 | Scott |
| 114 | — | 1225 | Harman |
| 115 | — | 1234 | Correa |
| 116 | — | 1261 | Cox |
| 117 | — | 1287 | Hollingsworth |
| 118 | — | 1482 | Correa (Principal coauthor: Assembly Member Soto) (Coauthor: Senator Wyland) (Coauthors: Assembly Members Anderson, Carter, Cook, DeVore, Garrick, Huff, La Malfa, Parra, and Salas) |
| 119 | — | 1554 | Dutton |
| 120 | — | 1727 | Negrete McLeod |
| 121 | — | 1419 | Yee (Principal coauthor: Senator Torlakson) (Coauthors: Assembly Members Nava and Wolk) |
| 122 | — | 1572 | Wyland (Principal coauthor: Assembly Member Salas) (Coauthors: Senators Correa, Denham, Harman, McClintock, Negrete McLeod, and Wiggins) (Coauthors: Assembly Members Beall, Cook, DeVore, Lieu, Sharon Runner, Smyth, and Wolk) |
| 123 | — | 1680 | Wyland (Coauthors: Senators Correa, Denham, Negrete McLeod, and Wiggins) |
| 124 | — | 1185 | Lowenthal (Principal coauthor: Assembly Member Houston) (Coauthor: Senator Dutton) (Coauthors: Assembly Members Solorio and Walters) |
| 125 | 1301 | — | Gaines |
| 126 | 1932 | — | Smyth |
| 127 | 2004 | — | Evans (Principal coauthor: Senator Wiggins) (Coauthor: Assembly Member Blakeslee) |
| 128 | 2197 | — | Mullin |
| 129 | 2203 | — | De Leon (Principal coauthor: Senator Runner) |
| 130 | 2266 | — | Evans (Principal coauthor: Senator Wiggins) |
| 131 | 2310 | — | Maze and Bass |
| 132 | 2483 | — | Bass |
| 133 | — | 1070 | Committee on Budget and Fiscal Review |
| 134 | — | 400 | Corbett |
| 135 | — | 1431 | Wiggins (Coauthor: Assembly Member Berg) |
| 136 | 1764 | — | Blakeslee |
| 137 | 1808 | — | Huff |
| 138 | 2554 | — | Mullin |
| 139 | 2588 | — | Charles Calderon (Coauthor: Senator Romero) |
| 140 | 2840 | — | Berg (Coauthors: Assembly Members Charles Calderon, Evans, Lieu, and Wolk) |
| 141 | — | 1127 | Dutton (Coauthor: Senator Calderon) |
| 142 | — | 1169 | Runner |
| 143 | — | 1378 | Dutton (Principal coauthors: Senators Romero, Torlakson, and Wyland) |
| 144 | — | 1684 | Machado |
| 145 | 1980 | — | Swanson |

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| 146 | 2306 | — | Karnette (Coauthors: Assembly Members Davis, Dymally, and Horton) (Coauthors: Senators Calderon and Kuehl) |
| 147 | 2349 | — | Fuller |
| 148 | 2720 | — | Levine |
| 149 | 2932 | — | Karnette |
| 150 | 3042 | — | Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Mullin, Soto, and Torrico) |
| 151 | 372 | — | Salas |
| 152 | 1424 | — | Davis |
| 153 | 2068 | — | Aghazarian |
| 154 | 2289 | — | Sharon Runner |
| 155 | 2410 | — | Nava |
| 156 | — | 1448 | Scott |
| 157 | — | 1432 | Margett |
| 158 | — | 1458 | Committee on Local Government (Senators Negrete McLeod (Chair), Cox, Harman, Kehoe, and Machado) |
| 159 | 811 | — | Levine and Beall (Principal coauthor: Assembly Member Garcia) (Coauthors: Assembly Members Huffman, Krekorian, and Leno) |
| 160 | 1812 | — | Arambula |
| 161 | 2025 | — | Silva |
| 162 | 2307 | — | Price |
| 163 | 2801 | — | Carter |
| 164 | 3044 | — | Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Mullin, Soto, and Torrico) |
| 165 | 3049 | — | Committee on Judiciary (Jones (Chair), Evans, Feuer, Krekorian, Laird, Levine, and Lieber) |
| 166 | 3051 | — | Jones |
| 167 | — | 662 | Wiggins |
| 168 | — | 685 | Yee (Coauthor: Senator Padilla) (Coauthor: Assembly Member Galgiani) |
| 169 | — | 940 | Yee (Principal coauthors: Assembly Members Dymally and Swanson) |
| 170 | — | 1107 | Correa |
| 171 | — | 1216 | Scott (Coauthor: Senator Alquist) |
| 172 | — | 1258 | Lowenthal |
| 173 | — | 1263 | Ashburn |
| 174 | — | 1264 | Harman |
| 175 | — | 1393 | Scott |
| 176 | — | 1399 | Simitian and McClintock |
| 177 | — | 1409 | Ackerman |
| 178 | — | 1435 | Ducheny |
| 179 | — | 1498 | Committee on Judiciary (Senators Corbett (Chair), Ackerman, Harman, Kuehl, and Steinberg) |
| 180 | — | 1530 | Hollingsworth |
| 181 | — | 1612 | Kuehl |
| 182 | — | 1615 | Florez |
| 183 | — | 1621 | Ashburn |
| 184 | 259 | — | Adams |
| 185 | 387 | — | Duvall |
| 186 | 415 | — | Karnette |
| 187 | 518 | — | Mendoza |
| 188 | 1150 | — | Lieu |
| 189 | 1913 | — | Fuller |
| 190 | 1923 | — | Anderson |
| 191 | 1936 | — | Emmerson |
| 192 | 1998 | — | Silva |
| 193 | 2091 | — | Fuentes |
| 194 | 2098 | — | Krekorian (Coauthors: Assembly Members Huffman, Leno, and Portantino) (Coauthor: Senator Romero) |
| 195 | 2232 | — | De La Torre |
| 196 | 2484 | — | Caballero (Coauthors: Senators Hollingsworth and Kehoe) |
| 197 | 2673 | — | Feuer |
| 198 | 2758 | — | Krekorian |
| 199 | 2963 | — | Gaines |
| 200 | 3026 | — | Saldana |
| 201 | 3035 | — | Huffman |
| 202 | — | 392 | Ducheny |
| 203 | — | 1101 | Cedillo |
| 204 | — | 1272 | Cox |
| 205 | — | 1464 | Maldonado |
| 206 | — | 1770 | Padilla (Coauthors: Senators Kuehl, Negrete McLeod, and Romero) (Coauthors: Assembly Members Brownley, Evans, Lieber, and Saldana) |
| 207 | 97 | — | Mendoza (Principal coauthor: Senator Alquist) |
| 208 | 1767 | — | Ma (Coauthor: Senator Yee) |
| 209 | 2609 | — | Davis (Coauthors: Assembly Members Anderson and Solorio) |
| 210 | 439 | — | Ma |
| 211 | 1479 | — | Mendoza |
| 212 | 1626 | — | Mullin |
| 213 | 1820 | — | Galgiani |
| 214 | 1826 | — | Beall |
| 215 | 1877 | — | Adams |
| 216 | 1924 | — | Jeffries |
| 217 | 1931 | — | Silva |
| 218 | 1949 | — | Evans |
| 219 | 1963 | — | Carter |
| 220 | 1971 | — | Portantino |
| 221 | 2009 | — | Hernandez and Huff |
| 222 | 2047 | — | Horton |
| 223 | 2057 | — | Committee on Education (Mullin (Chair), Garrick (Vice Chair), Brownley, Coto, Eng, Hancock, Huff, Karnette, and Solorio) |
| 224 | 2075 | — | Fuentes |
| 225 | 2128 | — | Emmerson |
| 226 | 2131 | — | Niello (Coauthors: Assembly Members Berryhill, DeVore, Gaines, Garrick, Horton, Huff, La Malfa, Maze, Portantino, and Spitzer) (Coauthors: Senators Cox, Hollingsworth, Margett, and Romero) |
| 227 | 2137 | — | Saldana (Coauthors: Assembly Members Berg, Brownley, and Dymally) |
| 228 | 2142 | — | Swanson |
| 229 | 2176 | — | Caballero |
| 230 | 2191 | — | Mullin |
| 231 | 2193 | — | Tran |
| 232 | 2216 | — | Gaines |
| 233 | 2226 | — | Ruskin |
| 234 | 2249 | — | Niello |
| 235 | 2260 | — | Committee on Higher Education |
| 236 | 2284 | — | Galgiani |
| 237 | 2343 | — | Caballero |
| 238 | 2374 | — | Spitzer |

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| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| 239 | 2391 | — | Solorio (Principal coauthor: Senator Alquist) |
| 240 | 2404 | — | Salas |
| 241 | 2405 | — | Arambula (Coauthors: Assembly Members Berg and Parra) |
| 242 | 2444 | — | Nakanishi |
| 243 | 2449 | — | Davis (Coauthors: Assembly Members DeVore and Portantino) |
| 244 | 2510 | — | La Malfa |
| 245 | 2555 | — | Torrico (Principal coauthor: Senator Romero) (Coauthors: Senators Alquist and Torlakson) |
| 246 | 2604 | — | Torrico |
| 247 | 2445 | — | Nakanishi |
| 248 | 2650 | — | Carter (Coauthor: Assembly Member Galgiani) |
| 249 | 2658 | — | Horton |
| 250 | 2714 | — | Keene |
| 251 | 2730 | — | Leno |
| 252 | 2786 | — | Salas |
| 253 | 2791 | — | Blakeslee |
| 254 | 2893 | — | Hancock (Coauthor: Assembly Member Saldana) |
| 255 | 2904 | — | Hayashi |
| 256 | 2919 | — | Garcia (Coauthors: Assembly Members Emmerson, Eng, Maze, and Silva) (Coauthor: Senator Battin) |
| 257 | 2999 | — | Huffman |
| 258 | 1278 | — | Lieber, Ma, and Smyth (Principal coauthor: Senator Romero) |
| 259 | 1883 | — | Keene |
| 260 | 2120 | — | Galgiani (Principal coauthor: Senator Cogdill) (Coauthors: Assembly Members Berryhill and Fuller) |
| 261 | 2202 | — | Caballero |
| 262 | 2323 | — | Huff |
| 263 | 2553 | — | Solorio (Coauthor: Assembly Member Ma) |
| 264 | 2606 | — | Emmerson and Krekorian |
| 265 | 2949 | — | DeSaulnier |
| 266 | 3000 | — | Wolk (Principal coauthor: Assembly Member Berg) (Coauthors: Assembly Members Huffman and Krekorian) (Coauthor: Senator Kuehl) |
| 267 | 3034 | — | Galgiani and Ma (Principal coauthors: Assembly Members Davis and Parra) (Coauthors: Assembly Members Adams, Aghazarian, Arambula, Beall, Berryhill, Caballero, Charles Calderon, Carter, Coto, De Leon, Dymally, Houston, Huffman, Karnette, Leno, Lieu, Maze, Mullin, Price, Ruskin, Saldana, Solorio, Torrico, and Wolk) (Coauthors: Senators Alquist, Cedillo, Florez, Kuehl, Scott, Simitian, Steinberg, Torlakson, and Wiggins) |
| 268 | 1781 | — | Laird |
| 269 | 88 | — | Committee on Budget |
| 270 | — | 28 | Simitian |
| 271 | — | 658 | Romero (Coauthor: Senator Perata) (Coauthors: Assembly Members Bass and Nunez) |
| 272 | 498 | — | Hernandez (Coauthors: Assembly Members Bass, Carter, Davis, Dymally, Eng, Hancock, Jeffries, Krekorian, Portantino, Price, and Swanson) |
| 273 | 2033 | — | Nunez |
| 274 | 2917 | — | Torrico |
| 275 | — | 997 | Ridley-Thomas |
| 276 | — | 1660 | Romero |
| 277 | 69 | — | Lieu (Coauthors: Assembly Members Swanson and Wolk) |
| 278 | 180 | — | Bass and Lieu (Coauthors: Assembly Members Lieber and Wolk) |
| 279 | 2454 | — | Emmerson |
| 280 | — | 133 | Aanestad (Coauthor: Assembly Member Galgiani) |
| 281 | — | 870 | Ridley-Thomas (Principal coauthor: Senator Ducheny) (Principal coauthor: Assembly Member Galgiani) (Coauthors: Assembly Members Carter, Dymally, and Price) |
| 282 | — | 1055 | Machado, Correa, and Oropeza (Principal coauthor: Assembly Member Niello) (Coauthors: Senators Alquist, Denham, Steinberg, and Wiggins) (Coauthors: Assembly Members Aghazarian, Galgiani, Lieu, and Wolk) |
| 283 | — | 1065 | Correa |
| 284 | — | 1461 | Negrete McLeod |
| 285 | — | 1604 | Machado |
| 286 | — | 1737 | Machado (Principal coauthor: Senator Perata) |
| 287 | — | 1675 | Cox |
| 288 | 2702 | — | Nunez |
| 289 | — | 1141 | Margett |
| 290 | 55 | — | Laird (Coauthor: Senator Aanestad) |
| 291 | 978 | — | Benoit |
| 292 | 1141 | — | Anderson |
| 293 | 1340 | — | Jones (Principal coauthor: Senator Corbett) |
| 294 | — | 158 | Florez |
| 295 | — | 891 | Correa |
| 296 | — | 1058 | Alquist |
| 297 | 550 | — | Ma |
| 298 | 990 | — | Berg (Coauthors: Assembly Members Evans and Huffman) (Coauthors: Senators Migden and Wiggins) |
| 299 | 1927 | — | Galgiani (Coauthors: Assembly Members Benoit, Horton, and Portantino) (Coauthor: Senator Denham) |
| 300 | 2044 | — | Duvall |
| 301 | 2111 | — | Smyth |
| 302 | 2321 | — | Feuer, Levine, and Davis |
| 303 | 2619 | — | Charles Calderon |
| 304 | 2956 | — | Coto |
| 305 | 3078 | — | Committee on Revenue and Taxation (Charles Calderon (Chair), DeVore (Vice Chair), Arambula, Eng, Hayashi, and Ma) |
| 306 | 3079 | — | Committee on Revenue and Taxation (Charles Calderon (Chair), Arambula, Eng, Hayashi, and Ma) |
| 307 | — | 1629 | Steinberg (Principal coauthor: Senator Romero) (Principal coauthor: Assembly Member Jones) (Coauthors: Assembly Members Arambula, Brownley, Coto, Huffman, Karnette, Laird, Mullin, and Nunez) |

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|---|---|---|---|
| 308 | 2759 | — | Jones (Principal coauthor: Senator Steinberg) (Coauthors: Assembly Members Brownley, Coto, Huffman, Krekorian, Laird, Mullin, and Nunez) (Coauthor: Senator Wiggins) |
| 309 | — | 1455 | Cogdill and Denham (Coauthors: Senators Alquist, Ashburn, Cedillo, Lowenthal, Margett, Oropeza, and Torlakson) (Coauthors: Assembly Members Benoit, Berryhill, Cook, La Malfa, Maze, Sharon Runner, and Villines) |
| 310 | 171 | — | Beall |
| 311 | — | 1407 | Perata (Coauthors: Senators Corbett, Kuehl, and Ridley-Thomas) (Coauthor: Assembly Member Jones) |
| 312 | 3018 | — | Nunez (Principal coauthors: Assembly Members Bass and De Leon) (Coauthors: Assembly Members Davis, De La Torre, Eng, Hancock, Laird, Leno, Mullin, Price, Ruskin, Solorio, and Swanson) |
| 313 | 109 | — | Nunez (Coauthor: Senator Lowenthal) |
| 314 | 642 | — | Wolk (Coauthors: Assembly Members De Leon, DeSaulnier, Dymally, Eng, Hernandez, Ma, and Soto) (Coauthors: Senators Cox and Yee) |
| 315 | 660 | — | Galgiani |
| 316 | 873 | — | Davis |
| 317 | 981 | — | Leno (Coauthor: Assembly Member Houston) |
| 318 | 1496 | — | Leno |
| 319 | 1674 | — | Jones |
| 320 | 1780 | — | Galgiani (Coauthor: Senator Steinberg) |
| 321 | 1846 | — | Adams |
| 322 | 1874 | — | Coto |
| 323 | 1900 | — | Nava |
| 324 | 1935 | — | Fuller (Principal coauthors: Assembly Members De Leon and Parra) (Coauthors: Assembly Members Horton, Huffman, Lieber, and Wolk) |
| 325 | 2001 | — | Swanson |
| 326 | 2125 | — | Price |
| 327 | 2150 | — | Berg (Coauthors: Assembly Members Charles Calderon, Carter, Coto, De Leon, Jones, Lieber, Lieu, Parra, and Wolk) (Coauthors: Senators Lowenthal and Scott) |
| 328 | 2291 | — | Mendoza |
| 329 | 2411 | — | Caballero |
| 330 | 2518 | — | Torrico |
| 331 | 2589 | — | Solorio |
| 332 | 2670 | — | Salas |
| 333 | 2785 | — | Ruskin |
| 334 | 3072 | — | Price (Principal coauthors: Senators Perata and Battin) |
| 335 | — | 107 | Alquist |
| 336 | — | 111 | Ashburn and Migden |
| 337 | — | 157 | Wiggins |
| 338 | — | 462 | Torlakson |
| 339 | — | 491 | Alquist (Coauthors: Assembly Members Beall, Berg, Brownley, Carter, Dymally, Horton, and Levine) |
| 340 | — | 580 | Calderon |
| 341 | — | 593 | Margett |
| 342 | — | 780 | Wiggins (Principal coauthor: Senator Cox) (Coauthor: Senator Kehoe) |
| 343 | — | 1016 | Wiggins |
| 344 | — | 1145 | Machado (Coauthor: Senator Cox) |
| 345 | — | 1146 | Cedillo |
| 346 | — | 1162 | Maldonado |
| 347 | — | 1184 | Kuehl (Coauthor: Senator Migden) (Coauthors: Assembly Members Berg, Jones, Laird, and Portantino) |
| 348 | — | 1211 | Harman |
| 349 | — | 1233 | Harman |
| 350 | — | 1262 | Cogdill |
| 351 | — | 1279 | Maldonado (Coauthors: Assembly Members DeVore, Horton, and Jeffries) |
| 352 | — | 1406 | Correa and Aanestad |
| 353 | — | 1472 | Ashburn |
| 354 | — | 1502 | Steinberg (Principal coauthor: Assembly Member Garrick) (Coauthors: Assembly Members Adams, Aghazarian, Cook, Silva, Smyth, and Strickland) |
| 355 | — | 1537 | Kehoe |
| 356 | — | 1562 | Hollingsworth and Ducheny (Coauthors: Senators Battin, Denham, and Dutton) (Coauthors: Assembly Members Anderson, Blakeslee, Horton, La Malfa, and Maze) |
| 357 | — | 1613 | Margett |
| 358 | 2810 | — | Brownley (Coauthor: Senator Romero) |
| 359 | 499 | — | Swanson (Principal coauthor: Senator Romero) (Coauthor: Senator Perata) |
| 360 | — | 1213 | Ducheny (Coauthor: Senator Cox) (Coauthors: Assembly Members Anderson, Berg, Horton, and Portantino) |
| 361 | 2327 | — | Caballero (Coauthor: Assembly Member Salas) (Coauthor: Senator Cedillo) |
| 362 | — | 1227 | Hollingsworth |
| 363 | 2796 | — | Nava |
| 364 | 3075 | — | Committee on Governmental Organization (Torrico (Chair), Charles Calderon, Davis, De Leon, Evans, Levine, Mendoza, Portantino, Price, and Soto) |
| 365 | 2859 | — | Gaines |
| 366 | — | 1595 | Kehoe |
| 367 | — | 1668 | Migden |
| 368 | 2742 | — | Furutani and Karnette |
| 369 | 1844 | — | Hernandez (Principal coauthor: Senator Wiggins) |
| 370 | 2023 | — | Houston |
| 371 | — | 1123 | Wiggins (Principal coauthor: Assembly Member Hernandez) (Coauthor: Senator Margett) |
| 372 | 38 | — | Nava (Coauthors: Assembly Members Beall, Jeffries, Lieber, and Torrico) (Coauthors: Senators Cedillo, Padilla, and Perata) |
| 373 | — | 286 | Lowenthal |
| 374 | — | 187 | Ducheny (Coauthor: Assembly Member Garcia) |
| 375 | — | 301 | Romero (Coauthors: Assembly Members Dymally, Huff, and Laird) |
| 376 | — | 302 | Ducheny |
| 377 | — | 348 | Simitian (Coauthor: Senator Yee) (Coauthors: Assembly Members Ma, Mullin, and Ruskin) |
| 378 | — | 377 | Aanestad |

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|---|---|---|---|
| 379 | — | 483 | Kuehl (Principal coauthor: Assembly Member Berg) |
| 380 | — | 561 | Margett |
| 381 | — | 564 | Ridley-Thomas (Principal coauthor: Assembly Member Hayashi) (Coauthors: Senators Padilla and Torlakson) |
| 382 | — | 585 | Lowenthal |
| 383 | — | 640 | Simitian |
| 384 | — | 731 | Oropeza |
| 385 | — | 963 | Ridley-Thomas |
| 386 | — | 1064 | Hollingsworth (Coauthors: Senators Ackerman, Battin, Ducheny, Harman, Runner, and Wyland) (Coauthors: Assembly Members Anderson, Benoit, DeVore, Gaines, Garrick, Horton, Jeffries, La Malfa, Plescia, Salas, Strickland, and Villines) |
| 387 | — | 1093 | Wiggins (Principal coauthor: Assembly Member Evans) |
| 388 | — | 1149 | Wiggins |
| 389 | — | 1166 | Cox |
| 390 | — | 1168 | Runner |
| 391 | — | 1173 | Scott |
| 392 | — | 1190 | Oropeza |
| 393 | — | 1193 | Padilla |
| 394 | — | 1228 | Maldonado |
| 395 | — | 1246 | Negrete McLeod |
| 396 | — | 1260 | Runner |
| 397 | — | 1268 | Denham (Coauthor: Assembly Member Galgiani) |
| 398 | — | 1277 | Maldonado |
| 399 | — | 1280 | Maldonado |
| 400 | — | 1308 | Cox |
| 401 | — | 1311 | Simitian |
| 402 | — | 1352 | Wyland |
| 403 | — | 1387 | Padilla (Coauthors: Senators Aanestad and Alquist) |
| 404 | — | 1388 | Torlakson, Correa, and Maldonado (Coauthor: Senator Dutton) |
| 405 | — | 1396 | Cox |
| 406 | — | 1428 | Kehoe |
| 407 | — | 1467 | Machado |
| 408 | — | 1496 | Ashburn |
| 409 | — | 1503 | Steinberg (Coauthors: Senators Aanestad, Alquist, Cox, Kuehl, Negrete McLeod, Wyland, and Yee) |
| 410 | — | 1509 | Lowenthal |
| 411 | — | 1538 | Steinberg |
| 412 | — | 1560 | Yee (Principal coauthor: Senator Wiggins) (Principal coauthor: Assembly Member Evans) |
| 413 | — | 1567 | Oropeza |
| 414 | — | 1623 | Yee (Coauthor: Assembly Member La Malfa) |
| 415 | — | 1699 | Wiggins (Coauthor: Senator Cox) (Coauthor: Assembly Member Wolk) |
| 416 | — | 1701 | Romero |
| 417 | — | 1720 | Lowenthal |
| 418 | — | 1772 | Committee on Rules (Senators Perata (Chair), Ashburn, Cedillo, Dutton, and Padilla) |
| 419 | — | 1774 | Corbett |
| 420 | 619 | — | Emmerson |
| 421 | 1954 | — | Jeffries (Coauthor: Assembly Member Benoit) (Coauthors: Senators Battin and Hollingsworth) |
| 422 | 352 | — | Solorio (Coauthor: Assembly Member Fuller) (Coauthor: Senator Romero) |
| 423 | 534 | — | Smyth, Parra, Spitzer, and Sharon Runner (Coauthor: Senator Romero) |
| 424 | 541 | — | Huffman (Principal coauthor: Assembly Member Coto) (Coauthors: Assembly Members Beall, Berg, DeSaulnier, Krekorian, and Lieber) (Coauthor: Senator Migden) |
| 425 | 856 | — | Galgiani |
| 426 | 994 | — | Parra |
| 427 | 1060 | — | Laird (Coauthor: Senator Cox) |
| 428 | 1188 | — | Coto |
| 429 | 1209 | — | Karnette |
| 430 | 1289 | — | Price |
| 431 | 1394 | — | Krekorian |
| 432 | 1480 | — | Mendoza (Coauthor: Assembly Member Price) |
| 433 | 1684 | — | Emmerson |
| 434 | 1907 | — | Ruskin |
| 435 | 1952 | — | Berg (Coauthor: Assembly Member Maze) |
| 436 | 1972 | — | DeSaulnier |
| 437 | 2028 | — | Solorio |
| 438 | 2045 | — | De La Torre |
| 439 | 2048 | — | Silva |
| 440 | 2052 | — | Lieu |
| 441 | 2090 | — | Evans (Principal coauthor: Senator Wiggins) (Coauthors: Assembly Members Aghazarian, Berryhill, Blakeslee, Huffman, Jones, Maze, Parra, and Plescia) (Coauthor: Senator Hollingsworth) |
| 442 | 2094 | — | DeSaulnier and Laird |
| 443 | 2103 | — | Plescia |
| 444 | 2133 | — | Hancock |
| 445 | 2143 | — | De Leon (Principal coauthor: Assembly Member Bass) |
| 446 | 2165 | — | Karnette |
| 447 | 2168 | — | Jones (Coauthor: Assembly Member La Malfa) |
| 448 | 2205 | — | Garrick |
| 449 | 2210 | — | Price |
| 450 | 2223 | — | Horton |
| 451 | 2241 | — | Saldana |
| 452 | 2250 | — | Sharon Runner |
| 453 | 2258 | — | Evans |
| 454 | 2280 | — | Saldana and Caballero |
| 455 | 2287 | — | Evans |
| 456 | 2337 | — | Beall |
| 457 | 2341 | — | Maze |
| 458 | 2376 | — | Price (Principal coauthor: Assembly Member Arambula) |
| 459 | 2400 | — | Price |
| 460 | 2402 | — | La Malfa |
| 461 | 2426 | — | Cook |
| 462 | 2448 | — | Feuer |
| 463 | 2465 | — | Duvall |
| 464 | 2527 | — | Berg |
| 465 | 2565 | — | Eng |
| 466 | 2726 | — | Leno |

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| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| 467 | 2738 | — | Jones (Coauthors: Assembly Members Adams, Evans, Feuer, Gaines, Keene, Solorio, and Wolk) (Coauthors: Senators Harman and Wyland) |
| 468 | 2750 | — | Krekorian (Principal coauthors: Assembly Members Blakeslee, Karnette, Portantino, and Smyth) |
| 469 | 2794 | — | Blakeslee |
| 470 | 2838 | — | Duvall |
| 471 | 3025 | — | Lieber |
| 472 | — | 890 | Scott (Principal coauthors: Assembly Members Bass and Portantino) (Coauthors: Senators Alquist, Correa, Denham, Ducheny, Maldonado, Padilla, Romero, and Wyland) (Coauthors: Assembly Members Aghazarian, Arambula, Beall, Berg, Berryhill, Brownley, Caballero, Carter, Coto, Davis, De Leon, DeSaulnier, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Galgiani, Hancock, Huffman, Jones, Karnette, Krekorian, Laird, Lieber, Ma, Mendoza, Mullin, Nava, Parra, Price, Salas, Solorio, Swanson, and Torrico) |
| 473 | — | 946 | Scott (Coauthors: Assembly Members Brownley and Karnette) |
| 474 | — | 1457 | Steinberg (Coauthors: Senators Alquist and Romero) (Coauthors: Assembly Members Caballero, Huffman, Karnette, and Leno) |
| 475 | — | 1140 | Steinberg (Coauthor: Senator Alquist) |
| 476 | 2149 | — | Berg (Coauthors: Assembly Members Arambula, Charles Calderon, Coto, De Leon, Jones, Lieber, Lieu, Mendoza, Parra, Swanson, Torrico, and Wolk) |
| 477 | 749 | — | Wolk (Principal coauthor: Assembly Member Berg) (Principal coauthor: Senator Alquist) |
| 478 | 2370 | — | Bass (Coauthors: Assembly Members Caballero, Carter, Dymally, Jones, Krekorian, Saldana, Swanson, and Wolk) (Coauthors: Senators Ridley-Thomas and Torlakson) |
| 479 | — | 1136 | Alquist (Coauthors: Senators Kuehl, Scott, and Steinberg) |
| 480 | 225 | — | Beall |
| 481 | 2100 | — | Wolk (Principal coauthor: Assembly Member Berg) (Coauthor: Assembly Member Krekorian) |
| 482 | 2070 | — | Bass |
| 483 | 2096 | — | Bass (Coauthors: Assembly Members Berg, Brownley, Dymally, Evans, Galgiani, Hancock, Horton, Jones, Lieber, Ma, Maze, Portantino, and Villines) |
| 484 | — | 1160 | Alquist |
| 485 | — | 1341 | Padilla |
| 486 | — | 1380 | Steinberg (Principal coauthor: Assembly Member Beall) (Coauthor: Senator Alquist) |
| 487 | 131 | — | Beall |
| 488 | 1284 | — | Eng |
| 489 | 1897 | — | Emmerson (Coauthor: Assembly Member Torrico) |
| 490 | 1911 | — | Galgiani (Coauthor: Senator Denham) |
| 491 | 2069 | — | Jones |
| 492 | 2296 | — | Mullin (Principal coauthor: Assembly Member Wolk) (Principal coauthor: Senator Simitian) |
| 493 | 2339 | — | Solorio (Coauthors: Assembly Members Carter, Coto, Emmerson, Jeffries, Mendoza, Silva, Spitzer, and Tran) (Coauthor: Senator Correa) |
| 494 | 2390 | — | Karnette |
| 495 | 2403 | — | Smyth |
| 496 | 2474 | — | Galgiani (Principal coauthor: Senator Kuehl) (Coauthor: Senator Alquist) |
| 497 | 2570 | — | Silva |
| 498 | 2607 | — | Davis (Principal coauthor: Senator Denham) (Coauthors: Assembly Members Adams and Mendoza) |
| 499 | 2637 | — | Eng |
| 500 | 2679 | — | Ruskin (Coauthor: Assembly Member Nunez) |
| 501 | 2749 | — | Gaines |
| 502 | 2846 | — | Feuer (Coauthor: Assembly Member Jeffries) |
| 503 | 2921 | — | Laird |
| 504 | 2946 | — | Hayashi |
| 505 | 3010 | — | Blakeslee (Coauthors: Assembly Members Caballero, Emmerson, Garcia, Hayashi, Horton, Maze, Sharon Runner, and Strickland) |
| 506 | 3028 | — | Salas |
| 507 | 3056 | — | Committee on Insurance (Coto (Chair), Berg, Charles Calderon, Carter, De Leon, Lieber, and Parra) |
| 508 | 3071 | — | Committee on Governmental Organization (Torrico (Chair), Charles Calderon, Davis, De Leon, Evans, Jeffries, Levine, Mendoza, Portantino, Price, Soto, and Tran) |
| 509 | 3073 | — | Committee on Governmental Organization (Torrico (Chair), Charles Calderon, Davis, De Leon, Evans, Jeffries, Levine, Mendoza, Portantino, Price, Soto, and Tran) |
| 510 | 3074 | — | Committee on Governmental Organization (Torrico (Chair), Charles Calderon, Davis, De Leon, Evans, Jeffries, Levine, Mendoza, Portantino, Price, Soto, and Tran) |
| 511 | 3076 | — | Huffman (Principal coauthor: Senator Padilla) |
| 512 | 3081 | — | Committee on Natural Resources (Hancock (Chair), Fuller (Vice Chair), Aghazarian, Brownley, Fuentes, Laird, Saldana, and Wolk) |
| 513 | — | 140 | Kehoe |
| 514 | — | 361 | Scott |
| 515 | — | 1112 | Scott |
| 516 | — | 1158 | Scott |
| 517 | — | 1178 | Aanestad |
| 518 | — | 1186 | Scott (Coauthor: Senator Romero) |
| 519 | — | 1197 | Alquist (Coauthors: Assembly Members Fuller and Lieu) |
| 520 | — | 1245 | Negrete McLeod |
| 521 | — | 1247 | Lowenthal |
| 522 | — | 1250 | Yee (Coauthor: Senator Romero) (Coauthor: Assembly Member Price) |
| 523 | — | 1274 | Wyland (Coauthor: Senator Denham) |

# TABLE OF LAWS ENACTED—Continued

## 2008

| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| 524 | — | 1284 | Lowenthal |
| 525 | — | 1370 | Yee (Coauthors: Senators Kuehl and Romero) (Coauthors: Assembly Members Brownley and Portantino) |
| 526 | — | 1371 | Correa |
| 527 | — | 1511 | Ducheny |
| 528 | — | 1561 | Steinberg (Principal coauthor: Assembly Member Jones) (Coauthor: Senator Cox) (Coauthor: Assembly Member Niello) |
| 529 | — | 1584 | Padilla |
| 530 | — | 1637 | Torlakson (Principal coauthor: Assembly Member Soto) |
| 531 | — | 1638 | Alquist |
| 532 | — | 1681 | Battin |
| 533 | — | 1723 | Maldonado and Simitian |
| 534 | — | 1726 | Scott |
| 535 | 2863 | — | Leno |
| 536 | 2857 | — | Lieber |
| 537 | 2267 | — | Fuentes (Coauthors: Assembly Members Blakeslee, Caballero, Price, and Salas) |
| 538 | 1451 | — | Leno (Coauthors: Assembly Members Beall, DeSaulnier, Garcia, Garrick, Horton, Jeffries, Laird, Levine, Lieu, and Portantino) (Coauthors: Senators Florez and Romero) |
| 539 | 2180 | — | Lieu (Coauthor: Assembly Member Garcia) |
| 540 | 2466 | — | Laird and Huffman |
| 541 | 2768 | — | Levine |
| 542 | 2804 | — | Hayashi |
| 543 | — | 1754 | Kehoe (Coauthor: Senator Padilla) |
| 544 | — | 380 | Kehoe |
| 545 | — | 1135 | Ducheny |
| 546 | — | 1147 | Calderon and Yee |
| 547 | — | 1422 | Ridley-Thomas (Principal coauthor: Assembly Member Nunez) |
| 548 | — | 1441 | Ridley-Thomas |
| 549 | — | 1608 | Corbett, Harman, Steinberg, Runner, and Calderon (Principal coauthors: Assembly Members Smyth, Wolk, and Jones) |
| 550 | — | 1729 | Migden |
| 551 | 1763 | — | Blakeslee |
| 552 | 2578 | — | Lieu |
| 553 | 2618 | — | Solorio |
| 554 | 2737 | — | Feuer |
| 555 | 2899 | — | Portantino (Coauthor: Assembly Member Leno) |
| 556 | 2973 | — | Soto (Coauthor: Assembly Member Ma) |
| 557 | 3015 | — | Brownley |
| 558 | 3048 | — | Committee on Utilities and Commerce (Levine (Chair), Keene (Vice Chair), Davis, Fuentes, Furutani, Huffman, Jones, Krekorian, Price, Smyth, and Tran) |
| 559 | 1879 | — | Feuer and Huffman (Principal coauthors: Assembly Members Blakeslee, Hernandez, and Solorio) (Principal coauthor: Senator Simitian) (Coauthor: Senator Calderon) |
| 560 | — | 509 | Simitian (Principal coauthor: Assembly Member Feuer) (Coauthor: Senator Calderon) |
| 561 | — | 1298 | Simitian and Steinberg (Coauthors: Senators Padilla, Romero, and Torlakson) (Coauthors: Assembly Members Brownley and Galgiani) |
| 562 | 1960 | — | Nava |
| 563 | 2031 | — | Hancock (Coauthors: Assembly Members Beall, Coto, DeSaulnier, Huffman, Leno, Lieber, Mullin, Ruskin, Silva, Swanson, Torrico, and Wolk) |
| 564 | 2935 | — | Huffman (Coauthors: Assembly Members DeSaulnier, Hancock, Laird, Leno, Mullin, Ruskin, and Wolk) |
| 565 | 2911 | — | Wolk (Coauthors: Assembly Members Beall, Hancock, Huffman, Leno, Lieber, Mullin, Nava, Ruskin, Swanson, and Torrico) |
| 566 | — | 1739 | Simitian |
| 567 | — | 1627 | Wiggins (Coauthor: Senator Alquist) (Coauthors: Assembly Members DeVore, DeSaulnier, Evans, Huffman, and Lieber) |
| 568 | — | 1217 | Yee |
| 569 | 1860 | — | Huffman (Coauthors: Assembly Members Feuer, Lieber, and Ma) (Coauthor: Senator Migden) |
| 570 | 2071 | — | Karnette |
| 571 | 2286 | — | Feuer (Coauthor: Assembly Member Huffman) (Coauthor: Senator Oropeza) |
| 572 | 2347 | — | Ruskin |
| 573 | 2763 | — | Laird |
| 574 | 2765 | — | Huffman |
| 575 | 2901 | — | Brownley |
| 576 | — | 1104 | Scott |
| 577 | — | 1105 | Margett (Principal coauthor: Assembly Member Spitzer) (Coauthor: Assembly Member La Malfa) |
| 578 | — | 1110 | Scott |
| 579 | — | 1303 | Runner |
| 580 | — | 1334 | Calderon |
| 581 | — | 1395 | Corbett |
| 582 | 717 | — | Fuller |
| 583 | 919 | — | Houston |
| 584 | 2043 | — | Spitzer and Ma (Principal coauthors: Senators Ackerman and Romero) (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Benoit, Berryhill, Blakeslee, Carter, Cook, Davis, DeVore, Duvall, Emmerson, Eng, Fuller, Gaines, Galgiani, Garcia, Garrick, Hayashi, Horton, Houston, Huff, Jeffries, Karnette, Keene, Krekorian, La Malfa, Maze, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Price, Sharon Runner, Silva, Smyth, Solorio, Strickland, Tran, Villines, Walters, and Wolk) (Coauthors: Senators Battin, Correa, Harman, Maldonado, Margett, and Runner) |
| 585 | 2171 | — | Cook |
| 586 | 2304 | — | Plescia |
| 587 | 2809 | — | Leno and Price |
| 588 | 190 | — | Bass (Principal coauthor: Assembly Member Maze) (Coauthors: Assembly Members Berg, Davis, DeVore, Dymally, Horton, La Malfa, Portantino, and Sharon Runner) |
| 589 | 2049 | — | Saldana |

# TABLE OF LAWS ENACTED—Continued

## 2008

| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| 590 | 3065 | — | Committee on Veterans Affairs (Salas (Chair), Cook (Vice Chair), Beall, Carter, DeVore, Lieu, Sharon Runner, and Saldana) |
| 591 | 3083 | — | Committee on Veterans Affairs (Salas (Chair), Beall, Carter, Lieu, and Wolk) (Coauthors: Assembly Members Cook, DeVore, and Sharon Runner) |
| 592 | — | 1353 | Negrete McLeod |
| 593 | — | 1401 | Simitian (Coauthor: Senator Cedillo) (Coauthor: Assembly Member Salas) |
| 594 | — | 1495 | Kehoe |
| 595 | — | 1534 | Battin |
| 596 | 3038 | — | Tran |
| 597 | — | 441 | Torlakson and Kuehl |
| 598 | — | 1187 | Battin (Principal coauthor: Assembly Member Sharon Runner) (Coauthors: Senators Cox, Harman, Hollingsworth, Romero, and Runner) (Coauthors: Assembly Members Adams, Benoit, Berryhill, DeVore, Garcia, Garrick, Horton, Jeffries, La Malfa, Maze, Spitzer, and Villines) |
| 599 | — | 1302 | Cogdill |
| 600 | — | 1420 | Padilla and Migden (Principal coauthors: Assembly Members DeSaulnier and Leno) (Coauthors: Senators Alquist, Cedillo, and Romero) (Coauthors: Assembly Members Coto and Solorio) |
| 601 | — | 1546 | Runner |
| 602 | 211 | — | Jones (Coauthors: Senators Alquist, Kuehl, and Torlakson) |
| 603 | 1203 | — | Salas |
| 604 | 2569 | — | De Leon |
| 605 | — | 541 | Alquist |
| 606 | — | 697 | Yee |
| 607 | — | 1379 | Ducheny |
| 608 | — | 27 | Simitian (Principal coauthor: Assembly Member Wolk) |
| 609 | 2356 | — | Arambula |
| 610 | 2882 | — | Wolk |
| 611 | 3030 | — | Brownley |
| 612 | — | 53 | Ducheny |
| 613 | — | 381 | Calderon (Principal coauthor: Assembly Member Price) (Coauthors: Senators Cedillo and Scott) (Coauthor: Assembly Member Mendoza) |
| 614 | — | 1062 | Committee on Local Government (Senators Negrete McLeod (Chair), Cox, Harman, Kehoe, and Machado) |
| 615 | — | 1117 | Cox (Principal coauthor: Assembly Member La Malfa) |
| 616 | — | 1161 | Lowenthal |
| 617 | — | 1175 | Steinberg (Principal coauthor: Assembly Member Beall) (Coauthor: Senator Alquist) |
| 618 | — | 1220 | Cedillo |
| 619 | — | 1276 | Ashburn |
| 620 | — | 1510 | Kehoe |
| 621 | — | 1531 | Correa, Alquist, and Steinberg |
| 622 | — | 1548 | Florez |
| 623 | 31 | — | De Leon (Coauthors: Assembly Members Bass, Coto, Hayashi, Hernandez, Karnette, Mendoza, Nunez, Price, Saldana, Solorio, Soto, Swanson, and Torrico) (Coauthors: Senators Cedillo, Corbett, and Padilla) |
| 624 | 346 | — | Beall and Saldana |
| 625 | 433 | — | Beall (Coauthors: Assembly Members Berg, Dymally, Laird, and Lieber) (Coauthor: Senator Wiggins) |
| 626 | 545 | — | Walters |
| 627 | 578 | — | Blakeslee and Levine |
| 628 | 638 | — | Bass and Nakanishi (Coauthors: Assembly Members Berg, Emmerson, and Maze) |
| 629 | 1245 | — | Torrico (Coauthors: Assembly Members Aghazarian and Wolk) (Coauthor: Senator Padilla) |
| 630 | 1461 | — | Krekorian |
| 631 | 1894 | — | Krekorian |
| 632 | 1898 | — | Evans (Coauthor: Senator Wiggins) |
| 633 | 1903 | — | Hernandez (Coauthor: Assembly Member Portantino) (Coauthor: Senator Romero) |
| 634 | 1908 | — | Wolk |
| 635 | 1915 | — | Jeffries (Coauthors: Assembly Members Cook and Gaines) (Coauthor: Senator Battin) |
| 636 | 1948 | — | Evans |
| 637 | 2162 | — | Mullin |
| 638 | 2293 | — | De Leon |
| 639 | 2326 | — | Lieu |
| 640 | 2439 | — | De La Torre (Coauthor: Assembly Member Berg) |
| 641 | 2494 | — | Caballero |
| 642 | 2641 | — | Cook |
| 643 | 2680 | — | Adams (Coauthors: Assembly Members Carter, Cook, Emmerson, and Huff) |
| 644 | 2729 | — | Ruskin |
| 645 | 3016 | — | Cook (Principal coauthor: Assembly Member Lieu) (Coauthors: Assembly Members Anderson, Beall, Charles Calderon, Coto, Davis, DeVore, Emmerson, Evans, Feuer, Garcia, Garrick, Hayashi, Hernandez, Laird, Mendoza, Parra, Price, Salas, Smyth, Solorio, and Strickland) (Coauthors: Senators Aanestad, Battin, Cedillo, Cogdill, Correa, Denham, Dutton, Florez, Machado, Padilla, Runner, Simitian, and Wyland) |
| 646 | 86 | — | Lieu (Coauthors: Assembly Members Salas and Solorio) |
| 647 | 163 | — | Mendoza |
| 648 | 572 | — | Berg |
| 649 | 830 | — | Ma |
| 650 | 876 | — | Davis |
| 651 | 887 | — | De La Torre |
| 652 | 916 | — | Niello (Principal coauthor: Senator Steinberg) (Coauthor: Assembly Member Jones) |
| 653 | 1062 | — | Ma (Coauthor: Assembly Member Leno) |
| 654 | 1088 | — | Carter |
| 655 | 1163 | — | Krekorian (Coauthors: Assembly Members Beall, Hayashi, Horton, and Parra) |
| 656 | 1225 | — | DeSaulnier |
| 657 | 1358 | — | Leno (Coauthor: Assembly Member Levine) |
| 658 | 1510 | — | Plescia |

# TABLE OF LAWS ENACTED—Continued

## 2008

| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| 659 | 1859 | — | Adams (Principal coauthor: Assembly Member Anderson) (Coauthors: Assembly Members Aghazarian, Beall, Benoit, Berryhill, Brownley, Caballero, Charles Calderon, Carter, Coto, DeVore, Fuentes, Horton, Houston, Huff, Huffman, Jeffries, Krekorian, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Plescia, Sharon Runner, Silva, Smyth, Spitzer, Strickland, and Tran) (Coauthors: Senators Calderon and Margett) |
| 660 | 1871 | — | Coto (Coauthor: Assembly Member Horton) (Coauthor: Senator Cedillo) |
| 661 | 1889 | — | Berg (Coauthor: Senator Wiggins) |
| 662 | 1974 | — | Nava |
| 663 | 1981 | — | Huff |
| 664 | 2016 | — | Committee on Housing and Community Development (Saldana (Chair), Garcia (Vice Chair), Bass, Hancock, Mullin, Sharon Runner, and Swanson) |
| 665 | 2020 | — | Fuentes |
| 666 | 2040 | — | Nunez and Silva (Coauthors: Assembly Members Brownley and Hancock) (Coauthor: Senator Romero) |
| 667 | 2065 | — | Hancock |
| 668 | 2158 | — | Soto |
| 669 | 2211 | — | Karnette |
| 670 | 2222 | — | Caballero |
| 671 | 2261 | — | Ruskin |
| 672 | 2272 | — | Fuentes |
| 673 | 2300 | — | Laird (Coauthor: Assembly Member Garcia) |
| 674 | 2319 | — | Horton |
| 675 | 2423 | — | Bass |
| 676 | 2470 | — | Karnette (Coauthor: Assembly Member Lieu) (Coauthor: Senator Romero) |
| 677 | 2522 | — | Arambula (Principal coauthor: Senator Florez) |
| 678 | 2537 | — | Furutani |
| 679 | 2592 | — | Ma |
| 680 | 2599 | — | De Leon |
| 681 | 2648 | — | Bass, Carter, and Furutani (Principal coauthor: Senator Steinberg) (Coauthors: Assembly Members Berg, Eng, Hancock, and Portantino) |
| 682 | 2654 | — | Laird |
| 683 | 2747 | — | Berg and Levine (Coauthors: Assembly Members Bass, Brownley, Huffman, Jones, Mullin, Salas, Torrico, and Wolk) |
| 684 | 2754 | — | Bass |
| 685 | 2855 | — | Hancock (Coauthors: Senators Alquist and Romero) |
| 686 | 2881 | — | Wolk (Coauthor: Assembly Member La Malfa) |
| 687 | 2922 | — | DeSaulnier |
| 688 | — | 61 | Runner |
| 689 | 2945 | — | Laird (Coauthor: Assembly Member Evans) |
| 690 | 2954 | — | Lieber and Hancock (Coauthors: Assembly Members Coto, DeSaulnier, Hayashi, Huffman, Laird, Leno, Portantino, Ruskin, and Swanson) (Coauthors: Senators Alquist, Migden, Wiggins, and Yee) |
| 691 | 2991 | — | Nunez (Coauthor: Assembly Member DeSaulnier) |
| 692 | 3005 | — | Jones |
| 693 | 3058 | — | Committee on Utilities and Commerce (Levine (Chair), Keene (Vice Chair), Blakeslee, Davis, Fuentes, Furutani, Huffman, Jones, Krekorian, Price, Smyth, and Tran) |
| 694 | — | 634 | Wiggins |
| 695 | 2824 | — | Berryhill (Principal coauthor: Senator Wiggins) |
| 696 | — | 1781 | Committee on Environmental Quality (Senators Simitian (Chair), Aanestad, Florez, Kuehl, Lowenthal, Runner, and Steinberg) |
| 697 | — | 1357 | Padilla (Principal coauthor: Assembly Member Fuentes) |
| 698 | 837 | — | Feuer |
| 699 | — | 1241 | Margett |
| 700 | 2352 | — | Fuentes |
| 701 | 2651 | — | Aghazarian |
| 702 | — | 155 | Cox |
| 703 | — | 567 | Aanestad (Coauthor: Assembly Member Berg) |
| 704 | — | 588 | Runner (Principal coauthors: Assembly Members Furutani and Portantino) (Coauthor: Senator Scott) (Coauthor: Assembly Member Caballero) |
| 705 | — | 791 | Corbett (Coauthor: Assembly Member Torrico) |
| 706 | — | 911 | Wiggins |
| 707 | — | 947 | Hollingsworth |
| 708 | — | 1007 | Machado |
| 709 | — | 1124 | Committee on Local Government (Senators Negrete McLeod (Chair), Cox, Harman, Kehoe, and Machado) |
| 710 | — | 1251 | Steinberg (Coauthors: Assembly Members Brownley, Fuller, Karnette, and Mullin) |
| 711 | — | 1285 | Corbett (Coauthor: Assembly Member Laird) |
| 712 | — | 1296 | Corbett (Coauthor: Assembly Member Jones) |
| 713 | — | 1307 | Ridley-Thomas |
| 714 | — | 1316 | Correa (Principal coauthor: Assembly Member Spitzer) (Coauthors: Assembly Members Benoit and Solorio) |
| 715 | — | 1329 | Harman |
| 716 | — | 1362 | Margett |
| 717 | — | 1366 | Negrete McLeod (Principal coauthors: Assembly Members Carter and Nava) |
| 718 | — | 1437 | Padilla (Principal coauthor: Assembly Member Portantino) (Coauthors: Senators Romero, Simitian, and Torlakson) (Coauthors: Assembly Members Krekorian and Levine) |
| 719 | — | 1473 | Calderon |
| 720 | — | 1486 | Ducheny (Coauthor: Senator Kehoe) (Coauthor: Assembly Member Salas) |
| 721 | — | 1519 | Yee |
| 722 | — | 1553 | Lowenthal (Coauthor: Senator Kuehl) (Coauthors: Assembly Members Berg, Hernandez, and Huffman) |
| 723 | — | 1556 | Ducheny |
| 724 | — | 1646 | Padilla, Cedillo, Negrete McLeod, and Oropeza (Coauthors: Assembly |

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| Ch. No. | A.B. No. | S.B. No. | Author |
|---|---|---|---|
| | | | Members Davis, Feuer, Fuentes, and Soto) |
| 725 | — | 1662 | Cox |
| 726 | — | 1666 | Calderon |
| 727 | — | 1690 | Wiggins (Coauthor: Assembly Member Leno) |
| 728 | — | 375 | Steinberg (Coauthor: Senator Ducheny) (Coauthors: Assembly Members Jones and DeSaulnier) |
| 729 | — | 732 | Steinberg (Principal coauthor: Senator Negrete McLeod) (Coauthor: Senator Wiggins) |
| 730 | — | 691 | Calderon (Principal coauthors: Senators Cogdill and Maldonado) (Principal coauthors: Assembly Members Anderson, Berryhill, Garrick, and Maze) (Coauthors: Senators Cedillo, Denham, Florez, Margett, and Yee) (Coauthors: Assembly Members Adams, Aghazarian, Arambula, Benoit, Blakeslee, Cook, DeVore, Emmerson, Fuller, Gaines, Galgiani, Garcia, Horton, Houston, Huff, Jeffries, Keene, La Malfa, Mullin, Nakanishi, Niello, Parra, Plescia, Sharon Runner, Salas, Silva, Smyth, Spitzer, Strickland, Tran, and Villines) |
| 731 | 844 | — | Berryhill and Maze (Principal coauthors: Assembly Members Galgiani and Garrick) (Principal coauthors: Senators Calderon, Cogdill, and Maldonado) (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Benoit, Blakeslee, Cook, DeVore, Emmerson, Fuller, Gaines, Garcia, Horton, Houston, Huff, Jeffries, Keene, La Malfa, Ma, Mullin, Nakanishi, Niello, Parra, Plescia, Sharon Runner, Salas, Silva, Smyth, Spitzer, Strickland, Tran, Villines, and Walters) (Coauthors: Senators Cedillo, Denham, Florez, Margett, and Yee) |
| 732 | — | 447 | Maldonado and Florez |
| 733 | 1778 | — | Ma |
| 734 | 334 | — | Levine |
| 735 | 583 | — | Hancock (Coauthors: Assembly Members Beall, Berg, Brownley, DeSaulnier, Eng, Evans, Hayashi, Huffman, Jones, Laird, Leno, Lieu, Ma, Mullin, Price, Saldana, Swanson, Torrico, and Wolk) (Coauthors: Senators Corbett, Kuehl, Migden, Oropeza, Perata, and Yee) |
| 736 | 2042 | — | Fuentes |
| 737 | 2050 | — | Garcia (Coauthor: Assembly Member Horton) |
| 738 | 2059 | — | Nunez |
| 739 | 2136 | — | Mendoza |
| 740 | 2181 | — | Ruskin |
| 741 | 2401 | — | Karnette |
| 742 | 2433 | — | Krekorian (Coauthors: Assembly Members Lieber and Portantino) |
| 743 | 2436 | — | Emmerson |
| 744 | 2842 | — | Berg |
| 745 | 2885 | — | De La Torre |
| 746 | — | 31 | Simitian |
| 747 | — | 1271 | Cedillo |
| 748 | — | 1369 | Cedillo and Battin (Principal coauthor: Assembly Member Torrico) (Coauthors: Senators Cogdill, Denham, Ducheny, Florez, Maldonado, Padilla, Runner, and Wyland) (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Benoit, Berryhill, Cook, Emmerson, Furutani, Garcia, Horton, Keene, La Malfa, Lieu, Plescia, Silva, and Smyth) |
| 749 | — | 1400 | Simitian |
| 750 | — | 1452 | Correa |
| 751 | 1389 | — | Committee on Budget |
| 752 | 2928 | — | Spitzer (Coauthors: Assembly Members Benoit, Horton, Huff, Maze, and Silva) |
| 753 | 10 | — | Committee on Budget |
| 754 | 158 | — | Torrico |
| 755 | 186 | — | Maze and Galgiani |
| 756 | 268 | — | Committee on Budget |
| 757 | 519 | — | Committee on Budget |
| 758 | 1183 | — | Committee on Budget |
| 759 | 1279 | — | Committee on Budget |
| 760 | 1338 | — | Committee on Budget |
| 761 | 2026 | — | Villines |
| 762 | 2246 | — | Villines |
| 763 | 1452 | — | Committee on Budget |
| 764 | 1654 | — | Committee on Budget |
| 765 | 1741 | — | Committee on Budget |
| 8002 | 8002 | — | Aghazarian |
| 8003 | 8003 | — | Aghazarian |
| 8009 | 8009 | — | Aghazarian |
| 8011 | 8011 | — | Aghazarian |

# TABLE OF RESOLUTIONS AND PROPOSED CONSTITUTIONAL AMENDMENTS ADOPTED BY THE LEGISLATURE

## 2008

### 2007–08 Regular Session

| Res. Ch. | Res. | No. | Author |
|---|---|---|---|
| 4 | SJR | 11 | Correa (Coauthors: Assembly Members Aghazarian, Arambula, Beall, Berg, Berryhill, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Emmerson, Eng, Evans, Feuer, Fuentes, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Huffman, Jones, Krekorian, Laird, Leno, Levine, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Portantino, Ruskin, Salas, Saldana, Silva, Solorio, Swanson, Torrico, and Wolk) |
| 5 | SJR | 12 | Simitian and Alquist (Principal coauthor: Assembly Member Berg) (Coauthors: Senators Corbett, Romero, Scott, Torlakson, and Yee) (Coauthors: Assembly Members Carter, Cook, Dymally, Laird, Levine, Lieber, Maze, Mendoza, Mullin, Ruskin, Walters, and Wolk) |
| 6 | AJR | 30 | Berg (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Swanson, Torrico, Villines, and Wolk) |
| 7 | ACR | 95 | Nakanishi, Eng, Horton, Lieu, Torrico, and Tran (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Carter, Cook, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garrick, Hancock, Hayashi, Hernandez, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Villines, Walters, and Wolk) (Coauthors: Senators Machado and Yee) |
| 8 | ACR | 84 | Eng (Coauthors: Assembly Members Hayashi, Horton, Lieu, Ma, Nakanishi, Torrico, Tran, Adams, Aghazarian, Anderson, Arambula, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hernandez, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Maze, Mendoza, Mullin, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Strickland, Swanson, Villines, Walters, and Wolk) (Coauthors: Senators Machado, Ridley-Thomas, and Yee) |
| 9 | SJR | 22 | Wiggins (Principal coauthor: Assembly Member Evans) |
| 10 | ACR | 94 | Bass (Coauthors: Assembly Members Carter, Davis, Dymally, Price, Swanson, Adams, Aghazarian, Anderson, Arambula, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Cook, Coto, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Lieber, Lieu, Ma, Maze, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Torrico, Villines, Walters, and Wolk) (Coauthors: Senators Ridley-Thomas and Vincent) |
| 11 | ACR | 97 | Parra (Principal coauthors: Assembly Members Bass, Carter, Davis, Dymally, Price, and Swanson) (Principal coauthors: Senators Ridley-Thomas and Vincent) (Coauthors: Assembly Members Nunez, Adams, Aghazarian, Anderson, Arambula, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Cook, Coto, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, |

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| | | Laird, Leno, Lieber, Lieu, Ma, Maze, Mullin, Nakanishi, Nava, Niello, Plescia, Portantino, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Torrico, Villines, Walters, and Wolk) (Coauthor: Senator Perata) |
| 12 | SCR 75 | Maldonado (Principal coauthors: Senators Denham, Ducheny, Florez, and Kuehl) (Principal coauthors: Assembly Members Berryhill, Fuller, Galgiani, Jones, La Malfa, Mendoza, and Parra) |
| 13 | ACR 109 | Mendoza (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeVore, Duvall, Dymally, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 14 | ACR 63 | Keene |
| 15 | AJR 22 | Lieber (Coauthors: Assembly Members Coto, Ruskin, Arambula, Bass, Beall, Berg, Brownley, Caballero, Charles Calderon, Carter, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Galgiani, Hancock, Hayashi, Hernandez, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Portantino, Price, Salas, Saldana, Solorio, Soto, Spitzer, Swanson, Torrico, and Wolk) (Coauthors: Senators Alquist, Corbett, and Maldonado) |
| 16 | SCR 60 | Aanestad |
| 17 | SCR 73 | Negrete McLeod |
| 18 | ACR 89 | Arambula (Principal coauthor: Senator Romero) (Coauthors: Assembly Members De Leon, Dymally, Eng, Hayashi, Horton, Huffman, Lieber, Lieu, Ma, Portantino, Torrico, and Wolk) (Coauthors: Senators Alquist, Cedillo, Ducheny, Kuehl, Padilla, Torlakson, and Vincent) |
| 19 | ACR 92 | Jones (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 20 | ACR 110 | Maze and La Malfa (Coauthors: Assembly Members Aghazarian, Benoit, Berryhill, Blakeslee, Caballero, Fuller, Galgiani, Garcia, Houston, Huffman, Keene, Nakanishi, Parra, Plescia, Salas, Villines, and Wolk) |
| 21 | SCR 56 | Correa (Principal coauthors: Senators Aanestad, Ashburn, Battin, Cogdill, Denham, Ducheny, Dutton, Florez, Negrete McLeod, and Steinberg) (Principal coauthor: Assembly Member Spitzer) (Coauthors: Senators Corbett, Harman, Hollingsworth, Kuehl, Maldonado, Ridley-Thomas, Runner, Scott, Torlakson, and Yee) (Coauthors: Assembly Members Adams, Aghazarian, Arambula, Beall, Berg, Berryhill, Blakeslee, Carter, DeVore, Duvall, Fuller, Galgiani, Garcia, Hernandez, Houston, Huffman, Jones, Karnette, Mendoza, Mullin, Nakanishi, Nava, Portantino, Price, Sharon Runner, Ruskin, Saldana, Smyth, Solorio, Soto, Swanson, Villines, Wolk, Anderson, Bass, Benoit, Brownley, Charles Calderon, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Furutani, Gaines, Garrick, Hancock, Hayashi, Horton, Huff, Jeffries, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieu, Ma, Maze, Niello, Nunez, Parra, Plescia, Salas, Silva, Strickland, Torrico, Tran, and Walters) |
| 22 | SCR 76 | Torlakson, Alquist, Correa, Cox, Ducheny, Dutton, Kuehl, Maldonado, Padilla, Romero, Steinberg, Vincent, and Wyland (Coauthors: Assembly Members DeSaulnier, Levine, Ma, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Charles Calderon, Carter, Davis, De La Torre, De Leon, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Lieu, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon |

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| | | | Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 23 | ACR | 100 | Villines (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Beall, Benoit, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Saldana, Smyth, Solorio, Strickland, Swanson, Torrico, Tran, Walters, and Wolk) |
| 24 | SCR | 81 | Battin |
| 25 | SJR | 24 | Simitian and Scott (Principal coauthors: Assembly Members Aghazarian and Krekorian) (Coauthors: Assembly Members Adams, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 26 | SCR | 82 | Maldonado (Principal coauthor: Assembly Member Fuller) |
| 27 | SCR | 91 | Lowenthal (Principal coauthor: Assembly Member Karnette) |
| 28 | ACR | 83 | Ruskin and Feuer (Coauthors: Assembly Members Benoit, Berg, De Leon, DeVore, Dymally, Evans, Gaines, Garrick, Hayashi, Horton, Huff, Huffman, Jones, Laird, Leno, Levine, Lieber, Nakanishi, Niello, Portantino, Silva, Villines, Wolk, Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, DeSaulnier, Duvall, Emmerson, Eng, Fuentes, Fuller, Furutani, Galgiani, Garcia, Hancock, Hernandez, Houston, Jeffries, Karnette, Keene, Krekorian, La Malfa, Lieu, Ma, Mendoza, Mullin, Nava, Parra, Plescia, Price, Sharon Runner, Salas, Saldana, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, and Walters) (Coauthors: Senators Alquist, Corbett, Cox, Ducheny, Kuehl, Runner, Scott, and Steinberg) |
| 29 | ACR | 101 | Swanson |
| 30 | ACR | 125 | Sharon Runner (Coauthors: Assembly Members Benoit, Berryhill, Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Berg, Blakeslee, Brownley, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 31 | SCR | 106 | Romero, Alquist, Ducheny, Kehoe, Kuehl, Migden, Negrete McLeod, Oropeza, and Wiggins (Coauthors: Assembly Members Bass, Berg, Brownley, Caballero, Carter, Evans, Fuller, Garcia, Hancock, Karnette, Parra, Sharon Runner, Saldana, Soto, Strickland, Wolk, Adams, Aghazarian, Arambula, Beall, Benoit, Berryhill, Blakeslee, Charles Calderon, Cook, Coto, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Feuer, Fuentes, Furutani, Gaines, Galgiani, Garrick, Hayashi, Hernandez, Horton, Houston, Huffman, Jeffries, Jones, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Plescia, Portantino, Price, Ruskin, Salas, Silva, Smyth, Solorio, Spitzer, Swanson, Torrico, Tran, and Villines) |
| 32 | ACR | 113 | Niello and Lieu (Coauthors: Assembly Members Ma, Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Jeffries, Jones, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Maze, Mendoza, Mullin, Nakanishi, Nava, Parra, Portantino, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, |

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| | | | Solorio, Spitzer, Strickland, Swanson, Torrico, Villines, Walters, and Wolk) |
| 33 | ACR | 104 | Davis |
| 34 | ACR | 111 | Huffman (Coauthor: Assembly Member Berg) |
| 35 | ACR | 121 | Swanson |
| 36 | ACR | 124 | Mendoza and Furutani |
| 37 | ACR | 130 | Coto (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huffman, Jones, Karnette, Keene, La Malfa, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, and Wolk) |
| 38 | SCR | 57 | Maldonado |
| 39 | SCR | 94 | Maldonado (Principal coauthor: Assembly Member Parra) |
| 40 | SCR | 99 | Battin, Aanestad, Denham, Ducheny, and Lowenthal (Coauthors: Assembly Members Adams, Duvall, Dymally, Garcia, Garrick, Huff, Jeffries, Keene, Nava, and Parra) |
| 41 | SCR | 100 | Florez |
| 42 | SCR | 101 | Florez |
| 43 | SCR | 98 | Scott |
| 44 | SCR | 70 | Scott |
| 45 | SCR | 72 | Negrete McLeod, Kehoe, and Kuehl (Coauthors: Senators Corbett, Ducheny, and Wiggins) (Coauthors: Assembly Members Berg, Brownley, Caballero, Carter, Evans, Fuller, Karnette, Ma, Salas, Saldana, Wolk, Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berryhill, Blakeslee, Charles Calderon, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Feuer, Fuentes, Furutani, Gaines, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Price, Sharon Runner, Ruskin, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, and Walters) |
| 46 | SCR | 79 | Machado |
| 47 | SCR | 107 | Steinberg |
| 48 | SCR | 108 | Harman |
| 49 | SCR | 110 | Correa (Principal coauthor: Assembly Member Tran) (Coauthors: Senators Alquist, Ducheny, Harman, and Steinberg) (Coauthor: Assembly Member Jones) |
| 50 | SCR | 111 | Perata |
| 51 | ACR | 135 | Tran (Coauthors: Assembly Members Eng, Furutani, Hayashi, Horton, Lieu, Ma, Nakanishi, Torrico, Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Dymally, Emmerson, Feuer, Fuentes, Gaines, Garcia, Garrick, Hancock, Hernandez, Huff, Huffman, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Maze, Mendoza, Mullin, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Strickland, Swanson, Villines, Walters, and Wolk) (Coauthor: Senator Yee) |
| 52 | SCR | 92 | Perata (Principal coauthor: Assembly Member Nunez) (Coauthor: Senator Ackerman) (Coauthor: Assembly Member Villines) |
| 53 | SCR | 95 | Aanestad and Cox |
| 54 | SCR | 114 | Cedillo, Negrete McLeod, Ridley-Thomas, and Yee (Coauthors: Assembly Members Coto, Lieu, and Saldana) |
| 55 | ACR | 132 | Smyth (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Sharon Runner, Ruskin, Salas, Saldana, Silva, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 56 | ACR | 133 | Davis and Price (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuentes, Furutani, Gaines, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, |

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| | | | Houston, Huff, Huffman, Jeffries, Jones, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 57 | SCR | 93 | Cogdill (Principal coauthor: Senator Simitian) (Principal coauthors: Assembly Members Aghazarian, Arambula, Krekorian, and Villines) |
| 58 | SCR | 96 | Steinberg |
| 59 | SCR | 102 | Kehoe and Ducheny (Coauthor: Senator Alquist) (Coauthors: Assembly Members Dymally, Lieber, Mullin, Salas, Torrico, Arambula, Bass, Beall, Berg, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Eng, Evans, Feuer, Fuentes, Furutani, Galgiani, Hancock, Hayashi, Hernandez, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieu, Ma, Mendoza, Nava, Nunez, Parra, Portantino, Price, Ruskin, Saldana, Solorio, Swanson, and Wolk) |
| 60 | SCR | 86 | Denham |
| 61 | SJR | 23 | Aanestad |
| 62 | SCR | 97 | Steinberg (Coauthor: Assembly Member Nava) |
| 63 | SCR | 88 | Denham |
| 64 | SCR | 105 | Steinberg (Principal coauthor: Assembly Member Walters) |
| 65 | SCR | 90 | Wiggins (Coauthor: Assembly Member Berg) |
| 66 | SCR | 109 | Cedillo |
| 67 | SCR | 117 | Aanestad (Principal coauthors: Assembly Members Keene and La Malfa) (Coauthors: Senators Cedillo, Cogdill, Cox, Denham, Ducheny, Dutton, Harman, Margett, McClintock, and Runner) (Coauthors: Assembly Members Adams, Aghazarian, Beall, Gaines, Huff, Maze, Niello, Plescia, Sharon Runner, and Smyth) |
| 68 | SJR | 16 | Wyland |
| 69 | SJR | 32 | Padilla and Maldonado (Principal coauthor: Assembly Member Lieu) |
| 70 | ACR | 80 | Garcia |
| 71 | ACR | 90 | Fuller (Coauthor: Senator Ashburn) |
| 72 | ACR | 96 | Carter (Principal coauthor: Senator Negrete McLeod) |
| 73 | ACR | 108 | Eng (Coauthors: Assembly Members Aghazarian, Arambula, Bass, Berg, Berryhill, Blakeslee, Brownley, Caballero, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Dymally, Emmerson, Evans, Feuer, Fuentes, Furutani, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Houston, Huffman, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Plescia, Portantino, Price, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Swanson, Torrico, Tran, and Wolk) |
| 74 | ACR | 116 | Strickland |
| 75 | ACR | 128 | Arambula |
| 76 | ACR | 142 | Sharon Runner (Principal coauthor: Senator Negrete McLeod) (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Portantino, Price, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 77 | ACR | 69 | Dymally (Principal coauthor: Assembly Member Price) |
| 78 | ACR | 82 | Huff (Coauthor: Senator Margett) |
| 79 | ACR | 98 | Jeffries (Principal coauthor: Assembly Member Maze) (Coauthors: Assembly Members Benoit, Cook, Garrick, Sharon Runner, and Salas) (Coauthors: Senators Ashburn, Battin, and Runner) |
| 80 | ACR | 107 | Cook (Coauthor: Senator Battin) |
| 81 | AJR | 45 | Coto (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Brownley, Caballero, Charles Calderon, Carter, Davis, De La Torre, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Furutani, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huffman, Jeffries, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Parra, Plescia, Portantino, Price, Ruskin, Salas, Saldana, Smyth, Solorio, Strickland, Swanson, Torrico, Tran, Walters, and Wolk) (Coauthors: Senators Cedillo and Denham) |
| 82 | AJR | 54 | Laird (Principal coauthor: Senator Steinberg) (Coauthors: Assembly Members Arambula, Bass, Beall, Berg, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Furutani, Galgiani, Hancock, Hayashi, Hernandez, Huffman, Jones, Karnette, Krekorian, |

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| | | | Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Portantino, Price, Ruskin, Salas, Saldana, Solorio, Soto, Swanson, Torrico, and Wolk) (Coauthors: Senators Alquist, Cedillo, Ducheny, Kuehl, and Wiggins) |
| 83 | AJR | 56 | Swanson (Coauthors: Assembly Members Arambula, Bass, Beall, Berg, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Furutani, Hancock, Hernandez, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Parra, Portantino, Price, Ruskin, Salas, Saldana, Solorio, Swanson, Torrico, and Wolk) |
| 84 | AJR | 58 | Horton (Coauthors: Assembly Members Anderson, Beall, DeVore, Fuller, Garrick, Houston, Huff, Keene, Niello, Portantino, Sharon Runner, Silva, Smyth, Tran, and Villines) (Coauthors: Senators Cedillo, Denham, Maldonado, and Margett) |
| 85 | SCR | 71 | Yee |
| 86 | SCR | 84 | Cox |
| 87 | SCR | 103 | Cogdill (Coauthor: Assembly Member Villines) |
| 88 | ACR | 24 | Blakeslee (Principal coauthor: Assembly Member Benoit) (Coauthors: Assembly Members Huff, Karnette, Ma, Nakanishi, Parra, and Solorio) (Coauthors: Senators Cogdill, Harman, and Margett) |
| 89 | ACR | 140 | Benoit (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Berg, Berryhill, Blakeslee, Brownley, Charles Calderon, Carter, Cook, Coto, Davis, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 90 | AJR | 40 | De Leon (Coauthors: Assembly Members Brownley, Carter, Eng, Krekorian, Lieu, Mendoza, Portantino, and Solorio) |
| 91 | AJR | 43 | Hayashi (Coauthors: Assembly Members Galgiani, Horton, Portantino, Torrico, Wolk, Adams, Beall, Berg, Carter, Coto, De La Torre, DeSaulnier, Eng, Evans, Fuentes, Furutani, Hancock, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Lieber, Nava, Parra, Price, Ruskin, Salas, Saldana, and Swanson) |
| 92 | AJR | 53 | Huffman |
| 93 | ACR | 99 | Swanson |
| 94 | ACR | 122 | Blakeslee |
| 95 | ACR | 127 | Tran (Coauthors: Assembly Members Duvall, Silva, Solorio, and Spitzer) (Coauthors: Senators Ackerman and Correa) |
| 96 | AJR | 31 | Jones and Berg |
| 97 | AJR | 41 | Lieu |
| 98 | AJR | 49 | Nava (Coauthors: Assembly Members Aghazarian, Arambula, Bass, Beall, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Dymally, Eng, Evans, Feuer, Fuentes, Furutani, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Jones, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Parra, Portantino, Ruskin, Salas, Saldana, Solorio, Spitzer, Swanson, Torrico, and Wolk) |
| 99 | AJR | 52 | Karnette |
| 100 | AJR | 62 | Leno (Coauthors: Assembly Members Berg, Evans, Hancock, Jones, and Nava) (Coauthor: Senator Wiggins) |
| 101 | AJR | 48 | Price (Principal coauthor: Assembly Member Soto) (Coauthors: Assembly Members Berg, Dymally, Jones, Portantino, Aghazarian, Arambula, Bass, Beall, Benoit, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Eng, Evans, Feuer, Fuentes, Furutani, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huffman, Karnette, Keene, La Malfa, Laird, Leno, Levine, Lieber, Ma, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Ruskin, Salas, Saldana, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, and Wolk) |
| 102 | AJR | 60 | Evans and Leno (Coauthors: Senators McClintock and Migden) |
| 103 | SCR | 83 | Battin |
| 104 | SCR | 118 | Maldonado |
| 105 | SCR | 121 | Ashburn |
| 106 | SCR | 85 | Kuehl, Migden, and Wiggins (Coauthors: Assembly Members DeSaulnier, Feuer, Jones, and Saldana) |
| 107 | SJR | 28 | Calderon |
| 108 | SCR | 77 | Lowenthal (Coauthor: Assembly Member Berg) |
| 109 | SCR | 122 | Simitian, Alquist, Corbett, Migden, Perata, Torlakson, Wiggins, and Yee (Coauthors: Assembly Members Beall, DeSaulnier, Hancock, Hayashi, Huffman, Leno, Lieber, Ma, Mullin, Ruskin, Swanson, and Torrico) |

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| 111 | SCR | 112 | Padilla (Coauthors: Senators Alquist, Cedillo, Kuehl, Ridley-Thomas, and Yee) (Coauthor: Assembly Member Berg) |
| 112 | SCR | 115 | Torlakson |
| 113 | SCR | 119 | Dutton |
| 114 | SJR | 19 | Ridley-Thomas (Coauthors: Senators Perata and Romero) (Coauthors: Assembly Members Coto, Davis, Dymally, Krekorian, Laird, Levine, Portantino, Price, and Soto) |
| 115 | SCA | 4 | Ashburn and Migden |
| 116 | SCR | 80 | Cogdill |
| 117 | SJR | 25 | Negrete McLeod (Coauthors: Senators Correa, Kuehl, Margett, and Romero) (Coauthors: Assembly Members Dymally, Garcia, Portantino, Sharon Runner, and Saldana) |
| 118 | SJR | 27 | Kehoe and Dutton (Coauthor: Assembly Member Fuentes) |
| 119 | SCR | 126 | Simitian |
| 120 | SCR | 127 | Steinberg |
| 121 | SCR | 128 | Negrete McLeod (Principal coauthor: Assembly Member Carter) |
| 122 | SCR | 129 | Kehoe, Alquist, Cedillo, Ducheny, Kuehl, and Margett (Coauthors: Assembly Members Jeffries, Laird, Mullin, Plescia, Portantino, Price, Salas, and Swanson) |
| 123 | SCR | 130 | Ridley-Thomas |
| 124 | ACR | 21 | Portantino (Coauthors: Assembly Members Arambula, Bass, Beall, Carter, Davis, DeSaulnier, Dymally, Galgiani, Horton, Huffman, Ma, Price, Richardson, Ruskin, Swanson, Adams, Aghazarian, Benoit, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Cook, Coto, De La Torre, De Leon, DeVore, Emmerson, Eng, Evans, Feuer, Gaines, Garcia, Hancock, Hayashi, Hernandez, Houston, Jones, Karnette, Keene, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Mendoza, Mullin, Nunez, Plescia, Salas, Saldana, Smyth, Solorio, Strickland, Torrico, Tran, and Wolk) (Coauthors: Senators Alquist, Padilla, Ridley-Thomas, Romero, Torlakson, and Vincent) |
| 125 | ACR | 145 | Portantino (Coauthors: Assembly Members Adams, Aghazarian, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, DeLaTorre, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Niello, Parra, Plescia, Price, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Swanson, Torrico, Tran, Villines, Walters, and Wolk) (Coauthor: Senator Yee) |
| 126 | AJR | 21 | Portantino |
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| 130 | AJR | 57 | Huffman (Coauthors: Assembly Members Lieu and Ruskin) |
| 131 | AJR | 65 | Furutani (Coauthors: Assembly Members Adams, Aghazarian, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Galgiani, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huffman, Jones, Karnette, Keene, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nakanishi, Nava, Parra, Plescia, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, and Wolk) |
| 132 | ACR | 143 | Garcia (Principal coauthor: Senator Battin) (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Furutani, Gaines, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Niello, Nunez, Plescia, Portantino, Price, Sharon Runner, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| 133 | ACR | 144 | Anderson |
| 134 | ACR | 65 | Arambula (Principal coauthor: Assembly Member Ma) |
| 135 | ACR | 120 | Silva, Arambula, Caballero, Fuentes, Garcia, Price, and Salas |
| 136 | ACR | 139 | Villines |
| 137 | ACR | 141 | La Malfa (Coauthor: Assembly Member Wolk) (Coauthor: Senator Machado) |
| 138 | ACR | 149 | Keene and Berryhill (Coauthors: Assembly Members Brownley, Fuentes, Fuller, Hancock, Laird, Saldana, and Wolk) |
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| 144 | SCA | 13 | Ashburn |
| 145 | AJR | 36 | Jones (Principal coauthor: Assembly Member Arambula) (Coauthors: Assembly Members Adams, Caballero, Dymally, Eng, Evans, Feuer, Galgiani, Hayashi, Krekorian, Laird, Ma, Portantino, Torrico, Tran, Aghazarian, Anderson, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Charles Calderon, Carter, Cook, Coto, Davis, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Fuentes, Furutani, Gaines, Garcia, Garrick, Hancock, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Karnette, Keene, La Malfa, Leno, Levine, Lieber, Lieu, Maze, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Villines, Walters, and Wolk) (Coauthors: Senators Alquist, Machado, and Yee) |
| 146 | AJR | 51 | Nava (Principal coauthor: Assembly Member Lieu) (Coauthors: Assembly Members Brownley, Hancock, Laird, |
| 150 | AJR | 68 | Brownley |
| 151 | AJR | 69 | Brownley (Coauthor: Senator Scott) |
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| 153 | ACR | 87 | Hayashi |
| 154 | ACR | 112 | Dymally (Principal coauthor: Assembly Member Soto) (Principal coauthor: Senator Negrete McLeod) |
| 155 | ACR | 114 | Fuller (Coauthors: Assembly Members Parra and Jeffries) |
| 156 | ACR | 126 | Dymally |
| 157 | ACR | 134 | DeSaulnier (Coauthor: Assembly Member Hayashi) |
| 158 | ACR | 137 | Galgiani |
| 159 | ACR | 138 | Horton (Coauthor: Senator Ducheny) |
| 160 | ACR | 146 | Solorio (Principal coauthors: Assembly Members De Leon and Portantino) (Coauthors: Assembly Members Coto and Saldana) |
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| 163 | ACR | 151 | Cook and DeVore (Principal coauthors: Assembly Members Lieu and Salas) (Principal coauthor: Senator Wyland) (Coauthors: Assembly Members Berryhill, Huff, Jeffries, Jones, Mullin, |
| | | | and Saldana) (Coauthor: Senator Padilla) |
| 147 | AJR | 64 | Mullin (Principal coauthor: Senator Scott) (Coauthors: Assembly Members Davis, Furutani, Karnette, Krekorian, and Leno) |
| 148 | AJR | 66 | Brownley |
| 149 | AJR | 67 | Furutani (Coauthors: Assembly Members Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, Krekorian, La Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Nava, Nunez, Parra, Plescia, Portantino, Price, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, and Wolk) |
| | | | Portantino, Sharon Runner, Silva, Tran, Walters, Adams, Aghazarian, Anderson, Arambula, Bass, Beall, Benoit, Berg, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Duvall, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huffman, Karnette, Keene, Krekorian, Laird, Leno, Levine, Lieber, Ma, Maze, Mendoza, Nakanishi, Nava, Niello, Nunez, Parra, Plescia, Price, Ruskin, Saldana, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Villines, and Wolk) (Coauthors: Senators Aanestad, Cogdill, Correa, Cox, Denham, Ducheny, Harman, Kuehl, McClintock, Oropeza, Runner, and Wiggins) |
| 164 | ACR | 153 | Laird |
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| 1 | — | 1 | Perata, Machado, and Steinberg (Principal coauthor: Assembly Member Bass) (Coauthors: Assembly Members Arambula, Eng, Feuer, Huffman, Jones, Krekorian, Laird, Salas, and Wolk) |

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| 3 | 5 | — | Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, De La Torre, Evans, Feuer, Hayashi, Hernandez, Jones, Krekorian, Mullin, Ruskin, Swanson, and Wolk) |
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# STATUTES OF CALIFORNIA

2007 – 08

REGULAR SESSION

2008 CHAPTERS

# CHAPTER 1

An act to add Sections 75074.5 and 75094 to the Government Code, relating to judges' retirement.

[Approved by Governor February 28, 2008. Filed with Secretary of State February 28, 2008.]

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

SECTION 1. Section 75074.5 is added to the Government Code, to read:

75074.5. (a) Notwithstanding any other provision of law, the designated beneficiary or beneficiaries of any judge who designated a beneficiary to receive an optional settlement benefit by a writing filed with the board, in compliance with Section 75074, on or after January 1, 2003, and before January 1, 2007, and who dies while in office, shall be entitled to receive the optional settlement benefit the judge elected pursuant to Section 75071, subject to the provisions of subdivisions (b) and (c).

(b) The benefit payable under this section shall be actuarially adjusted to an amount equal in value to the amount the judge would have received if the judge retired on the date of death. If the judge was not eligible to retire on the date of death, the allowance shall not be payable until the date upon which the judge would have been eligible to begin receiving a service retirement allowance under Section 75025.

(c) If the designated beneficiary of a judge who dies while in office receives an allowance pursuant to this section, no person shall have any other claim to benefits otherwise available to the judge's designated or statutory beneficiaries with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law. However, if the judge's surviving spouse is eligible for an allowance under Section 75104.4, the allowance provided for by Section 75104.4 shall be paid and the allowance payable under this section shall be actuarially adjusted to reflect the benefit provided by Section 75104.4. All benefits paid under this section are subject to the provisions of subdivision (b) of Section 75074.

(d) This section does not prevent a beneficiary from claiming or receiving payments to which he or she may be entitled under the Extended Service Incentive Program set forth in Article 4.5 (commencing with Section 75085).

SEC. 2. Section 75094 is added to the Government Code, to read:

75094. (a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge shall receive an allowance that is equal to the amount that the judge would have received had the judge been retired from service on the date of his or her death and had elected optional settlement 2 specified in subdivision (b) of Section 75071, if all of the following apply to the judge:

(1) The judge died in office on or after January 1, 2005.

(2) The judge had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service.

(3) The judge was eligible to receive an allowance pursuant to Section 75025 or 75033.5.

(b) A surviving spouse receiving an allowance pursuant to this section shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law.

(c) The benefits provided by this section are only payable to the surviving spouse of a judge who elects to come within this section. Notwithstanding Section 75090, that election may be made at any time while the judge is in office and, once made, the election is irrevocable.

(d) This section does not prevent a surviving spouse from claiming or receiving any payments to which he or she may be entitled as a beneficiary under the Extended Service Incentive Program set forth in Article 4.5 (commencing with Section 75085).

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## CHAPTER 2

An act to amend Section 15660 of, and to add Section 12301.8 to, the Welfare and Institutions Code, relating to in-home supportive services.

[Approved by Governor March 14, 2008. Filed with Secretary of State March 14, 2008.]

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

SECTION 1. Section 12301.8 is added to the Welfare and Institutions Code, to read:

12301.8. (a) (1) A public authority or nonprofit consortium established pursuant to Section 12301.6, upon the request of an aged or disabled adult or that individual's authorized representative, may assist an employer, as defined in paragraph (2), in obtaining a criminal

background check conducted by the Department of Justice, as authorized pursuant to Section 15660, of a provider, as described in paragraph (3).

(2) For purposes of this section, an "employer" means an aged or disabled adult, or that individual's authorized representative, who is ineligible for benefits under this chapter and who receives care by a provider as described in paragraph (3).

(3) For purposes of this section, a "provider" means a person who is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult who is ineligible to receive benefits under this chapter, in the adult's own home.

(b) A public authority or nonprofit consortium may recover the costs of administering this section, including the cost to the Department of Justice for processing the criminal background check, from the individual making the request, as described in subdivision (a).

(c) No General Fund moneys shall be used to implement this section.

SEC. 2. Section 15660 of the Welfare and Institutions Code is amended to read:

15660. (a) The Department of Justice shall secure any criminal record of a person to determine whether the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony that requires registration pursuant to Section 290 of the Penal Code, or whether the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, and shall provide a subsequent arrest notification pursuant to Section 11105.2 of the Penal Code, if both of the following conditions are met:

(1) An employer of the person requests the determination and submits fingerprints of the person to the Department of Justice. For purposes of this paragraph, "employer" includes, but is not limited to, an in-home supportive services recipient, as defined by Section 12302.2, an aged or disabled adult who is ineligible for benefits under Chapter 3 (commencing with Section 12000), who receives care by a person as described with paragraph (2), any recipient of personal care services under the Medi-Cal program pursuant to Sections 14132.95 to 14132.97, inclusive, and any public authority or nonprofit consortium, as described in subdivision (a) of Section 12301.6.

(2) The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home.

(b) (1) If it is found that the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony which requires registration

pursuant to Section 290 of the Penal Code, or that the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, the Department of Justice shall notify the employer of that fact. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact.

(2) Any employer may deny employment to any person who is the subject of a report under paragraph (1) when the report indicates that the person has committed any of the crimes identified in paragraph (1).

(3) Nothing in this section shall be construed to require any employer to hire any person who is the subject of a report under paragraph (1) when the report indicates that the person has not committed any of the crimes indicated in paragraph (1).

(c) (1) Fingerprints shall be on a card provided by the Department of Justice for the purpose of obtaining a set of fingerprints. The employer shall submit the fingerprints to the Department of Justice. Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the employer of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact as soon as possible, but not later than 30 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, as soon as possible, but not later than 30 calendar days from the date of receipt of the fingerprints, notify the employer that the fingerprints were illegible.

(2) Fingerprints may be taken by any local law enforcement officer or agency for purposes of paragraph (1).

(3) Counties shall notify any recipient of, or applicant for, in-home supportive services or personal care services under the Medi-Cal program, upon his or her application for in-home supportive services or personal care services or during his or her annual redetermination, or upon the recipient's changing providers, that a criminal record check is available, and that the check can be performed by the Department of Justice.

(d) (1) The Department of Justice shall charge a fee to the employer to cover the costs of administering this section.

(2) (A) If the employer is an in-home supportive services recipient, as defined in Section 123202.2, a recipient of personal care services under the Medi-Cal program pursuant to Sections 14132.95 to 14132.97, inclusive, or any public authority or nonprofit consortium as described in subdivision (a) of Section 12301.6, the fee shall be shared by the county and the state in the same ratio as described in Section 12306.

(B) (i) Notwithstanding any other provision of law, and except as provided in clause (ii), the department shall, no later than January 1, 2009, implement subparagraph (A) through an all county letter from the director.

(ii) No later than July 1, 2009, the department shall adopt regulations to implement the provisions listed in clause (i).

(e) It is the intent of the Legislature that the Department of Justice charge a fee to cover its cost in providing services in accordance with this section to comply with the 30-calendar-day requirement for provision to the department of the criminal record information, as contained in subdivision (c).

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## CHAPTER 3

An act to add Section 5925 to the Government Code, relating to public finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 26, 2008. Filed with Secretary of State March 26, 2008.]

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

SECTION 1. Section 5925 is added to the Government Code, to read:

5925. The purchase or other acquisition of bonds by or on behalf of the state or local government that issued the bonds does not cancel, extinguish, or otherwise affect the bonds and the bonds shall be treated as outstanding bonds for all purposes except to the extent otherwise determined by the issuer or otherwise provided in the constituent instruments defining the rights of the holders of the bonds.

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

To support variable rate bonds and other instruments of debt issued by state and local governmental entities in the current financial markets, it is necessary that this bill go into immediate effect.

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## CHAPTER 4

An act to add Section 6217.3 to the Public Resources Code, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 11, 2008. Filed with Secretary of State April 11, 2008.]

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

SECTION 1. Section 6217.3 is added to the Public Resources Code, to read:

6217.3. (a) The Legislature finds and declares all of the following:

(1) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative approved by the voters at the November 7, 2006, statewide general election, makes available the sum of one hundred eighty million dollars ($180,000,000) in bond funds for bay-delta and coastal fishery restoration projects.

(2) Of the funds made available, up to forty-five million dollars ($45,000,000) is available for coastal salmon and steelhead fishery restoration projects that support the development and implementation of species recovery plans and strategies for salmonid species listed as threatened or endangered under state or federal law.

(b) From the forty-five million dollars ($45,000,000) available for coastal salmon and steelhead fishery restoration projects pursuant to subdivision (a) of Section 75050, five million two hundred ninety-three thousand dollars ($5,293,000) is appropriated to the Department of Fish and Game for the purposes of coastal salmon and steelhead fishery restoration projects, including the Coastal Salmonid Monitoring Plan. The Department of Fish and Game shall not allocate more than two million five hundred twenty thousand dollars ($2,520,000) of these funds for the Coastal Salmonid Monitoring Plan.

(c) (1) Except as provided in paragraphs (2) and (3), the process governing the expenditure of funds described in Section 6217.1 shall be applied to the expenditure of all funds allocated by the Department of Fish and Game pursuant to subdivision (b).

(2) The funds allocated to the Coastal Salmonid Monitoring Plan are exempt from the requirements of Section 6217.1.

(3) If there is a conflict between a provision of this section and a provision of Division 43 (commencing with Section 75001), the provision of Division 43 shall govern.

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

An appropriation is needed as soon as possible in order for the state to qualify for federal matching funds to finance coastal salmon and steelhead fishery restoration projects, it is therefore necessary that this act go into immediate effect.

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## CHAPTER 5

An act to amend Section 13139 of the Health and Safety Code, relating to fire safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 15, 2008. Filed with Secretary of State April 15, 2008.]

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

SECTION 1. Section 13139 of the Health and Safety Code is amended to read:

13139. (a) On or before January 1, 2008, the State Fire Marshal shall approve and list portable gasoline containers that are designed and constructed according to one of the following child-resistant standards:

(1) Construction and design standards that are substantially the same as the American Society for Testing and Materials (ASTM) F2517-05 standard, issued by ASTM International, or any successor standard issued by ASTM International.

(2) Construction and design standards approved by a national testing laboratory recognized by the State Fire Marshal.

(b) No person shall sell, offer for sale, or possess for sale, on or after April 1, 2008, a portable gasoline container that has not been listed and approved by the State Fire Marshal.

(c) For purposes of this section, "portable gasoline container" means any container or vessel with a nominal capacity of 10 gallons or less that is intended for reuse and is designed, used, sold, advertised, or offered for sale primarily for receiving, transporting, storing, or dispensing gasoline. "Portable gasoline container" does not include either of the following:

(1) A container or vessel permanently embossed or permanently labeled as described in Section 172.407(a) of Title 49 of the Code of

Federal Regulations, as it existed on September 15, 2005, indicating containers or vessels that are solely intended for use with nonfuel or nonkerosene products.

(2) A safety can meeting the requirements of Subpart F (commencing with Section 1926.150) of Part 1926 of Title 29 of the Code of Federal Regulations, as it existed on January 1, 2008. This exception shall not apply to any safety can manufactured after October 31, 2008, unless the can contains a label or silkscreen of the words "NOT CHILDPROOF" in a conspicuous and prominent place against a contrasting background, and the type shall be clear and legible. On safety cans larger than one quart, the font size of the label wording shall be printed in at least 12-point type. On safety cans one-quart and smaller, the font size of the label wording shall be printed in at least 8-point type. All labels shall be printed in both English and Spanish.

(d) Retailers are permitted to sell through existing supplies of portable gasoline containers that have not been listed and approved for sale by the State Fire Marshal.

(e) This section shall cease to be applicable if federal fire safety standards for portable gasoline containers that preempt this section are enacted and take effect subsequent to the effective date of this statute and the State Fire Marshal so notifies the Secretary of State.

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

In order to promote public safety by ensuring that safety cans mandated for use by federal and state law may continue to be sold in California, it is necessary that this act take effect immediately.

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## CHAPTER 6

An act to amend Section 1957 of the Streets and Highways Code, relating to vehicles.

[Approved by Governor April 15, 2008. Filed with Secretary of State April 15, 2008.]

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

SECTION 1. It is the intent of the Legislature that vehicles used on public roadways meet all applicable Federal Motor Vehicle Safety Standards to ensure the highest level of safety. Low-speed vehicles

provide an efficient alternative to full-size vehicles. Therefore, it is the intent of the Legislature to provide time for organizations within the City of La Verne to convert their fleet of golf cart type vehicles to safer low-speed vehicles. It is further the intent of the Legislature that the authority granted by this act not be extended beyond January 1, 2016.

SEC. 2. Section 1957 of the Streets and Highways Code is amended to read:

1957. (a) If a city or county adopts a golf cart transportation plan, it shall do both of the following:

(1) Establish minimum general design criteria for the development, planning, and construction of separated golf cart lanes, including, but not limited to, the design speed of the facility, the space requirements of the golf cart, and roadway design criteria.

(2) In cooperation with the department, 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, other vehicles, and bicycles; to state the nature and destination of the golf cart lane; and to warn pedestrians, bicyclists, and motorists of the presence of golf cart traffic.

(b) The construction of separated golf cart lanes, as required under paragraph (1) of subdivision (a), does not apply in any of the following locations:

(1) A residence district, as defined in Section 515 of the Vehicle Code, located within any city containing a population of less than 50,000 residents with a geographical area of more than 20 square miles in which city there are at least 20 golf courses, if the speed limit in that district is 25 miles per hour or less.

(2) (A) The City of La Verne, on those street and highway segments for which the city council makes a finding that the street or highway segment is suitable to safely permit the use of regular vehicular traffic and also the driving of golf carts, and makes a separate finding that the construction of separated golf cart lanes is infeasible given the physical space limitations of the street or highway segment. In addition, these street or highway segments shall meet all of the following requirements:

(i) Have speed limits of 25 miles per hour or less, as established by an engineering and traffic survey.

(ii) Be immediately adjacent to or surrounded by the campus of a university or a retirement community.

(iii) Provide a route between unconnected portions of the campus of a university or the real property of a retirement community, or provide direct access to an otherwise inaccessible portion of the campus of a university or the real property of a retirement community.

(iv) Be approved for purposes of this paragraph by the law enforcement agency with primary traffic jurisdiction over the street or highway segments.

(v) Accommodate golf carts without adversely impacting traffic safety or the travel needs of commuters and other users, according to a safety determination made by a traffic engineer.

(vi) Be limited to golf carts owned by the university or retirement community and equipped with a windshield, headlights, brake lights, and seatbelts.

(vii) Limit the use of golf carts to employees of the university or retirement community acting within the scope and course of employment for the maintenance or security of the university or the retirement community.

(B) For purposes of this paragraph, "golf cart" includes, but is not limited to, a utility style golf cart, used for transporting maintenance equipment, and a shuttle style golf cart.

(C) This paragraph shall become inoperative on January 1, 2016.

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 unique circumstances pertaining to higher education and retirement communities in the City of La Verne.

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## CHAPTER 7

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced.

[Approved by Governor April 23, 2008. Filed with Secretary of State April 23, 2008.]

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

SECTION 1. This act shall be known and may be cited as the Third Validating Act of 2008.

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 all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a

general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts of any kind.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.

Community rehabilitation districts.

Community services districts.

Conservancy districts.

Cotton pest abatement districts.

County boards of education.

County drainage districts.

County flood control and water districts.

County free library systems.

County maintenance districts.

County sanitation districts.

County service areas.

County transportation commissions.

County water agencies.

County water authorities.

County water districts.

County waterworks districts.

Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.

Distribution districts of any public body.

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.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement and vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.

Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts' public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Watermaster districts.
Winegrape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(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 wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those 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 any law, or under color of any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies 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 those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any 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 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 territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. (a) 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 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

public bodies 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 bonds.

(b) All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner 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 that 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 that 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, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that 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 being legally contested or inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) 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, detachment or 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 those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that 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 public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

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## CHAPTER 8

An act to amend Section 8880.321 of the Government Code, relating to the California State Lottery.

[Approved by Governor April 23, 2008. Filed with Secretary of State April 23, 2008.]

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

SECTION 1. Section 8880.321 of the Government Code is amended to read:

8880.321. The commission shall promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided that:

(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. This 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, or, if a multistate lottery game, up to one year for jackpots or grand prizes. 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 online 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) 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.

(h) 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. 2. The Legislature finds and declares that this act furthers the purposes of the California State Lottery Act of 1984, enacted by Proposition 37 at the November 6, 1984, general election.

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## CHAPTER 9

An act to amend Sections 70321, 70363, 70374, and 70402 of, and to repeal and add Section 70322 of, the Government Code, relating to court facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 23, 2008. Filed with Secretary of State April 23, 2008.]

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

SECTION 1. Section 70321 of the Government Code is amended to read:

70321. (a) The Judicial Council, in consultation with the superior court of each county and the county shall enter into agreements regarding the transfer of responsibility for court facilities from that county to the Judicial Council. The agreements shall be executed no later than December 31, 2009. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than December 31, 2009. On or before July 1, 2003, each county shall designate those persons who shall negotiate the agreements on behalf of the county and shall give the Judicial Council the names of those persons. The name of a person designated by a county to negotiate on its behalf may be changed by the county at any time by providing written notice to the Judicial Council.

(b) (1) Notwithstanding any other provision of law and except as provided in paragraph (2) of this subdivision, any transfer agreement that is executed on or after October 1, 2008, and on or before March 31, 2009, shall contain a requirement that the county pay, in addition to the county facility payment established pursuant to Article 5 (commencing with Section 70351), a continuing amount from the date of transfer calculated by multiplying the county facilities payment by the percentage change in the National Implicit Price Deflator for State and Local Government Purchases, as published by the Department of Finance, for

the fiscal year in which the transfer agreement is executed as compared to the prior fiscal year.

(2) Prior to September 30, 2008, the Administrative Office of the Courts and a county may jointly declare that extraordinary circumstances exist that have prohibited successful execution of a transfer agreement, that all relevant transfer documents have been timely submitted and reviewed by the county; that the failure to execute a transfer agreement prior to September 30, 2008, is not caused by the action, inaction, or delay on the part of the county; and that the agreement can reasonably be executed on or before December 31, 2008. If such a declaration is signed, the application of the multiplier described in paragraph (1) shall be tolled through December 31, 2008. If the transfer agreement is executed by December 31, 2008, the multiplier shall not apply. Justification for a joint declaration shall be limited to the following:

(i) The failure to execute the transfer agreement was caused by the action, inaction, or delay of a third party, or a party to the transaction other than the county; or

(ii) The Administrative Office of the Courts and the county have agreed to pursue an alternative method for complying with a seismic liability obligation under the provisions of Section 70324 and failure to execute the transfer agreement was caused by unique circumstances directly connected to the implementation of the alternative method authorized by the section.

(3) In exercising the authority provided under paragraph (2), a county shall not arbitrarily or capriciously request a joint declaration without a good faith belief that the conditions for such a declaration are met, and the Administrative Office of the Courts shall not arbitrarily or capriciously decline to sign a joint declaration described in paragraph (2) if the conditions for such a declaration are otherwise met.

(4) Copies of any such joint declarations described in paragraph (2) will be transmitted upon their signing by both parties to the chairs of the Senate and Assembly Budget, Appropriations, and Judiciary Committees.

(c) Notwithstanding any other provision of law, any transfer agreement that is executed on or after April 1, 2009, shall contain a requirement that the county pay, in addition to the county facility payment established pursuant to Article 5 (commencing with Section 70351), a continuing amount from the date of transfer calculated by multiplying the county facilities payment by the year-to-year percentage change in the annual state appropriations limit as described in Section 3 of Article XIII B of the California Constitution for the year in which the transfer agreement is executed.

SEC. 2. Section 70322 of the Government Code is repealed.

SEC. 3. Section 70322 is added to the Government Code, to read:

70322. Agreements for the transfer of responsibility for court facilities from the county to the Judicial Council may include multiple buildings within the county, and need not require a separate agreement for each building.

SEC. 4. Section 70363 of the Government Code is amended to read:

70363. Each county shall calculate the county facilities payment for each facility pursuant to Section 70351.5 or using the forms and instructions as approved and distributed pursuant to Section 70361. The county shall mail the Judicial Council and local court the actual expenditure figures and adjustments at least 90 days prior to the proposed date of transfer of responsibility for that facility. The county auditor or, at the discretion of the board of supervisors, the board shall certify the reported expenditures and indexed calculations.

(a) Prior to the transfer of responsibility of each court facility from the county to the state, the Administrative Office of the Courts shall review the accuracy of the calculations.

(b) The Administrative Office of the Courts and the county shall meet and discuss any differences they have concerning the calculations in an effort to reduce or eliminate any areas of disagreement. Following the discussions, the Administrative Office of the Courts shall mail the Department of Finance the proposed county facility payment and any necessary background information, including the calculations and the reported county expenditures and a summary of any disagreements between the Administrative Office of the Courts and the county regarding the payment.

(c) The Department of Finance shall within 30 days of the receipt of the proposed county facilities payment from the Administrative Office of the Courts do any of the following:

(1) Approve the proposed payment.

(2) Approve a modified payment.

(3) Request additional information from either the county or the Administrative Office of the Courts.

(d) When the department has approved a county facilities payment for that facility, it shall mail the Administrative Director of the Courts the approved county facilities payment. The Administrative Office of the Courts shall mail a copy of the Department of Finance notification to the county administrative officer and the court executive officer.

SEC. 5. Section 70374 of the Government Code is amended to read:

70374. (a) The Judicial Council shall annually recommend to the Governor and the Legislature the amount proposed to be spent for projects paid for with money in the State Court Facilities Construction Fund. The use of the appropriated money is subject to subdivision (*l*) of Section 70391.

(b) Acquisition and construction of court facilities shall be subject to the State Building Construction Act of 1955 (commencing with Section 15800) and the Property Acquisition Law (commencing with Section 15850), except that, (1) notwithstanding any other provision of law, the Administrative Office of the Courts shall serve as an implementing agency upon approval of the Department of Finance, and (2) the provisions of subdivision (e) shall prevail. Acquisition and construction of facilities are not subject to the provisions of the Public Contract Code, but shall be subject to facilities contracting policies and procedures adopted by the Judicial Council after consultation and review by the Department of Finance.

(c) Money in the State Court Facilities Construction Fund shall only be used for either of the following:

(1) To acquire, rehabilitate, construct, or finance court facilities, as defined by subdivision (d) of Section 70301.

(2) To rehabilitate one or more existing court facilities in conjunction with the construction, acquisition, or financing of one or more new court facilities.

(d) Except as provided in Section 70374.2, 25 percent of all money collected for the State Court Facilities Construction Fund from any county shall be designated for implementation of trial court projects in that county. The Judicial Council shall determine the local projects after consulting with the trial court in that county and based on the locally approved trial court facilities master plan for that county.

(e) The following provisions shall prevail over provisions of the State Building Construction Act of 1955 (Part 10.6 (commencing with Section 15800) of Division 3 of Title 2) in regard to buildings subject to this section.

(1) The Administrative Office of the Courts shall be responsible for the operation, including, but not limited to, the maintenance and repair, of all court facilities whose title is held by the state. Notwithstanding Section 15807, the operation of buildings under this section shall be the responsibility of the Judicial Council.

(2) Notwithstanding Section 15808.1, the Judicial Council shall have the responsibility for determining whether a building under this act shall be located within or outside of an existing public transit corridor.

(3) The buildings under this section are subject to Section 15814.12 concerning cogeneration and alternative energy sources at the request of, or with the consent of, the Judicial Council. Any building acquired by the state pursuant to this section on or before July 1, 2007, is not subject to subdivision (b) of Section 15814.12 concerning acquiring of cogeneration or alternative energy equipment if the building when acquired, already had cogeneration or alternative energy equipment.

Section 15814.17 only applies to buildings to which the Judicial Council has given its consent under subdivision (a) of Section 15814.12.

SEC. 6. Section 70402 of the Government Code is amended to read:

70402. (a) Any amount in a county's courthouse construction fund established by Section 76100, a fund established by Section 70622 in the County of Riverside, a fund established by Section 70624 in the County of San Bernardino, and a fund established by Section 70625 in the City and County of San Francisco, shall be transferred to the State Court Facilities Construction Fund at the later of the following dates:

(1) The date of the last transfer of responsibility for court facilities from the county to the Judicial Council or December 31, 2009, whichever is earlier.

(2) The date of the final payment of the bonded indebtedness for any court facility that is paid from that fund is retired.

(b) If the responsibility for one or more facilities does not transfer, the county's courthouse construction fund shall retain that portion of the total money in the fund as the square footage of the facilities that do not transfer bears to the total square footage of court facilities in that county.

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:

The current deadline for the transfer of responsibility for court facilities to the state pursuant to Chapter 1082 of the Statutes of 2002 will not be met. In order to allow continued negotiation and the completion of that transfer, it is necessary that the deadline of June 30, 2007, be extended to December 31, 2009.

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## CHAPTER 10

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 29, 2008. Filed with Secretary of State April 29, 2008.]

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

SECTION 1. This act shall be known and may be cited as the First Validating Act of 2008.

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 all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts of any kind.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.

Community rehabilitation districts.

Community services districts.

Conservancy districts.

Cotton pest abatement districts.

County boards of education.

County drainage districts.

County flood control and water districts.

County free library systems.

County maintenance districts.

County sanitation districts.

County service areas.

County transportation commissions.

County water agencies.

County water authorities.

County water districts.

County waterworks districts.

Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.

Distribution districts of any public body.
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.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement and vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.

Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts' public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.

Water replenishment districts.
Water storage districts.
Watermaster districts.
Winegrape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(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 wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those 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 those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies 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 those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any 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 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 territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. (a) 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 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 public bodies 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 bonds.

(b) All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner 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 that 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 that 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, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that 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 being legally contested or inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) 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, detachment or 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 those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that 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 public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 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:

In order 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.

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## CHAPTER 11

An act to amend Section 65584.07 of the Government Code, relating to land use.

[Approved by Governor April 29, 2008. Filed with Secretary of State April 29, 2008.]

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

SECTION 1. Section 65584.07 of the Government Code is amended to read:

65584.07. (a) During the period between adoption of a final regional housing needs allocation and the due date of the housing element update under Section 65588, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(2) The transfer of shares shall only occur between a county and cities within that county.

(3) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(4) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), and (3) above have been satisfied. The county and city or cities proposing the transfer shall submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to the council of governments or the department. The council of governments shall submit a copy of its decision regarding the proposed reduction to the department.

(b) (1) The county and cities that have executed transfers of regional housing needs pursuant to subdivision (a) shall use the revised regional housing need allocation in their housing elements and shall adopt their housing elements by the deadlines set forth in Section 65588.

(2) A city that has received a transfer of a regional housing need pursuant to subdivision (c) shall adopt or amend its housing element within 30 months of the effective date of incorporation.

(3) A county or city that has received a transfer of regional housing need pursuant to subdivision (d) shall amend its housing element within 180 days of the effective date of the transfer.

(4) A county or city is responsible for identifying sites to accommodate its revised regional housing need by the deadlines set forth in paragraphs (1), (2), and (3).

(5) All materials and data used to justify any revision shall be made available upon request to any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship. A fee may be charged to interested parties for any additional costs caused by the amendments made to former subdivision (c) of Section 65584 that reduced from 45 to 7 days the time

within which materials and data were required to be made available to interested parties.

(c) (1) If an incorporation of a new city occurs after the council of governments, subregional entity, or the department for areas with no council of governments, has made its final allocation under Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of the county's allocation shall be transferred to the new city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the new city.

(2) Within 90 days after the date of incorporation, either the transfer, by income category, agreed upon by the city and county, or a written request for a transfer, shall be submitted to the council of governments, subregional entity, or to the department, whichever allocated the county's share. A mutually acceptable transfer agreement shall be effective immediately upon receipt by the council of governments, the subregional entity, or the department. A copy of a written transfer request submitted to the council of governments shall be submitted to the department. The council of governments, subregional entity, or the department, whichever allocated the county's share, shall make the transfer effective within 180 days after receipt of the written request. If the council of governments allocated the county's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.04 or 65584.08. If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.03. If the department allocated the county's share, the transfer shall be based on the considerations specified in Section 65584.06. The transfer shall neither reduce the total regional housing needs nor change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

(d) (1) If an annexation of unincorporated land to a city occurs after the council of governments, subregional entity, or the department for

areas with no council of governments, has made its final allocation under Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of the county's allocation may be transferred to the city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the city.

(2) (A) Except as provided under subparagraph (B), within 90 days after the date of annexation, either the transfer, by income category, agreed upon by the city and county, or a written request for a transfer, shall be submitted to the council of governments, subregional entity, and to the department. A mutually acceptable transfer agreement shall be effective immediately upon receipt by the council of governments, the subregional entity, or the department. The council of governments, subregional entity, or the department for areas with no council of governments, shall make the transfer effective within 180 days after receipt of the written request. If the council of governments allocated the county's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.04 or 65584.08. If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.03. If the department allocated the county's share, the transfer shall be based on the considerations specified in Section 65584.06. The transfer shall neither reduce the total regional housing needs nor change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department for areas with no council of governments. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

(B) If the annexed land is subject to a development agreement authorized under subdivision (b) of Section 65865 that was entered into by a city and a landowner prior to January 1, 2008, the revised determination shall be based upon the number of units allowed by the development agreement.

(3) A transfer shall not be made when the council of governments or the department, as applicable, confirms that the annexed land was fully incorporated into the methodology used to allocate the city's share of the regional housing needs.

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## CHAPTER 12

An act to make an appropriation in augmentation of the Budget Act of 2007, relating to the State Budget, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor April 29, 2008. Filed with Secretary of State April 29, 2008.]

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

SECTION 1. (a) The Legislature hereby finds and declares that, in order to promote consumer protection and public safety, the State Board of Chiropractic Examiners is, and has been, working cooperatively with the Department of Consumer Affairs, the California Attorney General's office, and other applicable agencies.

(b) It is the intent of the Legislature that protection of the public shall be the highest priority for the State Board of Chiropractic Examiners in exercising its licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 2. (a) The sum of one million five hundred forty-two thousand dollars ($1,542,000) is hereby appropriated from the revenue in the State Board of Chiropractic Examiners' Fund that consists of fees paid for the issuance and renewal of licenses, for expenditure for the 2007–08 fiscal year in augmentation of Item 8500-001-0152 of Section 2.00 of the Budget Act of 2007 for the support of the State Board of Chiropractic Examiners.

(b) Moneys appropriated in subdivision (a) may be expended only if both of the following conditions are met:

(1) The board continues the existing contract for services provided by the Department of Consumer Affairs to the State Board of Chiropractic Examiners through June 30, 2008. These services include, but are not limited to, legal counsel and personnel administration services. Legal counsel shall assist the board to create an effective investigation and enforcement program. Personnel administrative services include assisting

the board to examine, recruit, and appoint investigators and inspectors employed by the board.

(2) The board utilizes legal counsel pursuant to Section 11040 of the Government Code.

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.

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## CHAPTER 13

An act to amend Sections 40200.5 and 40215 of the Vehicle Code, relating to vehicles.

[Approved by Governor May 16, 2008. Filed with Secretary of State May 16, 2008.]

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

SECTION 1. Section 40200.5 of the Vehicle Code is amended to read:

40200.5. (a) Except as provided in subdivision (c) of Section 40200.4, an issuing agency may elect to contract with the county, with a private vendor, or with any other city or county processing agency, other than the Department of the California Highway Patrol or other state law enforcement agency, within the county, with the consent of that other entity, for the processing of notices of parking violations and notices of delinquent parking violations, prior to filing with the court pursuant to Section 40230.

If an issuing agency contracts with a private vendor for processing services, it shall give special consideration to minority business enterprise participation in providing those services. For purposes of this subdivision, "special consideration" has the same meaning as specified in subdivision (c) of Section 14838 of the Government Code, as it relates to small business preference.

(b) A contract entered pursuant to subdivision (a) shall provide for monthly distribution of amounts collected between the parties, except those amounts payable to a county pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code and amounts payable to the Department of Motor Vehicles pursuant to Section 4763 of this code.

(c) If a contract entered into pursuant to subdivision (a) includes the provision of qualified examiners or administrative hearing providers,

the contract shall be based on either a fixed monthly rate or on the number of notices processed and shall not include incentives for the processing entity based on the number of notices upheld or denied or the amount of fines collected.

SEC. 2. Section 40215 of the Vehicle Code is amended to read:

40215. (a) For a period of 21 calendar days from the issuance of a notice of parking violation or 14 calendar days from the mailing of a notice of delinquent parking violation, a person may request an initial review of the notice by the issuing agency. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur, that the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the issuing agency shall cancel the notice of parking violation or notice of delinquent parking violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice, and, if following that review, cancellation of the notice does not occur, include a reason for that denial.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking penalty with the processing agency. The issuing agency shall provide a written procedure to allow a person to request an administrative hearing without payment of the parking penalty upon satisfactory proof of an inability to pay the amount due. Notice of this procedure shall be provided to all persons requesting an administrative hearing. After January 1, 1996, an administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this article. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with an administrative provider, hearings shall be held within the jurisdiction of the issuing agency or within the county of the issuing agency.

(2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking

violation without the necessity of the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested parking violations.

(4) (A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified examiners or administrative hearing providers that employ qualified examiners to conduct the administrative hearings. Examiners shall demonstrate those qualifications, training, and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement or parking citation, processing, collection, or issuance. The examiner shall be separate and independent from the citation collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of fines collected by the examiner.

(B) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The issuing agency may reimburse the examiner for those costs. Training may be provided through (i) an accredited college or university, (ii) a program conducted by the Commission on Peace Officer Standards and Training, (iii) American Arbitration Association or a similar established organization, or (iv) through any program approved by the governing board of the issuing agency, including a program developed and provided by, or for, the agency. Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, parking enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication. Upon the approval of the governing board of the issuing agency, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of the training requirements described in this subparagraph may be credited to an individual, at the discretion of the governing board of the issuing agency, based upon training programs or courses described in (i) to (iv), inclusive, that the individual attended within the last five years.

(5) The officer or person who issues a notice of parking violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of parking violation or copy thereof and information received

from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

(6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail, and, if the notice is not cancelled, include a written reason for that denial.

(7) Following a determination by the examiner that a person has committed the violation, the examiner may, consistent with the written guidelines established by the issuing agency, allow payment of the parking penalty in installments, or an issuing agency may allow for deferred payment or allow for payments in installments, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the parking penalty in full. If authorized by the governing board of the issuing agency, the examiner may permit the performance of community service in lieu of payment of a parking penalty.

(d) The provisions of this section relating to the administrative appeal process do not apply to an issuing agency that is a law enforcement agency if the issuing agency does not also act as the processing agency.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, 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.

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## CHAPTER 14

An act to amend Section 1340 of the Penal Code, relating to witnesses.

[Approved by Governor May 16, 2008. Filed with
Secretary of State May 16, 2008.]

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

SECTION 1. Section 1340 of the Penal Code is amended to read:

1340. (a) The defendant has the right to be present in person and with counsel at the examination, and if the defendant is in custody, the officer in whose custody he or she is, must be informed of the time and place of the examination, and must take the defendant thereto, and keep him or her in the presence and hearing of the witness during the examination.

(b) If the court determines that the witness to be examined is so sick or infirm as to be unable to participate in the examination in person, the court may allow the examination to be conducted by a contemporaneous, two-way video conference system, in which the parties and the witness can see and hear each other via electronic communication.

(c) Nothing in this section is intended to require the court to acquire two-way video conference equipment for these purposes.

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## CHAPTER 15

An act to amend Section 830.1 of the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 16, 2008. Filed with Secretary of State May 16, 2008.]

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

SECTION 1. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, any marshal or deputy marshal of a superior court or county, any port warden or port police officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer or in which the peace officer serves.

(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city, or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) The Attorney General and special agents and investigators of the Department of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of the Counties of Butte, Calaveras, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Mariposa, Mendocino, Plumas, Riverside, San Benito, San Diego, Santa Barbara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, and Tuolumne who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

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 specified counties as soon as possible with the necessary flexibility in operating their custodial facilities so that the counties may obtain efficient and effective staffing for the custodial facilities, to the benefit of both those residing within the facilities and

those residing outside of the facilities, it is necessary that this bill go into immediate effect.

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## CHAPTER 16

An act to amend Section 4025.5 of the Penal Code, relating to jails.

[Approved by Governor May 16, 2008. Filed with
Secretary of State May 16, 2008.]

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

SECTION 1. Section 4025.5 of the Penal Code is amended to read:

4025.5. (a) There is hereby created a pilot program in the Counties of Alameda, Kern, Los Angeles, Orange, Sacramento, San Bernardino, San Francisco, San Diego, Santa Barbara, Santa Clara, and Stanislaus. In each county, the sheriff, or, in the County of Santa Clara, the chief of correction, may expend money from the inmate welfare fund to provide indigent inmates, after release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, or, in the County of Santa Clara, the chief of correction, assistance with the reentry process within 14 days after the inmate's release. The assistance provided may include, but is not limited to, work placement, counseling, obtaining proper identification, education, and housing.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

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## CHAPTER 17

An act to amend Sections 41007, 41009, 41011, 41016, 41020, 41025, 41030, 41031, 41046, 41050 of, and to add Sections 41016.5, 41019.5, and 41152 to, the Revenue and Taxation Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 21, 2008. Filed with
Secretary of State May 21, 2008.]

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

SECTION 1. Section 41007 of the Revenue and Taxation Code is amended to read:

41007. (a) "Service supplier" shall mean both of the following:

(1) Any person supplying intrastate telephone communication services to any service user in this state pursuant to California intrastate tariffs and providing access to the "911" emergency system by utilizing the digits 9-1-1.

(2) Any person supplying Voice over Internet Protocol (VoIP) service to any service user in this state and providing access to the "911" emergency system by utilizing the digits 9-1-1.

(b) On and after January 1, 1988, "service supplier" also includes any person supplying intrastate telephone communications services for whom the Public Utilities Commission, by rule or order, modifies or eliminates the requirement for that person to prepare and file California intrastate tariffs.

SEC. 2. Section 41009 of the Revenue and Taxation Code is amended to read:

41009. "Service user" means any person using intrastate telephone communication services or VoIP service in this state who is required to pay a surcharge under the provisions of this part.

SEC. 3. Section 41011 of the Revenue and Taxation Code is amended to read:

41011. (a) "Charges for services" means all charges billed by a service supplier to a service user for intrastate telephone communications services and shall mean local telephone service and include monthly service flat-rate charges for usage, message unit charges and shall mean toll charges, and include intrastate wide area telephone service charges and also means all charges billed by a service supplier to a service user for VoIP service.

(b) (1) "Charges for services" shall not include any tax imposed by the United States or by any charter city, charges for service paid by inserting coins in a public coin-operated telephone, and shall not apply to amounts billed to nonsubscribers for coin shortages. Where a coin-operated telephone service is furnished for a guarantee or other periodic amount, such amount is subject to the surcharge imposed by this part.

(2) "Charges for services" shall not include charges for intrastate toll calls where bills for such calls originate out of California.

(3) "Charges for services" shall not include charges for any nonrecurring, installation, service connection or one-time charge for service or directory advertising, and shall not include private

communication service charges, charges for other than communications service, or any charge made by a hotel or motel for service rendered in placing calls for its guests regardless of how such hotel or motel charge is denominated or characterized by an applicable tariff of the Public Utilities Commission of this state.

(4) "Charges for services" shall not include charges for basic exchange line service for lifeline services.

SEC. 4. Section 41016 of the Revenue and Taxation Code is amended to read:

41016. "Toll telephone service" means either of the following:

(a) A telephonic quality communication that meets both of the following requirements:

(1) There is a toll charge for the service that varies in amount with either the distance or elapsed transmission time, or the distance and elapsed transmission time, of each individual communication.

(2) The charge is paid within the United States.

(b) A service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of a predetermined amount of units or dollars of telephonic communications or an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radiotelephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

SEC. 5. Section 41016.5 is added to the Revenue and Taxation Code, to read:

41016.5. (a) "VoIP service" means any service that satisfies the requirements set forth in paragraph (1) and (2).

(1) Does all of the following:

(A) Enables real-time, two-way voice communication that originates from and terminates to the user's location using Internet Protocol (IP) or any successor protocol.

(B) Requires a broadband connection from the user's location.

(C) Permits users, generally, to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(2) Does at least one of the following:

(A) Requires Internet protocol-compatible customer premises equipment (CPE).

(B) When necessary, is converted to or from transmission control protocol (TCP)/IP by the service user's service supplier before or after being switched by the public switched telephone network.

(C) Is a service that the Federal Communications Commission (FCC) has affirmatively required to provide 911 or E911 service.

(b) This definition shall only apply to this part.

SEC. 6. Section 41019.5 is added to the Revenue and Taxation Code, to read:

41019.5. (a) It is the intent of the Legislature that telephone quality communication utilizing VoIP shall not be regulated by the enactment of Senate Bill 1040 of the 2007–08 Regular Session. The sole purpose of this act is to ensure that all forms of telephonic quality communications that connect to the "911" emergency system contribute to the State Emergency Telephone Number Account and that this act may not be used by a court or administrative body for any purpose other than to interpret and apply this part.

(b) For purposes of this section only, "VoIP" means any service that:

(1) Enables real-time or two-way voice communication that originates or terminates from the user's location using IP or any successor protocol.

(2) Uses a broadband connection from the user's location, including any service that permits users, generally, to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

SEC. 7. Section 41020 of the Revenue and Taxation Code is amended to read:

41020. (a) A surcharge is hereby imposed on amounts paid by every person in the state for both of the following:

(1) Intrastate telephone communication service in this state commencing on July 1, 1977.

(2) VoIP service that provides access to the "911" emergency system by utilizing the digits 9-1-1 by any service user in this state commencing on January 1, 2009. The surcharge shall not apply to charges for VoIP service where any point of origin or destination is outside of this state.

(b) (1) Notwithstanding Section 41025, charges not subject to the surcharge may be calculated by a service supplier based upon books and records kept in the regular course of business, and, for purposes of calculating the interstate revenue portion not subject to the surcharge, a service supplier may also choose a reasonable and verifiable method from the following:

(A) Books and records kept in the regular course of business.

(B) Traffic or call pattern studies representative of the service supplier's business within California.

(C) For VoIP service only, the VoIP safe harbor factor established by the FCC to be used to calculate the service supplier's contribution to the federal Universal Service Fund. The FCC safe harbor factor in effect for VoIP service on September 1 of each year shall apply for the period

of January 1 through December 31, inclusive, of the next succeeding calendar year for purposes of this method. At such time as the FCC establishes a safe harbor factor for the federal Universal Service Fund for VoIP service that is greater than 75 percent for interstate revenue or abolishes the safe harbor factor applicable to VoIP service, this method shall become void and of no effect, in which case a VoIP service supplier may use an alternative method approved in advance by the board, which shall be available to all VoIP service suppliers. The FCC safe harbor factor applicable to VoIP service, as described in this subparagraph, is used solely as a mechanism to calculate the charges not subject to the surcharge for VoIP service and is not necessarily reflective of the intrastate portion of VoIP service. The use of the FCC safe harbor factor authorized by this subdivision shall not be interpreted to permit application of any intrastate requirement, other than the surcharge imposed under this part, upon VoIP service suppliers.

(2) Any method chosen by a service supplier shall remain in effect for at least one calendar year.

(3) If a service supplier reasonably relies upon books and records kept in the regular course of business or any documentation that satisfies the reasonable and verifiable method, then the service supplier's determination of the portion of the billed amount attributable to services not subject to the surcharge shall be rebuttably presumed to be correct. The service supplier's choice of books and records or other method and surcharge billing practice shall also be rebuttably presumed to be fair and legal business practices.

(4) It is the intent of the Legislature that the provisions of subparagraph (C) shall not be considered to be a precedent for the application of the surcharge or any other tax or fee where a person is required to collect a tax or fee imposed upon another.

(c) The surcharge imposed shall be at the rate of one-half of 1 percent of the charges made for such services to and including November 1, 1982, and thereafter at a rate fixed pursuant to Article 2 (commencing with Section 41030).

(d) The surcharge shall be paid by the service user as hereinafter provided.

(e) The surcharge imposed shall not apply to either of the following:

(1) In accordance with the Mobile Telecommunications Sourcing Act (Public Law 106-252), which is incorporated herein by reference, to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. Mobile telecommunications services shall be deemed provided by a customer's home service provider to the customer if those services are provided in

a taxing jurisdiction to the customer, and the charges for those services are billed by or for the customer's home service provider.

(2) To any charges for VoIP service billed to a customer where those services are provided to a customer whose place of primary use of VoIP service is outside this state.

(f) For purposes of this section:

(1) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider, regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(2) "Customer" means (A) the person or entity that contracts with the home service provider for mobile telecommunications services, or with a VoIP service provider for VoIP service, or (B) if the end user of mobile telecommunications services or VoIP service is not the contracting party, the end user of the mobile telecommunications service or VoIP service. This paragraph applies only for the purpose of determining the place of primary use. The term "customer" does not include (A) a reseller of mobile telecommunications service or VoIP communication service, or (B) a serving carrier under an arrangement to serve the mobile customer outside the home service provider's licensed service area.

(3) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(4) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(5) "Mobile telecommunications service" means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as in effect on June 1, 1999.

(6) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service or VoIP service primarily occurs, that must be:

(A) The residential street address or the primary business street address of the customer.

(B) With respect to mobile telecommunications service, within the licensed service area of the home service provider.

(7) (A) "Reseller" means a provider who purchases telecommunications services or VoIP service from another telecommunications service provider or VoIP service and then resells

the services, or uses the services as a component part of, or integrates the purchased services into, a mobile telecommunications service or VoIP service.

(B) "Reseller" does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(8) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed area.

(9) "Taxing jurisdiction" means any of the several states, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

(10) "VoIP service provider" means that provider of VoIP service with whom the end user customer contracts for the provision of VoIP services for the customer's own use and not for resale.

(g) The amendments made to this section by the act that added this subdivision shall become operative upon the enactment of that act, except that subdivisions (a) and (b) of this section, as amended, shall become operative on January 1, 2009.

SEC. 8. Section 41025 of the Revenue and Taxation Code is amended to read:

41025. If a bill is rendered to persons using intrastate telephone services or VoIP service, the amount on which the surcharge with respect to such services shall be based shall be the sum of all charges for such services included in the bill; except that if the person who renders the bill groups individual items for purposes of rendering the bill and computing the surcharge, then the amount on which the surcharge with respect to each such group shall be based shall be the sum of all items within that group, and the surcharge on the remaining items not included in any such group shall be based on the charge for each item separately.

SEC. 9. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. The Department of General Services shall determine annually, on or before October 1, a surcharge rate that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate shall be determined by dividing the costs (including incremental costs) the Department of General Services estimates for the current fiscal year of 911 plans approved pursuant to Section 53115 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the

charges for intrastate telephone communications services and VoIP service to which the surcharge will apply for the period of January 1 to December 31, inclusive, of the next succeeding calendar year, but in no event shall such surcharge rate in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent.

SEC. 10. Section 41031 of the Revenue and Taxation Code is amended to read:

41031. The Department of General Services shall make its determination of such surcharge rate each year no later than October 1 and shall notify the board of the new rate, which shall be fixed by the board to be effective with respect to charges made for intrastate telephone communication services and VoIP service on or after January 1 of the next succeeding calendar year.

SEC. 11. Section 41046 of the Revenue and Taxation Code is amended to read:

41046. There are exempt from the surcharge charges for intrastate telephone communication services and VoIP service which are exempt from the federal communication services tax pursuant to Section 4253 of the Internal Revenue Code of 1954.

SEC. 12. Section 41050 of the Revenue and Taxation Code is amended to read:

41050. The surcharge imposed by Section 41020 attaches at the time charges for the intrastate telephone communication services and VoIP service are billed by the service supplier to the service user and shall be paid by the service user when paying for such services.

SEC. 13. Section 41152 is added to the Revenue and Taxation Code, to read:

41152. The Legislature finds and declares all of the following:

(a) Access to emergency telephone service has been a longstanding goal of the state.

(b) The Emergency Telephone Users Surcharge Act remains an important means for making emergency telephone service available to every person in this state.

(c) Every reasonable means should be employed by telephone corporations and every provider of telephone quality communication to ensure that every person using their service is informed of and is afforded the opportunity to use emergency telephone service, regardless of the means by which emergency telephone calls are placed.

(d) The furnishing of emergency telephone service is in the public interest and should be supported fairly and equitably by every telephone corporation and every provider of telephone quality communication in a way that is equitable, nondiscriminatory, and competitively neutral.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the financial stability of the Emergency Telephone Users Surcharge Act, it is necessary that this act take effect immediately.

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## CHAPTER 18

An act to amend Section 23039.1 of the Business and Professions Code, relating to alcoholic beverages and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 2, 2008. Filed with Secretary of State June 2, 2008.]

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

SECTION 1. Section 23039.1 of the Business and Professions Code is amended to read:

23039.1. Notwithstanding any other provision of law, any on-sale beer and wine public premises licensee who has been licensed at premises operated as a cabaret theater for at least 10 years and which has a seating capacity for at least 375 patrons may admit persons under the age of 21 years to theater performances provided that alcoholic beverages are not sold, served, or consumed on the premises during those performances.

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 students in our communities are given immediate opportunities during the 2007–08 school year and 2008–09 school year to attend theater performances which are a part of an afterschool program designed to broaden their educational experiences and extracurricular activities, and to provide students additional safe places to be during afterschool hours, it is necessary that this act take effect immediately.

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## CHAPTER 19

An act to amend Sections 19481.3 and 19605.7 of the Business and Professions Code, relating to horse racing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 2, 2008. Filed with Secretary of State June 2, 2008.]

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

SECTION 1. Section 19481.3 of the Business and Professions Code is amended to read:

19481.3. (a) Every racing association and racing fair licensed pursuant to this article shall maintain, staff, and supply an on-track first aid facility, that may be either permanent or mobile, and which shall be staffed and equipped as directed by the board. A qualified and licensed physician shall be on duty at all times during live racing, except that this provision shall not apply to: (1) a quarter horse racing association if there is a hospital situated no more than 1.5 miles from the racetrack and the racetrack has an agreement with the hospital to provide emergency medical services to jockeys and riders, or (2) a harness racing association if there is a hospital situated no more than 2.5 miles from the racetrack and the harness racing association has an agreement with the hospital to provide emergency medical services to injured drivers. An ambulance licensed to operate on public highways provided by the track shall be available at all times during live racing and shall be staffed by two emergency medical technicians licensed in accordance with Division 2.5 (commencing with Section 1797) of the Health and Safety Code, one of whom may be an Emergency Medical Technician Paramedic, as defined in Section 1797.84 of the Health and Safety Code.

(b) Each racing association and racing fair shall adopt and maintain an emergency medical plan detailing the procedures that shall be used in the event of an on-track injury. The plan shall be posted in each jockey room in English and Spanish.

(c) Prior to every race meeting, the racing association or racing fair shall contact area hospitals to coordinate procedures for the rapid admittance and treatment of emergency injuries.

(d) Each racing association or racing fair shall designate a health and safety manager and assistant manager, who shall be responsible for compliance with the provisions of this section and one of whom shall be on duty at all times when live racing is conducted. The health and safety manager may, at the discretion of the racing association, be the

person designated to perform risk management duties on behalf of the association.

(e) The stewards shall investigate and prepare a report with respect to all on-track accidents involving jockeys that occur during the performance of their duties. The report shall, at a minimum, identify the circumstances of the accident, the likely causes, and the extent of any injuries. The investigation shall be commenced no later than the next live racing day and shall be completed expeditiously. Upon completion of the report, it shall immediately be sent by facsimile or electronic mail to the entity certified to provide health and welfare for jockeys pursuant to Section 19612.9, to the jockey or his or her representative, the racing association, and the owner and trainer of the horse the jockey was riding at the time of the accident.

(f) The board shall adopt regulations to implement the provisions of this section no later than July 1, 2007.

SEC. 2. Section 19605.7 of the Business and Professions Code 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, 1.3 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do business, as a franchise, and this commission is not for the use of any real property, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in Section 19608.2, and 0.54 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), (c) and (d) of Section 19617.2, and 0.033 percent distributed to the Center for Equine Health and 0.067 percent distributed to the California Animal Health and Food Safety Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the Center for Equine Health shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 0.4 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair

meetings, 1 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the fair association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do business, as a franchise, and this commission is not for the use of any real property, 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, shall be distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, 0.4 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, 0.4 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.9; in the case of Arabians, 0.4 percent shall be held by the association to be deposited with the official registering agency pursuant to Section 19617.8, and shall thereafter be distributed in accordance with Section 19617.8; in the case of standardbreds, 0.4 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, 0.48 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), (c), and (d) of Section 19617.2; and 0.033 percent shall be distributed to the Center for Equine Health and 0.067 percent shall be distributed to the California Animal Health and Food Safety Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the Center for Equine Health shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivision (a) and (b), for 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. For harness meetings, 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, and 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting. If, with respect to harness

meetings, there are funds unexpended from this 1 percent, these funds may be expended for other purposes with the consent of the horsemen and the racing association to benefit the horsemen, or the racing association, or both, pursuant to their agreement. For quarter horse meetings 0.5 percent of the total amount handled by each satellite wagering facility on races run in California shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, 0.5 percent of the total amount handled by each satellite wagering facility on out-of-state and out-of-country imported races shall be distributed to the official quarter horse registering agency for the purposes of Section 19617.75, and 0.5 percent of the total amount handled by each satellite wagering facility on all races shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting.

(d) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, 0.33 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.

(e) 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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 made by this act to apply to the existing race dates for 2008, it is necessary that this act take effect immediately.

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## CHAPTER 20

An act to add Section 34804 to the Water Code, relating to the Elsinore Water District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 2, 2008. Filed with Secretary of State June 2, 2008.]

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

SECTION 1. Section 34804 is added to the Water Code, to read:

34804. Notwithstanding Section 54954 of the Government Code, or any other provision of law, the Board of Directors of the Elsinore Water District may conduct its meetings at the district office, or at any publicly owned location that is within the boundaries, or not more than one mile outside the boundaries, of the territory over which the district exercises jurisdiction.

SEC. 2. Due to the unique circumstances concerning the availability of adequate hearing facilities for Elsinore Water District, it is necessary that the district be authorized to hold hearings outside of the territory over which it exercises jurisdiction, and the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

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

In order to ensure that the Elsinore Water District is able to hold its meetings in adequate and conveniently located facilities at the earliest possible time, it is necessary that the act take effect immediately.

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## CHAPTER 21

An act to amend Section 31663.15 of, and to repeal Sections 31663.2 and 31680.9 of, the Government Code, relating to public employees' retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 2, 2008. Filed with Secretary of State June 2, 2008.]

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

SECTION 1. Section 31663.15 of the Government Code is amended to read:

31663.15. (a) Sections 31662.4, 31662.6, 31662.8, and 31663 shall not apply to a person who is an active safety member described in Section 31469.3 or 31470.4 if a physician employed or approved by the county certifies that the safety member is capable of performing his or her assigned duties pursuant to standards set forth by the member's employer.

(b) This section shall also apply to a member who reinstates from retirement pursuant to Section 31680.8.

(c) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(d) This section shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make this section and Section 31680.8 applicable in the county. The resolution of the board of supervisors may designate a date, which may be prior to the date of the resolution or the effective date of this section, upon which the resolution and this section shall be operative in the county, and may further provide that a member, described in Section 31470.4, who retired pursuant to Section 31662.4 or 31662.6, prior to April 1, 2007, is not eligible to reinstate from retirement pursuant to Section 31680.8.

SEC. 2. Section 31663.2 of the Government Code is repealed.

SEC. 3. Section 31680.9 of the Government Code is repealed.

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

In order to ensure that those safety members of the County of Los Angeles who are currently prohibited from applying for reinstatement after being required to retire on the basis of age may apply for reinstatement as soon as possible, it is necessary that this act take effect immediately.

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## CHAPTER 22

An act to make an appropriation in augmentation of the Budget Act of 2007, relating to the State Budget, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 2, 2008. Filed with Secretary of State June 2, 2008.]

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

SECTION 1. The sum of twenty-two million thirty-one thousand dollars ($22,031,000) is hereby appropriated from the General Fund for expenditure for the 2007-08 fiscal year in augmentation of Item 9840-001-0001 of Section 2.00 of the Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007). Notwithstanding Provision 7 of Item 9840-001-0001, these funds shall be allocated by the State Controller in accordance with the following schedule:

(a) Twelve million eight hundred fifty-eight thousand dollars ($12,858,000) to Item 0390-101-0001.

(b) Nine million one hundred seventy-three thousand dollars ($9,173,000) to Item 0690-112-0001.

SEC. 2. Any unemcumbered balance, as of June 30, 2008, of the funds appropriated within any of the items identified in Section 1 of this measure shall revert to the General Fund.

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

This act makes appropriations for the support of the government of the State of California for the 2007-08 fiscal year. It is therefore necessary that this act take effect immediately.

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## CHAPTER 23

An act to amend Section 43.8 of the Civil Code, relating to immunity.

[Approved by Governor June 6, 2008. Filed with Secretary of State June 6, 2008.]

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

SECTION 1. Section 43.8 of the Civil Code is amended to read:

43.8. (a) In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of that person to any hospital, hospital medical staff, veterinary hospital staff, professional society, medical, dental, podiatric, psychology, marriage and family therapy, or veterinary school, professional licensing board or division, committee or panel of a licensing board, the Senior Assistant Attorney General of the Health Quality Enforcement Section appointed under Section 12529 of the Government Code, peer review committee, quality assurance committees established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, or underwriting committee described in Section 43.7 when the communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts.

(b) The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege that may be afforded by Section 47.

(c) Nothing in this section is intended in any way to affect the California Supreme Court's decision in Hassan v. Mercy American River Hospital (2003) 31 Cal.4th 709, holding that subdivision (a) provides a qualified privilege.

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## CHAPTER 24

An act to amend Section 6829 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor June 6, 2008. Filed with Secretary of State June 6, 2008.]

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

SECTION 1. Section 6829 of the Revenue and Taxation Code is amended to read:

6829. (a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company in complying with any requirement of this part, shall, notwithstanding any provision in the Corporations Code to the contrary, be personally liable for any unpaid taxes and interest and penalties on those taxes, if the officer, member, manager, partner, or other person willfully fails to pay or to cause to be paid any taxes due from the corporation, partnership, limited partnership, limited liability partnership, or limited liability company pursuant to this part.

(b) The officer, member, manager, partner, or other person shall be liable only for taxes that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c) Personal liability may be imposed pursuant to this section, only if the board can establish that the corporation, partnership, limited

partnership, limited liability partnership, or limited liability company had included tax reimbursement in the selling price of, or added tax reimbursement to the selling price of, tangible personal property sold in the conduct of its business, or when it can be established that the corporation, partnership, limited partnership, limited liability partnership, or limited liability company consumed tangible personal property and failed to pay the tax to the seller or has included use tax on the billing and collected the use tax or has issued a receipt for the use tax and failed to report and pay use tax.

(d) For purposes of this section "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) Except as provided in subdivision (f), the sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701).

(f) A notice of deficiency determination under this section shall be mailed within three years after the last day of the calendar month following the quarterly period in which the board obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company business was terminated, dissolved, or abandoned, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the board, this filing shall not constitute actual knowledge by the board under this section.

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## CHAPTER 25

An act to amend Section 809 of the Business and Professions Code, relating to healing arts.

[Approved by Governor June 6, 2008. Filed with Secretary of State June 6, 2008.]

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

SECTION 1. Section 809 of the Business and Professions Code is amended to read:

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

(1) In 1986, Congress enacted the Health Care Quality Improvement Act of 1986 (Chapter 117 (commencing with Section 11101) Title 42, United States Code), to encourage physicians to engage in effective professional peer review, but giving each state the opportunity to "opt-out" of some of the provisions of the federal act.

(2) Because of deficiencies in the federal act and the possible adverse interpretations by the courts of the federal act, it is preferable for California to "opt-out" of the federal act and design its own peer review system.

(3) Peer review, fairly conducted, is essential to preserving the highest standards of medical practice.

(4) Peer review that is not conducted fairly results in harm both to patients and healing arts practitioners by limiting access to care.

(5) Peer review, fairly conducted, will aid the appropriate state licensing boards in their responsibility to regulate and discipline errant healing arts practitioners.

(6) To protect the health and welfare of the people of California, it is the policy of the State of California to exclude, through the peer review mechanism as provided for by California law, those healing arts practitioners who provide substandard care or who engage in professional misconduct, regardless of the effect of that exclusion on competition.

(7) It is the intent of the Legislature that peer review of professional health care services be done efficiently, on an ongoing basis, and with an emphasis on early detection of potential quality problems and resolutions through informal educational interventions.

(8) Sections 809 to 809.8, inclusive, shall not affect the respective responsibilities of the organized medical staff or the governing body of an acute care hospital with respect to peer review in the acute care hospital setting. It is the intent of the Legislature that written provisions implementing Sections 809 to 809.8, inclusive, in the acute care hospital setting shall be included in medical staff bylaws that shall be adopted by a vote of the members of the organized medical staff and shall be subject to governing body approval, which approval shall not be withheld unreasonably.

(9) (A) The Legislature thus finds and declares that the laws of this state pertaining to the peer review of healing arts practitioners shall apply in lieu of Chapter 117 (commencing with Section 11101) of Title 42 of the United States Code, because the laws of this state provide a more

careful articulation of the protections for both those undertaking peer review activity and those subject to review, and better integrate public and private systems of peer review. Therefore, California exercises its right to opt out of specified provisions of the Health Care Quality Improvement Act relating to professional review actions, pursuant to Section 11111(c)(2)(B) of Title 42 of the United States Code. This election shall not affect the availability of any immunity under California law.

(B) The Legislature further declares that it is not the intent or purposes of Sections 809 to 809.8, inclusive, to opt out of any mandatory national data bank established pursuant to Subchapter II (commencing with Section 11131) of Chapter 117 of Title 42 of the United States Code.

(b) For the purpose of this section and Sections 809.1 to 809.8, inclusive, "healing arts practitioner" or "licentiate" means a physician and surgeon, podiatrist, clinical psychologist, marriage and family therapist, clinical social worker, or dentist; and "peer review body" means a peer review body as specified in paragraph (1) of subdivision (a) of Section 805, and includes any designee of the peer review body.

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## CHAPTER 26

An act to amend Section 21100.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 6, 2008. Filed with Secretary of State June 6, 2008.]

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

SECTION 1. Section 21100.4 of the Vehicle Code is amended to read:

21100.4. (a) (1) A magistrate presented with the affidavit of a peace officer or a designated local transportation officer establishing reasonable cause to believe that a vehicle, described by vehicle type and license number, is being operated as a taxicab or other passenger vehicle for hire in violation of licensing requirements adopted by a local authority under subdivision (b) of Section 21100 shall issue a warrant or order authorizing the peace officer or designated local transportation officer to immediately seize and cause the removal of the vehicle. As used in this section, "designated local transportation officer" means any local public officer employed by a local authority to investigate and enforce local taxicab and vehicle for hire laws and regulations.

(2) The warrant or court order may be entered into a computerized database.

(3) A vehicle so impounded may be impounded for a period not to exceed 30 days.

(4) The impounding agency, within two working days of impoundment, shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at an address obtained from the department, informing the owner that the vehicle has been impounded and providing the owner with a copy of the warrant or court order. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than 15 days' impoundment when a legal owner redeems the impounded vehicle.

(b) (1) An impounding agency shall release a vehicle to the registered owner or his or her agent prior to the end of the impoundment period and without the permission of the magistrate authorizing the vehicle's seizure under any of the following circumstances:

(A) When the vehicle is a stolen vehicle.

(B) When the vehicle was seized under this section for an offense that does not authorize the seizure of the vehicle.

(2) A vehicle may be released under this subdivision, except upon presentation of the registered owner's or agent's currently valid license to operate the vehicle under the licensing requirements adopted by the local authority under subdivision (b) of Section 21100, and proof of current vehicle registration, or upon order of the court.

(c) (1) Whenever a vehicle is impounded under this section, the magistrate ordering the storage shall provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a poststorage hearing to determine the validity of the storage.

(2) A notice of the storage shall be mailed or personally delivered to the registered and legal owners within 48 hours after issuance of the warrant or court order, excluding weekends and holidays, by the person or agency executing the warrant or court order, and shall include all of the following information:

(A) The name, address, and telephone number of the agency providing the notice.

(B) The location of the place of storage and a description of the vehicle, that shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage of the vehicle.

(C) A copy of the warrant or court order and the peace officer's affidavit, as described in subdivision (a).

(D) A statement that, in order to receive their poststorage hearing, the owners, or their agents, are required to request the hearing from the

magistrate issuing the warrant or court order in person, in writing, or by telephone, within 10 days of the date of the notice.

(3) The poststorage hearing shall be conducted within two court days after receipt of the request for the hearing.

(4) At the hearing, the magistrate may order the vehicle released if he or she finds any of the circumstances described in subdivision (b) or (e) that allow release of a vehicle by the impounding agency.

(5) Failure of either the registered or legal owner, or his or her agent, to request, or to attend, a scheduled hearing satisfies the poststorage hearing requirement.

(6) The agency employing the peace officer or designated local transportation officer who caused the magistrate to issue the warrant or court order shall be responsible for the costs incurred for towing and storage if it is determined in the poststorage hearing that reasonable grounds for the storage are not established.

(d) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(e) A vehicle removed and seized under subdivision (a) shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of the impoundment period and without the permission of the magistrate authorizing the seizure of the vehicle if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a financial interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. A lien sale processing fee shall not be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment. Neither the impounding authority nor any person having possession of the vehicle shall collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent, any administrative charges imposed pursuant to Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

(3) (A) The legal owner or the legal owner's agent presents either lawful foreclosure documents or a certificate of repossession and a security agreement or title showing proof of legal ownership for the vehicle. The documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The impounding agency may not require any documents to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued

pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(B) No administrative costs authorized under subdivision (a) of Section 22850.5 may be charged to the legal owner of the type specified in paragraph (1), who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. No city, county, city and county, or state agency shall require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The impounding agency may not require any documents other than those specified in this paragraph. The impounding agency may not require any documents to be notarized.

(C) As used in this paragraph, "foreclosure documents" means an "assignment" as that term is defined in subdivision (o) of Section 7500.1 of the Business and Professions Code.

(f) (1) A legal owner or the legal owner's agent that obtains release of the vehicle pursuant to subdivision (e) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner until the termination of the impoundment period.

(2) The legal owner or the legal owner's agent may not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license, and an operator's license that is in compliance with the licensing requirements adopted by the local authority under subdivision (b) of Section 21100, to the legal owner or the legal owner's agent. The legal owner or the legal owner's agent shall make every reasonable effort to ensure that the licenses presented are valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and the administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining the custody of the vehicle.

(g) Notwithstanding any other provision of this section, the registered owner and not the legal owner shall remain responsible for any towing and storage charges related to the impoundment and the administrative charges authorized under Section 22850.5 and any parking fines, penalties, and administrative fees incurred by the registered owner.

(h) The impounding agency is not liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner's agent if the release complies with this section.

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## CHAPTER 27

An act to repeal Section 21655.3 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 2008. Filed with Secretary of State June 6, 2008.]

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

SECTION 1. Section 21655.3 of the Vehicle Code 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 alleviate ongoing traffic congestion and transportation difficulties as soon as possible, it is necessary for this act to go into effect immediately.

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## CHAPTER 28

An act to amend Sections 23013 and 23356.2 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 2008. Filed with Secretary of State June 6, 2008.]

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

SECTION 1. Section 23013 of the Business and Professions Code is amended to read:

23013. "Winegrower" means any person who has facilities and equipment for the conversion of grapes, berries, or other fruit into wine and is engaged in the production of wine.

SEC. 2. Section 23356.2 of the Business and Professions Code is amended to read:

23356.2. (a) No license or permit shall be required for the manufacture of beer for personal or family use, and not for sale, by a person over the age of 21 years. The aggregate amount of beer with respect to any household shall not exceed (1) 200 gallons per calendar year if there are two or more adults in the household, or (2) 100 gallons per calendar year if there is only one adult in the household.

(b) No license or permit shall be required for the manufacture of wine for personal or family use, and not for sale, by a person over the age of 21 years. The aggregate amount of wine with respect to any household shall not exceed (1) 200 gallons per calendar year if there are two or more adults in the household or (2) 100 gallons per calendar year if there is only one adult in the household.

(c) Any beer manufactured pursuant to this section may be removed from the premises where manufactured for use in competition at organized affairs, exhibitions or competitions, including homemakers' contests, tastings, or judgings.

(d) Any wine made pursuant to this section may be removed from the premises where made for personal or family use, including use at organized affairs, exhibitions or competitions, such as homemaker's contests, tastings or judging. Wine used under this section shall not be sold or offered for sale.

(e) Except as provided herein, nothing in this section authorizes any activity in violation of Section 23300, 23355, or 23399.1.

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 amateur winemakers will be able to participate in all 2008 county fairs and in the 2008 California State Fair Home Wine Competition, a competition designed to increase the knowledge, skills, and abilities of amateur winemakers and where homemade wines are judged in a formal and professional manner, which occurs from August 15 to September 1, inclusive, it is necessary that this act take effect immediately.

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## CHAPTER 29

An act to amend Sections 1750, 1765, and 1765.2 of the Insurance Code, relating to license fees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 13, 2008. Filed with
Secretary of State June 13, 2008.]

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

SECTION 1. Section 1750 of the Insurance Code is amended to read:

1750. The commissioner shall require in advance as a fee for filing application for the hereinafter designated licenses, renewals thereof, or changes in outstanding licenses, an amount calculated as set forth herein. The fee is determined by multiplying the number of license years in the period of the license applied for or the remaining period of an existing license counting any initial fractional license year of that period as one year for that purpose, as follows:

(a) Fire and casualty broker-agent, fifty-six dollars ($56).

(b) Personal lines broker-agent, resident, fifty-six dollars ($56).

(c) Life agent, resident, fifty-six dollars ($56).

(d) Life agent, nonresident, fifty-six dollars ($56).

(e) Surplus line broker who is an individual transacting only on behalf of a surplus line broker organization, two hundred fifty dollars ($250).

(f) Surplus line broker not described in subdivision (e), five hundred dollars ($500).

SEC. 2. Section 1765 of the Insurance Code is amended to read:

1765. (a) A license under this chapter shall be applied for and renewed by the filing with the commissioner of a written application therefor, in accordance with Section 1652.

(b) Subject to subdivision (f), the commissioner shall issue a license authorizing any applicant who is trustworthy and competent to transact an insurance brokerage business in a manner as to safeguard the interest of the insured, to act as a surplus line broker from the date of the license until the expiration date specified in Section 1630.

(c) An applicant for a surplus line broker's license shall, as part of the application and a condition of the issuance of the license, file a bond to the people of the State of California in the sum of fifty thousand dollars ($50,000), conditioned that the licensee will fully and faithfully comply with the requirements of this chapter, and all applicable provisions of this code. The bond shall be subject to Sections 1662 and 1663. A surplus line broker bond is not required for an individual licensed as a surplus line broker who only transacts on behalf of a licensed surplus line broker organization.

(d) The filing fee for a license to act as a surplus line broker shall be one thousand dollars ($1,000) every two years, or for any initial fractional license year. For an individual licensed as a surplus line broker who only transacts on behalf of a surplus line broker organization, the filing fee

shall be five hundred dollars ($500) every two years, or for any initial fractional license year. Every applicant for a business entity license, as provided in subdivision (a) of Section 1765.2, shall provide the names of all persons who may exercise the power and perform the duties under the license. Whenever an organization licensed as a surplus line broker desires to change, remove, or add to the natural person or persons who are to transact insurance under authority of its license, it shall immediately file an application or notice with the commissioner for an endorsement changing its license accordingly, on a form prescribed by the commissioner. The fee for adding or removing from any surplus line broker's license issued to an organization the name of any natural person, named thereon, shall be twenty-four dollars ($24). The commissioner shall require that the qualifying examination provided by subdivision (a) of Section 1676 be taken by any natural person named by the organization to exercise its agency or brokerage powers who would be required to take and pass the qualifying examination. That natural person or persons and the organization are in all other respects subject to the provisions of this chapter and the insurance laws.

(e) The department is authorized to collect additional license fees resulting from the increases in licensee fees provided by the act that adds this subdivision and shall credit any overpayment resulting from reductions in license fees provided by that act.

(f) A business entity licensed under this chapter shall provide two hours of appropriate training to its employees who solicit, negotiate, or effect insurance coverage placed by a nonadmitted insurer. The training shall be given to each eligible employee every five years. The surplus line advisory organization authorized pursuant to Chapter 6.1 (commencing with Section 1780.50) shall develop the curriculum for the training.

(g) The license shall be renewed in accordance with, and subject to, Sections 1717, 1718, 1719, and 1720.

(h) The commissioner may deny, suspend, or revoke any license applied for or granted pursuant to this chapter on all or any one of the grounds and in accordance with the procedures provided in Article 6 (commencing with Section 1666) and Article 13 (commencing with Section 1737) of Chapter 5, whenever the commissioner finds that the applicant or licensee has committed a violation of any provision of this code.

SEC. 3. Section 1765.2 of the Insurance Code is amended to read:

1765.2. (a) A license under this chapter may be issued to an individual or any legal business entity. If issued to a business entity or individual that maintains more than one surplus line office from which it transacts that business with California residents, it shall name the

natural person or persons located at each such surplus line office maintained by the licensee who is or are to be responsible for the proper discharge at each office of all duties placed upon the licensee acting as a surplus line broker and each of these natural persons must be licensed as a surplus line broker. Each natural person shall meet all of the requirements for the license.

(b) Every application for a license filed by a corporation shall contain the names and addresses of all stockholders owning 10 percent or more of the corporation's stock, and of all officers and directors of the corporation. Every licensed corporation shall file a written notice with the commissioner of all changes, except address changes, of its stockholders who own 10 percent or more of the corporation's stock and of all officers and directors of the corporation.

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

This act is required for the proper regulation of surplus line brokers and to provide for the proper education of nonlicensed employees of surplus line brokers at the earliest possible time.

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## CHAPTER 30

An act to amend Section 52086 of, and to add and repeal Section 52124.1 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 13, 2008. Filed with Secretary of State June 13, 2008.]

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

SECTION 1. Section 52086 of the Education Code is amended to read:

52086. (a) The Superintendent shall apportion to each applicant district an amount equal to one hundred sixty-five dollars ($165) per unit of full-year equivalent enrollment reported pursuant to subdivision (d) of Section 52084 if the district certifies an average class size of 20 pupils and no more than 22 pupils in each participating class at each participating school, adjusted annually commencing with the 2000–01 fiscal year for the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1.

(b) Funds apportioned pursuant to this section shall not become part of a district's revenue limit, and shall be identified as a separate item of expenditure on any financial reports filed by school districts with the state pursuant to statute or regulation.

(c) Notwithstanding any other provision of this chapter, a school district located in the County of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, or Ventura may claim funding pursuant to this chapter for the 2007–08 school year based upon enrollment counts before the October 2007 fires, for classes in which the Program to Reduce Class Size in Two Courses in Grade 9 is implemented if the following criteria are met:

(1) The school district submits a "Request for Allowance of Attendance because of Emergency Conditions" to the Superintendent pursuant to Section 46392 and the emergency conditions were caused by the October 2007 fires.

(2) The school district certifies that it suffered a loss of enrollment in classes in which the Program to Reduce Class Size in Two Courses in Grade 9 is implemented and this loss of enrollment is due to the October 2007 fires and would result in a decrease in funding that the district receives pursuant to this chapter.

SEC. 2. Section 52124.1 is added to the Education Code, to read:

52124.1. (a) Notwithstanding any other provision of this chapter, a school district located in the County of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, or Ventura may claim funding pursuant to this chapter for the 2007–08 school year based on enrollment counts before the October 2007 fires, in classes for which the K–3 Class Size Reduction Program is implemented, if the following criteria are met:

(1) The school district submits to the Superintendent a "Request for Allowance of Attendance because of Emergency Conditions" pursuant to Section 46392 and the emergency conditions were caused by the October 2007 fires.

(2) The school district certifies that it suffered a loss of enrollment in classes in which the K–3 Class Size Reduction Program is implemented and this loss of enrollment is due to the October 2007 fires and would result in a decrease in funding that the district receives pursuant to this chapter.

(b) Notwithstanding any other provision of this chapter, a school district located in the County of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, or Ventura may claim funding pursuant to this chapter for the 2007–08 school year for a class that either exceeds 20 pupils or is housed with another class, if the following conditions are met:

(1) The school district certifies that the number of pupils enrolled in the district increased as a direct result of the October 2007 fires and this growth increased the number of pupils enrolled in classes in which the K–3 Class Size Reduction Program is implemented.

(2) The school district certifies that it lacked sufficient classroom space or credentialed teachers to accommodate the enrollment increase attributable to the October 2007 fires.

(c) This section shall remain in effect only until July 1, 2009, and as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 3. The Legislature hereby finds and declares that due to unique circumstances relating to the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura, a general statute cannot be made applicable within the meaning 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:

In order to provide timely essential relief to school districts in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura that may experience a loss of state funding as a result of the fire that occurred in California during October of 2007, it is necessary that this bill take effect immediately.

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## CHAPTER 31

An act to amend Sections 101, 205, 1621, 1670.1, 1680, 1721, 1721.5, 1725, 1741, 1750.2, 1750.4, 1751, 1753, 1767, 1770, 1771, 4999.2, and 4999.7 of, to add Sections 1601.3 and 1616.6 to, to add Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of, to add and repeal Sections 1601.1 and 1616.5 of, to repeal Sections 1742.1, 1744, 1745, 1746, 1746.1, 1748, 1749, 1760, 1760.5, 1761, 1762, 1763, 1764, 1765, 1766, 1768, 1769, 1772, 1774, and 1775 of, and to repeal and add Sections 1742 and 1743 of, the Business and Professions Code, to amend Section 44876 of the Education Code, and to amend Sections 1348.8 and 128160 of the Health and Safety Code, relating to healing arts.

[Approved by Governor June 13, 2008. Filed with Secretary of State June 13, 2008.]

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

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

101. The department is comprised of:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The Bureau of Barbering and Cosmetology.

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

(j) The Contractors' State License Board.

(k) The Bureau for Private Postsecondary and Vocational Education.

(*l*) The Structural Pest Control Board.

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

(n) The Board of Registered Nursing.

(o) The Board of Behavioral Sciences.

(p) The State Athletic Commission.

(q) The Cemetery and Funeral Bureau.

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

(s) The Bureau of Security and Investigative Services.

(t) The Court Reporters Board of California.

(u) The Board of Vocational Nursing and Psychiatric Technicians.

(v) The Landscape Architects Technical Committee.

(w) The Bureau of Electronic and Appliance Repair.

(x) The Division of Investigation.

(y) The Bureau of Automotive Repair.

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

(aa) The Respiratory Care Board of California.

(ab) The Acupuncture Board.

(ac) The Board of Psychology.

(ad) The California Board of Podiatric Medicine.

(ae) The Physical Therapy Board of California.

(af) The Arbitration Review Program.

(ag) The Hearing Aid Dispensers Bureau.

(ah) The Physician Assistant Committee.

(ai) The Speech-Language Pathology and Audiology Board.

(aj) The California Board of Occupational Therapy.

(ak) The Osteopathic Medical Board of California.

(al) The Bureau of Naturopathic Medicine.

(am) The Dental Hygiene Committee of California.

(an) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 205 of the Business and Professions Code is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

(1) Accountancy Fund.

(2) California Board of Architectural Examiners' Fund.

(3) Athletic Commission Fund.

(4) Barbering and Cosmetology Contingent Fund.

(5) Cemetery Fund.

(6) Contractors' License Fund.

(7) State Dentistry Fund.

(8) State Funeral Directors and Embalmers Fund.

(9) Guide Dogs for the Blind Fund.

(10) Bureau of Home Furnishings and Thermal Insulation Fund.

(11) California Board of Architectural Examiners-Landscape Architects Fund.

(12) Contingent Fund of the Medical Board of California.

(13) Optometry Fund.

(14) Pharmacy Board Contingent Fund.

(15) Physical Therapy Fund.

(16) Private Investigator Fund.

(17) Professional Engineers' and Land Surveyors' Fund.

(18) Consumer Affairs Fund.

(19) Behavioral Sciences Fund.

(20) Licensed Midwifery Fund.

(21) Court Reporters' Fund.

(22) Structural Pest Control Fund.

(23) Veterinary Medical Board Contingent Fund.

(24) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.

(25) Electronic and Appliance Repair Fund.

(26) Geology and Geophysics Fund.

(27) Dispensing Opticians Fund.

(28) Acupuncture Fund.

(29) Hearing Aid Dispensers Fund.

(30) Physician Assistant Fund.

(31) Board of Podiatric Medicine Fund.

(32) Psychology Fund.

(33) Respiratory Care Fund.

(34) Speech-Language Pathology and Audiology Fund.

(35) Board of Registered Nursing Fund.

(36) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.

(37) Animal Health Technician Examining Committee Fund.

(38) Structural Pest Control Education and Enforcement Fund.

(39) Structural Pest Control Research Fund.

(40) State Dental Hygiene Fund.

(41) State Dental Assistant Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

SEC. 3. Section 1601.1 is added to the Business and Professions Code, to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall remain in effect only until January 1, 2012, and as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 4. Section 1601.3 is added to the Business and Professions Code, to read:

1601.3. (a) All committees of the board have the authority to evaluate all suggestions or requests for regulatory changes related to their committee. Committees shall have the authority to hold informational

hearings in order to report and make appropriate recommendations to the board, after consultation with departmental legal counsel and the board's chief executive officer. The committees shall include in any report regarding a proposed regulatory change, at a minimum, the specific language or the proposed change or changes and the reasons therefor and any facts supporting the need for the change.

(b) No part of this section shall restrict the Dental Hygiene Committee of California from adopting, amending, or revoking regulations authorized by Article 9 (commencing with Section 1900).

SEC. 5. Section 1616.5 is added to the Business and Professions Code, to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2012, and as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends that date.

SEC. 6. Section 1616.6 is added to the Business and Professions Code, to read:

1616.6. There is hereby established within the board a full-time management level staff position, under the direction of the executive officer, whose sole responsibilities shall be the management of matters related to dental assisting, including, but not limited to, education, examination, licensure, and enforcement.

SEC. 7. Section 1621 of the Business and Professions Code is amended to read:

1621. The board shall utilize in the administration of its licensure examinations only examiners whom it has appointed and who meet the following criteria:

(a) Possession of a valid license to practice dentistry in this state or possession of a valid license in one of the dental assistant categories licensed under this chapter.

(b) Practice as a licensed dentist or in a licensure category described in subdivision (a) for at least five years preceding his or her appointment.

(c) Hold no position as an officer or faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

SEC. 8. Section 1670.1 of the Business and Professions Code is amended to read:

1670.1. (a) Any licentiate under this chapter may have his or her license revoked or suspended or be reprimanded or be placed on probation by the board for conviction of a crime substantially related to

the qualifications, functions, or duties of a dentist or dental assistant licensed under this chapter, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(b) The board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the qualifications, functions, or duties of a dentist or dental assistant licensed under this chapter is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 9. 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, 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 sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.

(f) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.

(h) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising 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 Chapter 9 (commencing with Section 4000), 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 licensee 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, or discipline imposed, by another state or territory on grounds that 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 licensee, 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,

registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions 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 licensee.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct that would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist, dental assistant, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental or dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental or dental hygiene procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, or any patient as a result of dental or dental hygiene treatment. With the exception of patients to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported. Upon receipt of a report pursuant to this subdivision the board may conduct an inspection of the dental office if the board finds that it is necessary. A dentist shall report to the board all deaths occurring in his or her practice with a copy sent to the Dental Hygiene Committee of California if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. A dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the Dental Hygiene Committee of California all deaths occurring as the result of dental hygiene treatment, and a copy of the notification shall be sent to the board.

(aa) Participating in or operating any group advertising and referral services that are in violation of Section 650.2.

(ab) 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.

(ac) Engaging in the practice of dentistry with an expired license.

(ad) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from dentist, dental assistant, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to patient, from patient to patient, and from patient to dentist, dental assistant, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health 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 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. The board shall review infection control guidelines, if necessary, on an annual basis and proposed changes shall be reviewed by the Dental Hygiene Committee of California to establish a consensus. The committee shall submit any recommended changes to the infection control guidelines for review to establish a consensus. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that all appropriate dental personnel are informed of the responsibility to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(ae) The utilization by a licensed dentist of any person to perform the functions of any dental assistant licensed under this chapter, registered dental hygienist, registered dental hygienist in alternative practice, 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.

(af) The prescribing, dispensing, or furnishing of dangerous drugs or devices, as defined in Section 4022, in violation of Section 2242.1.

SEC. 10. Section 1721 of the Business and Professions Code is amended to read:

1721. Except as provided in Sections 1721.5, 1944, and 1945, all funds received by the Treasurer under the authority of this chapter shall be placed in the State Dentistry Fund. Expenditure of those funds shall be subject to appropriation by the Legislature in the annual Budget Act.

Subject to that appropriation, and except as provided in Sections 1721.5, 1944, and 1945, all disbursements by the board made in the transaction of its business and in the enforcement of this chapter shall be paid out of the fund upon claims against the state.

SEC. 11. Section 1721.5 of the Business and Professions Code is amended to read:

1721.5. (a) All funds received by the Treasurer pursuant to Section 1725 shall be placed in the State Dental Assistant Fund for the purposes of administering this chapter as it relates to dental assistants. Expenditure of these funds shall be subject to appropriation by the Legislature in the annual Budget Act.

(b) On July 1, 2009, all moneys in the State Dental Auxiliary Fund other than the moneys described in Section 1945 shall be transferred to the State Dental Assistant Fund. The board's authority to expend those funds, as appropriated in the 2008 Budget Act, shall continue in order to carry out the provisions of this chapter as they related to dental assistants for the 2008–09 fiscal year, including the payment of any encumbrances related to dental assistants incurred by the State Dental Auxiliary Fund.

SEC. 12. Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of the fees prescribed by this chapter that relate to the licensing of dental assistants shall be established by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars ($20). On and after January 1, 2010, the application fee for an original license shall not exceed fifty dollars ($50).

(b) (1) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars ($50) for the written examination and shall not exceed sixty dollars ($60) for the practical examination.

(2) On and after January 1, 2008, the following fees are established for registered orthodontic assistants, registered surgery assistants, registered restorative assistants, and registered dental assistants:

(A) The fee for application and for the issuance of a license shall not exceed fifty dollars ($50).

(B) The fee for the practical examination shall not exceed the actual cost of the examination.

(C) The fee for a written examination shall not exceed the actual cost of the examination.

(c) The fee for examination for licensure as a registered dental assistant in extended functions or a registered restorative assistant in extended functions shall not exceed the actual cost of the examination.

(d) The biennial renewal fee for a dental assistant whose license expires on or after January 1, 1991, shall not exceed sixty dollars ($60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars ($80).

(e) The delinquency fee shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.

(f) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25).

(g) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants that are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars ($1,400).

(h) The fee for review of each approval application for a course that is not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars ($300).

(i) No fees or charges other than those listed in subdivisions (a) through (h) above shall be levied by the board in connection with the licensure of dental assistants, dental assisting educational program site evaluations, and radiation safety course evaluations, pursuant to this chapter.

(j) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(k) Fees collected pursuant to this section shall be deposited in the State Dental Assistant Fund.

SEC. 13. Section 1741 of the Business and Professions Code is amended to read:

1741. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Direct supervision" means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(c) "General supervision" means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(d) "Dental assistant" means a person who may perform dental assisting or dental hygiene procedures authorized by this article.

SEC. 14. Section 1742 of the Business and Professions Code is repealed.

SEC. 15. Section 1742 is added to the Business and Professions Code, to read:

1742. The Legislature hereby finds and declares that dental assistants provide a dental care service that is vital to good dental health. It is the intent of the Legislature that the board create and implement an effective forum where dental assistant services and regulatory oversight of dental assistants can be heard and discussed in full and where all matters relating to dental assistants in this state can be discussed, including, but not limited to, all of the following matters:

(a) Requirements for dental assistant licensure and renewal.

(b) Allowable dental assistant duties, settings, and supervision levels.

(c) Appropriate standards of conduct and enforcement for dental assistants.

SEC. 16. Section 1742.1 of the Business and Professions Code is repealed.

SEC. 17. Section 1743 of the Business and Professions Code is repealed.

SEC. 18. Section 1743 is added to the Business and Professions Code, to read:

1743. (a) The board shall have the following duties and authority related to applications:

(1) Shall review and evaluate all applications for licensure in all dental assisting categories to ascertain whether a candidate meets the appropriate licensing requirements specified by statute and board regulations.

(2) Shall maintain application records, cashier application fees, and perform any other ministerial tasks as are incidental to the application process.

(3) May delegate any or all of the functions in this subdivision to its staff.

(4) Shall issue dental assistant licenses in all cases, except where there is a question as to a licensing requirement.

(b) The board shall develop or cause to be developed and administer examinations. The board shall set pass points for all dental assisting licensing examinations.

(c) The board shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and board regulations. The board may delegate any or all of its functions under this subdivision to its staff.

SEC. 19. Section 1744 of the Business and Professions Code is repealed.

SEC. 20. Section 1745 of the Business and Professions Code is repealed.

SEC. 21. Section 1746 of the Business and Professions Code is repealed.

SEC. 22. Section 1746.1 of the Business and Professions Code is repealed.

SEC. 23. Section 1748 of the Business and Professions Code is repealed.

SEC. 24. Section 1749 of the Business and Professions Code is repealed.

SEC. 25. Section 1750.2 of the Business and Professions Code is amended to read:

1750.2. (a) On and after January 1, 2010, the board shall license as a "registered orthodontic assistant," "registered surgery assistant," or "registered restorative assistant" any person who does either of the following:

(1) Submits written evidence of satisfactory completion of a course or courses approved by the board pursuant to subdivision (b) that qualifies him or her in one of these specialty areas of practice and obtains a passing score on both of the following:

(A) A written examination approved by the board and administered by the board or by an entity recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

(B) A practical examination for the specialty category for which the person is seeking licensure that is approved by the board and administered by the board or by an entity recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

(2) Completes a work experience pathway to licensure that meets the requirements set forth in Section 1750.4. This section permits the work experience pathway to licensure only for those assistants described in this subdivision and does not apply to dentists, dental hygienists, dental hygienists in alternative practice, or dental hygienists in extended functions.

(b) The board shall adopt regulations for the approval of specialty registration courses in the specialty areas specified in this section. The board shall also adopt regulations for the approval and recognition of core courses that teach basic dental science.

The regulations shall define the minimum education and training requirements necessary to achieve proficiency in the procedures authorized for each specialty registration, taking into account the combinations of classroom and practical instruction, clinical training, and supervised work experience that are most likely to provide the greatest number of opportunities for improving dental assisting skills efficiently.

(c) The board may approve specialty registration courses referred to in this section prior to January 1, 2010, and the board shall recognize the completion of these approved courses prior to January 1, 2010, but no specialty registrations shall be issued prior to January 1, 2010.

(d) The board may approve a course for the specialty registration listed in subdivision (b) that does not include instruction in coronal polishing.

(e) The board may approve a course that only includes instruction in coronal polishing as specified in paragraph (8) of subdivision (b) of Section 1750.3.

(f) A person who holds a specialty registration pursuant to this section shall be subject to the continuing education requirements established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).

SEC. 26. Section 1750.4 of the Business and Professions Code is amended to read:

1750.4. (a) A dentist who holds an active, current, and unrestricted license to practice dentistry under this chapter may train and educate his or her employees, or employees of the dental office, primary care clinic, or hospital where the dentist is practicing and directly supervises the employees, without charge or cost to the employees, in all of the allowable duties for the purpose of licensure in one of the specialty licensure categories set forth in Section 1750.2. A dentist may not begin the work experience training and education of an employee until his or her application for that particular employee is approved by the board. For purposes of this subdivision, an unrestricted license means a license that is not suspended, placed on probation, or restricted pursuant to subparagraph (B) or (C) of paragraph (3) of subdivision (a) of Section 1635.5.

(1) In order to train or educate pursuant to this subdivision, the dentist shall be subject to the following terms and conditions, which are applicable prior to commencing training for each employee:

(A) On a completed and signed application form approved by the board, the dentist shall provide the specialty dental assistant category in which the dentist will be training the employee and the name of the employee. When the board provides a requested application to an

employer, the board shall also provide a copy of the regulations governing the education and training of the specialty assistants or provide access to the regulations on the board's Internet Web site.

(B) The education and training the dentist provides shall be in compliance with the regulations adopted by the board pursuant to subdivision (b) of Section 1750.2. Employees trained pursuant to this section shall be considered bona fide students, as described in Section 1626.5, as added by Section 6 of Chapter 655 of the Statutes of 1999. The dentist shall not allow the employee to begin the clinical training on patients until the employee has completed the didactic and preclinical training, which includes nonpatient training on typodonts and other laboratory models and as prescribed in regulations, and a minimum of 120 days as a dental assistant in California or another state, which may include graduation from a regional occupational center or regional occupation program pursuant to paragraph (1) of subdivision (b).

(C) The dentist shall pay a fee to the board to cover administrative costs not to exceed two hundred fifty dollars ($250) for each employee he or she is training and educating. The fee shall be deposited in the State Dental Assistant Fund. If a dentist is training and educating an employee in more than one of the specialty licensure categories at the same time, the dentist shall pay the fee for each category in which the employee is being trained and educated.

(D) Prior to beginning employee training, the dentist shall complete a teaching methodology course approved by the board that is six hours in length and covers educational objectives, content, instructional methods, and evaluation procedures. The dentist shall be exempt from this requirement if he or she holds any one of the following degrees, credentials, or positions:

(i) A postgraduate degree in education.

(ii) A Ryan Designated Subjects Vocational Education Teaching Credential.

(iii) A Standard Designated Subjects Teaching Credential.

(iv) A Community College Teaching Credential.

(v) Is a faculty member of a dental school approved by the Commission on Dental Accreditation.

The dentist shall provide to the board proof of one of these designations or shall submit a certificate of course completion in teaching methodology.

(2) All duties performed by an employee pursuant to this section shall be done in the dentist's presence. The dentist shall ensure that any patient treated by a bona fide student is verbally informed of the student's status.

(3) The work experience pathway for the employee shall not exceed a term of 18 months, starting on the date that the board approves the application submitted by the dentist for that employee.

(4) Upon successful completion of the work experience pathway period, the dentist shall certify in writing that the employee has successfully completed the educational program covering all procedures authorized for the specialty category for which the employee is seeking licensure.

(5) With respect to this subdivision, the board:

(A) Shall approve the application form described in subparagraph (A) of paragraph (1). The application form shall not be required to comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(B) Shall have a maximum of 60 days from the date a completed application is received in which to approve or deny an application under this subdivision. Nothing in this section shall prohibit a dentist from appealing the denial of an application to the executive officer of the board.

(C) May inspect the dentist's facilities and practice at any time to ensure compliance with regulations adopted by the board pursuant to Section 1750.2.

(D) May revoke an approval for a dentist to provide training or education pursuant to this section if the dentist is disciplined by the board, fails to provide the training or education in accordance with the law and regulations governing the specialty licensure category, or fails to allow an inspection by the board, or other good cause. A dentist whose approval is revoked may appeal the revocation to the board's executive officer.

(E) May limit by regulations, approved by the board, the number of times a dentist may train or educate an individual employee in one or more of the specialty licensure categories.

(F) May limit by regulations, approved by the board, the number of employees a dentist may train during the same time period.

(G) May by regulations, approved by the board, require an applicant for licensure who has repeatedly failed to pass either the written or practical examination for the specialty licensure category to complete additional training and education before he or she is allowed to retake the examination.

(b) As a condition for licensure for specialty registration under Section 1750.2, an applicant who completes a work experience pathway pursuant to this section shall do the following:

(1) Certify to the board that he or she has a minimum of 1600 hours of prior work experience as a dental assistant. The 1600 hours of required

work experience may be obtained by working for multiple employers, if the applicant provides written evidence of work experience from each dentist employer. The employee may begin the work experience pathway before he or she completes 1600 hours of work experience, but may not apply for licensure until that work experience is completed. The board shall give credit toward the 1600 hours of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that is not approved by the board. The credit shall equal the hours spent in classroom training and internship on an hour-for-hour basis not to exceed 400 hours.

(2) Certify to the board that he or she has completed the educational program covering all procedures authorized for the specialty category for which the applicant is seeking licensure.

(3) Obtain a passing score on a written examination that is approved by the board and administered by the board or by an entity that is recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

(4) Obtain a passing score on the practical examination for the specialty category for which the employee is seeking licensure that is approved by the board and administered by the board or by an entity recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

SEC. 27. Section 1751 of the Business and Professions Code, as amended by Section 13 of Chapter 588 of the Statutes of 2007, is amended to read:

1751. (a) The board shall adopt regulations governing the procedures that dental assistants licensed under this chapter are authorized to perform consistent with and necessary to implement the provisions of this article, and the settings within which each may practice.

(b) The board shall conduct an initial review of the procedures, supervision level, settings under which they may be performed, and utilization of extended functions dental assistants by January 1, 2012. The board shall submit the results of its review to the Joint Committee on Boards, Commissions, and Consumer Protection. After the initial review, a review shall be conducted at least once every five to seven years thereafter and the board shall update regulations as necessary to keep them current with the state of dental practice.

(c) This section shall become operative on January 1, 2010.

SEC. 28. Section 1751 of the Business and Professions Code, as amended by Section 12 of Chapter 588 of the Statutes of 2007, is amended to read:

1751. (a) By September 15, 1993, the board consistent with this article, standards of good dental practice, and the health and welfare of patients, shall adopt regulations relating to the functions that may be performed by dental assistants licensed under this chapter under direct or general supervision, and the settings within which dental assistants licensed under this chapter may work. At least once every seven years thereafter, the board shall review the list of functions performable by dental assistants licensed under this chapter, 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.

(b) Under the supervision of a registered dental hygienist in alternative practice, a dental assistant may perform intraoral retraction and suctioning.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 29. Section 1753 of the Business and Professions Code is amended to read:

1753. (a) On and after January 1, 2010, the board shall license as a registered dental assistant in extended functions a person who submits written evidence, satisfactory to the board, of all of the following:

(1) Current licensure as a registered dental assistant, or completion of the requirements for licensure as a registered dental assistant, as provided in Section 1752.5.

(2) Successful completion of either of the following:

(A) An extended functions postsecondary program approved by the board in all of the procedures specified in Section 1753.1.

(B) An extended functions postsecondary program approved by the board on or before July 1, 2009, to teach the duties that registered dental assistants in extended functions were allowed to perform pursuant to board regulations prior to January 1, 2010, and a course approved by the board in the procedures specified in paragraphs (8) through (13) of subdivision (b) of Section 1753.1.

(3) Successful completion of board-approved courses in radiation safety and, within the last two years, courses in infection control, California dental law, and basic life support.

(4) Satisfactory performance on a written examination and a clinical or practical examination specified by the board. The board shall designate whether the written examination shall be administered by the board.

(b) On and after January 1, 2010, the board shall license as a registered restorative assistant in extended functions a person who submits written evidence, satisfactory to the board, of all of the following:

(1) Completion of 12 months of satisfactory work experience as a dental assistant in California or another state. The board shall give credit toward the 12 months of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that are not approved by the board. The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis, not to exceed 16 weeks.

(2) Successful completion of a board-approved course in radiation safety, and, within the last two years, courses in infection control, California dental law, and basic life support.

(3) Successful completion of a postsecondary program approved by the board for restorative dental assisting specialty registration specified in subdivision (c) of Section 1750.3.

(4) Successful completion of an extended functions postsecondary program approved by the board in all of the procedures specified in Section 1753.1.

(5) Satisfactory performance on a written examination and a clinical or practical examination specified by the board. The board shall designate whether the written examination shall be administered by the board.

(c) In approving extended functions postsecondary programs required to be completed for licensure pursuant to this section, the board shall require that the programs be taught by persons having prior experience teaching the applicable procedures specified in Section 1753.1, or procedures otherwise authorized by the board pursuant to Section 1751, in a dental school approved either by the Commission on Dental Accreditation or a comparable organization approved by the board. Approved programs shall include didactic, laboratory, and clinical modalities.

(d) The board may approve extended functions postsecondary programs referred to in this section prior to January 1, 2010, and the board shall recognize the completion of these approved programs prior to January 1, 2010.

SEC. 30. Section 1760 of the Business and Professions Code is repealed.

SEC. 31. Section 1760.5 of the Business and Professions Code is repealed.

SEC. 32. Section 1761 of the Business and Professions Code is repealed.

SEC. 33. Section 1762 of the Business and Professions Code is repealed.

SEC. 34. Section 1763 of the Business and Professions Code is repealed.

SEC. 35. Section 1764 of the Business and Professions Code is repealed.

SEC. 36. Section 1765 of the Business and Professions Code is repealed.

SEC. 37. Section 1766 of the Business and Professions Code is repealed.

SEC. 38. Section 1767 of the Business and Professions Code is amended to read:

1767. The board shall adopt regulations necessary to implement the provisions of this article.

SEC. 39. Section 1768 of the Business and Professions Code is repealed.

SEC. 40. Section 1769 of the Business and Professions Code is repealed.

SEC. 41. Section 1770 of the Business and Professions Code, as amended by Section 26 of Chapter 588 of the Statutes of 2007, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than three dental assistants in extended functions or registered dental hygienists in extended functions licensed pursuant to Sections 1753 and 1918.

(b) This section shall become operative on January 1, 2010.

SEC. 42. Section 1770 of the Business and Professions Code, as amended by Section 25 of Chapter 588 of the Statutes of 2007, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than two dental assistants in extended functions or registered dental hygienists in extended functions licensed pursuant to Sections 1756 and 1918.

(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 43. Section 1771 of the Business and Professions Code is amended to read:

1771. Any person, other than a person who has been issued a license by the board, who holds himself or herself out as a registered dental assistant, registered restorative assistant, registered orthodontic assistant, registered surgery assistant, registered restorative assistant in extended functions, or registered dental assistant in extended functions, or uses

any other term indicating or implying he or she is licensed by the board as such, is guilty of a misdemeanor.

SEC. 44. Section 1772 of the Business and Professions Code is repealed.

SEC. 45. Section 1774 of the Business and Professions Code is repealed.

SEC. 46. Section 1775 of the Business and Professions Code is repealed.

SEC. 47. Article 9 (commencing with Section 1900) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 9. Dental Hygienists

1900. It is the intent of the Legislature by enactment of this article to permit the full utilization of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions in order to meet the dental care needs of all of the state's citizens.

1901. There is hereby created within the jurisdiction of the Dental Board of California a Dental Hygiene Committee of California in which the administration of this article is vested.

1902. For purposes of this article, the following definitions apply:

(a) "Committee" means the Dental Hygiene Committee of California.

(b) "Dental board" means the Dental Board of California.

(c) "Direct supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.

(d) "General supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is not required to be physically present in the treatment facility during the performance of those procedures.

(e) "Oral prophylaxis" means preventive and therapeutic dental procedures that include bacterial debridements with complete removal, supra and subgingivally, of calculus, soft deposits, plaque, and stains, and the smoothing of tooth surfaces. The objective of this treatment is to create an environment in which the patient can maintain healthy hard and soft tissues.

1903. (a) (1) The committee shall consist of nine members appointed by the Governor. Four shall be public members, one member shall be a practicing general or public health dentist who holds a current license in California, and four members shall be registered dental hygienists who hold current licenses in California. Of the registered dental

hygienists members, one shall be licensed either in alternative practice or in extended functions, one shall be a dental hygiene educator, and two shall be registered dental hygienists. No public member shall have been licensed under this chapter within five years of the date of his or her appointment or have any current financial interest in a dental-related business.

(2) For purposes of this subdivision, a public health dentist is a dentist whose primary employer or place of employment is in any of the following:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(b) Except for the initial term, members of the committee shall be appointed for a term of four years. All of the terms for the initial appointments shall expire on December 31, 2011.

(c) The committee shall elect a president, a vice president, and a secretary from its membership.

(d) No person shall serve as a member of the committee for more than two consecutive terms.

(e) A vacancy in the committee shall be filled by appointment to the unexpired term.

(f) Each member of the committee shall receive a per diem and expenses as provided in Section 103.

(g) The Governor shall have the power to remove any member from the committee for neglect of a duty required by law, for incompetence, or for unprofessional or dishonorable conduct.

(h) The committee, with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the committee and vested in him or her by this article.

1904. The committee shall meet at least two times each calendar year and shall conduct additional meetings in appropriate locations that are necessary to transact its business.

1905. (a) The committee shall perform the following functions:

(1) Evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions educational programs that apply for approval and grant or deny approval of those applications in accordance with regulations adopted

by the committee. Any such educational programs approved by the dental board on or before June 30, 2009, shall be deemed approved by the committee. Any dental hygiene program accredited and in good standing by the Commission on Dental Accreditation shall be approved.

(2) Withdraw or revoke its prior approval of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions educational program in accordance with regulations adopted by the committee. The committee may withdraw or revoke a dental hygiene program approval if the program has been placed on probationary status by the Commission on Dental Accreditation.

(3) Review and evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions applications for licensure to ascertain whether the applicant meets the appropriate licensing requirements specified by statute and regulations, maintain application records, cashier application fees, issue and renew licenses, and perform any other tasks that are incidental to the application and licensure processes.

(4) Determine the appropriate type of license examination consistent with the provisions of this article, and develop or cause to be developed and administer examinations in accordance with regulations adopted by the committee.

(5) Determine the amount of fees assessed under this article, not to exceed the actual cost.

(6) Determine and enforce the continuing education requirements specified in this article.

(A) (i) If the committee determines that the public health and safety would be served by requiring all holders of licenses under this chapter to continue their education after receiving a license, it may require, as a condition to the renewal thereof, that a licensee submit assurances satisfactory to the committee that he or she will, during the succeeding two-year period, inform himself or herself of the developments in the practice of dental hygiene occurring since the original issuance of his or her license by pursuing one or more courses of study satisfactory to the committee or by other means deemed equivalent by the committee.

(ii) The committee shall adopt, amend, and revoke regulations providing for the suspension of a license at the end of the two-year period until compliance with the assurances provided for in this section is accomplished.

(B) The committee may also, as a condition of license renewal, require licensees to successfully complete a portion of the required continuing education hours in specific areas adopted in regulations by the committee. The committee may prescribe this mandatory coursework within the

general areas of patient care, health and safety, and law and ethics. The mandatory coursework prescribed by the committee shall not exceed seven and one-half hours per renewal period for dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions. Any mandatory coursework required by the committee shall be credited toward the continuing education requirements established by the committee pursuant to subparagraph (A).

(7) Deny, suspend, or revoke a license under this article, or otherwise enforce the provisions of this article. Any such proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all of the powers granted therein.

(8) Make recommendations to the board regarding scope of practice issues.

(9) Adopt, amend, and revoke rules and regulations to implement the provisions of this article, including the amount of required supervision by a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions of a registered dental assistant.

(b) The committee may employ employees and examiners that it deems necessary to carry out its functions and responsibilities under this article.

1905.1. Until January 1, 2010, the committee may contract with the dental board to carry out any of the provisions of this article. On and after January 1, 2010, the committee may contract with the dental board to perform investigations of applicants and licensees under this article.

1905.2. Recommendations by the committee pursuant to this article shall be approved, modified, or rejected by the board within 90 days of submission of the recommendation to the board. If the board rejects or significantly modifies the intent or scope of the recommendation, the committee may request that the board provide its reasons in writing for rejecting or significantly modifying the recommendation, which shall be provided by the board within 30 days of the request.

1906. (a) The committee shall adopt, amend, and revoke regulations to implement the requirements of this article.

(b) All regulations adopted by the committee shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) No regulation adopted by the committee shall impose a requirement or a prohibition directly upon a licensed dentist or on the administration of a dental office, unless specifically authorized by this article.

(d) Unless contrary to the provisions of this article, regulations adopted by the dental board shall continue to apply to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions until other regulations are adopted by the committee. All references in those regulations to "board" shall mean the committee, which shall solely enforce the regulations with respect to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions.

1907. The following functions may be performed by a registered dental hygienist, in addition to those authorized pursuant to Sections 1908 to 1914, inclusive:

(a) All functions that may be performed by a registered dental assistant.

(b) All persons holding a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions as of July 1, 2009, are authorized to perform the duties of a registered dental assistant specified in this chapter. All persons issued a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions on or after July 1, 2009, shall qualify for and receive a registered dental assistant license prior to performance of the duties of a registered dental assistant specified in this chapter.

1908. (a) The practice of dental hygiene includes dental hygiene assessment and development, planning, and implementation of a dental hygiene care plan. It also includes oral health education, counseling, and health screenings.

(b) The practice of dental hygiene does not include any of the following procedures:

(1) Diagnosis and comprehensive treatment planning.

(2) Placing, condensing, carving, or removal of permanent restorations.

(3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.

(4) Prescribing medication.

(5) Administering local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other, or local anesthesia pursuant to Section 1909.

1909. A registered dental hygienist is authorized to perform the following procedures under direct supervision of a licensed dentist, after submitting to the committee evidence of satisfactory completion of a course of instruction, approved by the committee, in the procedures:

(a) Soft-tissue curettage.

(b) Administration of local anesthesia.

(c) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

1909.5. Courses of instruction for direct supervision duties added to the scope of practice of dental hygiene on or after July 1, 2009, shall be submitted by the committee for approval by the dental board.

1910. A registered dental hygienist is authorized to perform the following procedures under general supervision:

(a) Preventive and therapeutic interventions, including oral prophylaxis, scaling, and root planing.

(b) Application of topical, therapeutic, and subgingival agents used for the control of caries and periodontal disease.

(c) The taking of impressions for bleaching trays and application and activation of agents with nonlaser, light-curing devices.

(d) The taking of impressions for bleaching trays and placements of in-office, tooth-whitening devices.

1911. (a) A registered dental hygienist may provide, without supervision, educational services, oral health training programs, and oral health screenings.

(b) A registered dental hygienist shall refer any screened patients with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan.

(c) In any public health program created by federal, state, or local law or administered by a federal, state, county, or local governmental entity, a registered dental hygienist may provide, without supervision, dental hygiene preventive services in addition to oral screenings, including, but not limited to, the application of fluorides and pit and fissure sealants. A registered dental hygienist employed as described in this subdivision may submit, or allow to be submitted, any insurance or third-party claims for patient services performed as authorized in this article.

1912. Any procedure performed or service provided by a registered dental hygienist that does not specifically require direct supervision shall require general supervision, so long as it does not give rise to a situation in the dentist's office requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable dental conditions that, if not immediately diagnosed and treated, would lead to serious disability or death.

1913. Unless otherwise specified in this chapter, a registered dental hygienist may perform any procedure or provide any service within the scope of his or her practice in any setting, so long as the procedure is performed or the service is provided under the appropriate level of supervision required by this article.

1914. A registered dental hygienist may use any material or device approved for use in the performance of a service or procedure within his or her scope of practice under the appropriate level of supervision, if he or she has the appropriate education and training required to use the material or device.

1915. No person other than a registered dental hygienist, registered dental hygienist in alternative functions, or registered dental hygienist in extended functions or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning, except for the following persons:

(a) A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.

(b) A dental assistant acting in accordance with the rules of the dental board in performing the following procedures:

(1) Applying nonaerosol and noncaustic topical agents.

(2) Applying topical fluoride.

(3) Taking impression for bleaching trays.

(c) A registered dental assistant acting in accordance with the rules of the dental board in performing the following procedures:

(1) Polishing the coronal surfaces of teeth.

(2) Applying bleaching agents.

(3) Activating bleaching agents with a nonlaser light-curing device.

(4) Applying pit and fissure sealant.

(d) A registered dental assistant in extended functions acting in accordance with the rules of the dental board in applying pit and fissure sealants.

(e) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions licensed in another jurisdiction, performing a clinical demonstration for educational purposes.

1916. (a) An applicant for licensure under this article shall furnish fingerprint images for submission to state and federal criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation, in order to establish the identity of the applicant and for the other purposes described in this section.

(b) The committee shall submit the fingerprint images to the Department of Justice for the purposes of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests for which the Department of Justice establishes

that the person is free on bail or on his or her own recognizance pending trial or appeal.

(c) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate the response to the committee.

(d) The Department of Justice shall provide a response to the committee pursuant to subdivision (p) of Section 11105 of the Penal Code.

(e) The committee shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(f) The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section 1628.5.

(g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

1917. The committee shall license as a registered dental hygienist a person who satisfies all of the following requirements:

(a) Completion of an educational program for registered dental hygienists, approved by the committee, accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

(b) Satisfactory performance on a clinical examination and an examination in California law and ethics as prescribed by the committee.

(c) Satisfactory completion of a national written dental hygiene examination approved by the committee.

1917.1. (a) The committee may grant a license as a registered dental hygienist to an applicant who has not taken a clinical examination before the committee, if the applicant submits all of the following to the committee:

(1) A completed application form and all fees required by the committee.

(2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.

(3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if

the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the committee a copy of a pending contract to practice dental hygiene in any of the following facilities:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(4) Satisfactory performance on a California law and ethics examination and any examination that may be required by the committee.

(5) Proof that the applicant has not been subject to disciplinary action by any state in which he or she is or has been previously licensed as a registered dental hygienist or dentist. If the applicant has been subject to disciplinary action, the committee shall review that action to determine if it warrants refusal to issue a license to the applicant.

(6) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.

(7) Proof of satisfactory completion of the Dental Hygiene National Board Examination and of a state or regional clinical licensure examination.

(8) Proof that the applicant has not failed the examination for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of his or her application for a license under this section.

(9) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including completion of any continuing education requirements imposed by the committee on registered dental hygienists licensed in this state at the time of application.

(10) Any other information as specified by the committee to the extent that it is required of applicants for licensure by examination under this article.

(b) The committee may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (a), and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) of subdivision (a) has not been met.

(c) The committee shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:

(1) The location of dental manpower shortage areas in the state.

(2) Any not-for-profit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.

(d) The committee shall review the impact of this section on the availability of actively practicing registered dental hygienists in California and report to the appropriate policy and fiscal committees of the Legislature by January 1, 2012. The report shall include a separate section providing data specific to registered dental hygienists who intend to fulfill the alternative clinical practice requirements of subdivision (a). The report shall include, but shall not be limited to, the following:

(1) The number of applicants from other states who have sought licensure.

(2) The number of registered dental hygienists from other states licensed pursuant to this section, the number of licenses not granted, and the reason why the license was not granted.

(3) The practice location of registered dental hygienists licensed pursuant to this section. In identifying a registered dental hygienist's location of practice, the committee shall use medical service study areas or other appropriate geographic descriptions for regions of the state.

(4) The number of registered dental hygienists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing registered dental hygienists or no registered dental hygienists or in a safety net facility identified in paragraph (3) of subdivision (a).

(5) The length of time registered dental hygienists licensed pursuant to this section practiced in the reported location.

1917.2. (a) The committee shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:

(1) Satisfactorily performs on a clinical examination and an examination in California law and ethics as prescribed by the committee.

(2) Satisfactorily completes a national written dental hygiene examination approved by the committee.

(b) A dental student who is granted a registered dental hygienist license pursuant to this section may only practice in a dental practice that serves patients who are insured under Denti-Cal, the Healthy Families Program, or other government programs, or a dental practice that has a sliding scale fee system based on income.

(c) Upon receipt of a license to practice dentistry pursuant to Section 1634, a registered dental hygienist license issued pursuant to this subdivision is automatically revoked.

(d) The dental hygienist license is granted for two years upon passage of the dental hygiene examination, without the ability for renewal.

(e) Notwithstanding subdivision (d), if a dental student fails to remain in good standing at an accredited California dental school, or fails to graduate from the dental program, a registered dental hygienist license issued pursuant to this section shall be revoked. The student shall be responsible for submitting appropriate verifying documentation to the committee.

(f) The provisions of this section shall be reviewed pursuant to Division 1.2 (commencing with Section 473). However, the review shall be limited to the fiscal feasibility and impact on the committee.

(g) This section shall become inoperative as of January 1, 2012.

1918. The committee shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

(a) Holds a current license as a registered dental hygienist in California.

(b) Completes clinical training approved by the committee in a facility affiliated with a dental school under the direct supervision of the dental school faculty.

(c) Performs satisfactorily on an examination required by the committee.

1920. (a) A person who holds a current and active license as a registered dental hygienist in extended functions or a registered dental hygienist in alternative practice on July 1, 2009, shall automatically be issued a license as a registered dental hygienist, unless the person holds a current and active registered dental hygienist license.

(b) A registered dental hygienist license issued pursuant to this section shall expire on the same date as the person's registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions license, and shall be subject to the same renewal and other requirements imposed by law or regulation on a license.

1921. In addition to any other duties or functions authorized by law, a registered dental hygienist in extended functions or a registered dental hygienist in alternative practice may perform any of the duties or functions authorized to be performed by a registered dental hygienist.

1922. The committee shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination in California law and ethics required by the committee and who meets either of the following requirements:

(a) Holds a current California license as a registered dental hygienist and meets the following requirements:

(1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.

(2) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national agency recognized by the Council on Postsecondary Accreditation or the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the committee by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(b) Has received a letter of acceptance into the employment utilization phase of the Health Manpower Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

1924. A person licensed as a registered dental hygienist who has completed the prescribed classes through the Health Manpower Pilot Project (HMPP) and who has established an independent practice under the HMPP by June 30, 1997, shall be deemed to have satisfied the licensing requirements under Section 1922, and shall be authorized to continue to operate the practice he or she presently operates, so long as he or she follows the requirements for prescription and functions as specified in Sections 1922, 1925, 1926, 1927, 1928, 1930, and 1931, and subdivision (b) of Section 1929, and as long as he or she continues to personally practice and operate the practice or until he or she sells the practice to a licensed dentist.

1925. A registered dental hygienist in alternative practice may practice, pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, and subdivisions (a) of (b) of Section 1910, as an employee of a dentist or of another registered dental hygienist in alternative practice, as an independent contractor, as a sole proprietor of an alternative dental hygiene practice, as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code, as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, as an employee of a clinic owned or operated by a public hospital or health system, or as an employee of a clinic owned and operated by a hospital that maintains the primary contract with a

county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

1926. A registered dental hygienist in alternative practice may perform the duties authorized pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, and subdivisions (a) and (b) of Section 1910 in the following settings:

(a) Residences of the homebound.

(b) Schools.

(c) Residential facilities and other institutions.

(d) Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

1927. A registered dental hygienist in alternative practice shall not do any of the following:

(a) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental health diagnosis beyond evaluating a patient's dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.

(b) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

1928. A registered dental hygienist in alternative practice may submit or allow to be submitted any insurance or third-party claims for patient services performed as authorized pursuant to this article.

1929. (a) A registered dental hygienist in alternative practice may hire other registered dental hygienists in alternative practice to assist in his or her practice.

(b) A registered dental hygienist in alternative practice may hire and supervise dental assistants performing intraoral retraction and suctioning.

1930. A registered dental hygienist in alternative practice shall provide to the committee documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

1931. (a) (1) A dental hygienist in alternative practice may provide services to a patient without obtaining written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state.

(2) If the dental hygienist in alternative practice provides services to a patient 18 months or more after the first date that he or she provides services to a patient, he or she shall obtain written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state. The verification shall include a prescription for dental hygiene services as described in subdivision (b). Failure to comply

with this paragraph or subdivision (b) shall be considered unprofessional conduct.

(b) A registered dental hygienist in alternative practice may provide dental hygiene services for a patient who presents to the registered dental hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed two years from the date it was issued.

(c) The committee shall seek to obtain an injunction against any registered dental hygienist in alternative practice who provides services pursuant to this section, if the committee has reasonable cause to believe that the services are being provided to a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state.

1932. (a) The committee may, in its sole discretion, issue a probationary license to an applicant who has satisfied all requirements for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions. The committee may require, as a term or condition of issuing the probationary license, that the applicant comply with certain additional requirements, including, but not limited to, the following:

(1) Successfully completing a professional competency examination.

(2) Submitting to a medical or psychological evaluation.

(3) Submitting to continuing medical or psychological treatment.

(4) Abstaining from the use of alcohol or drugs.

(5) Submitting to random fluid testing for alcohol or controlled substance abuse.

(6) Submitting to continuing participation in a committee-approved rehabilitation program.

(7) Restricting the type or circumstances of practice.

(8) Submitting to continuing education and coursework.

(9) Complying with requirements regarding notifying the committee of any change of employer or employment.

(10) Complying with probation monitoring.

(11) Complying with all laws and regulations governing the practice of dental hygiene.

(12) Limiting his or her practice to a supervised, structured environment in which his or her activities are supervised by a specified person.

(b) The term of a probationary license is three years. During the term of the license, the licensee may petition the committee for a modification

of a term or condition of the license or for the issuance of a license that is not probationary.

(c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all the powers granted in that chapter.

1933. A licensee shall be issued a substitute license upon request and payment of the required fee. The request shall be accompanied by an affidavit or declaration containing satisfactory evidence of the loss or destruction of the license certificate.

1934. A licensee who changes his or her address of record shall notify the committee within 30 days of the change. A licensee who changes his or her legal name shall provide the committee with documentation of the change within 10 days.

1935. If not renewed, a license issued under the provisions of this article, unless specifically excepted, expires at 12 midnight on the last day of the month of the legal birth date of the licensee during the second year of a two-year term. To renew an unexpired license, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the committee and pay the renewal fee prescribed by this article.

1936. Except as otherwise provided in this article, an expired license may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the committee and payment of all accrued renewal and delinquency fees. If the license is renewed after its expiration, the licensee, as a condition precedent of renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect until the expiration date provided in Section 1935 that next occurs after the effective date of the renewal.

1936.1. (a) If the committee determines that the public health and safety would be served by requiring all holders of licenses under this article to continue their education after receiving a license, the committee may require, as a condition of license renewal, that licensees submit assurances satisfactory to the committee that they will, during the succeeding two-year period, inform themselves of the developments in the practice of dental hygiene occurring since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the committee, or by other means deemed equivalent by the committee. The committee shall adopt, amend, and revoke regulations providing

for the suspension of the licenses at the end of the two-year period until compliance with the assurances provided for in this section is accomplished.

(b) The committee may also, as a condition of license renewal, require licensees to successfully complete a portion of the required continuing education hours in specific areas adopted in regulations by the committee. The committee may prescribe this mandatory coursework within the general areas of patient care, health and safety, and law and ethics. The mandatory coursework prescribed by the committee shall not exceed seven and one-half hours per renewal period. Any mandatory coursework required by the committee shall be credited toward the continuing education requirements established by the committee pursuant to subdivision (a).

(c) The providers of courses referred to in this section shall be approved by the committee. Providers approved by the dental board shall be deemed approved by the committee.

1937. A suspended license is subject to expiration and shall be renewed as provided in this article. The renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

1938. A revoked license is subject to expiration as provided in this article. A revoked license may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated and the delinquency fee, if any, accrued at the time of its revocation.

1939. A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued. The holder of the license may apply for and obtain a new license upon meeting all of the requirements of a new applicant prescribed in this article.

1940. (a) A licensee who desires an inactive license shall submit an application to the committee on a form provided by the committee.

(b) In order to restore an inactive license to active status, the licensee shall submit an application to the committee on a form provided by the committee, accompanied by evidence that the licensee has completed the required number of hours of approved continuing education in compliance with this article within the last two years preceding the date of the application.

(c) The holder of an inactive license shall continue to pay to the committee the required biennial renewal fee.

(d) Within 30 days of receiving a request either to restore an inactive license or to inactivate a license, the committee shall inform the applicant in writing whether the application is complete and accepted for filing or is deficient and, if so, the specific information required to complete the application.

1941. It is the intent of this article that the committee grant or renew approval of only those educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that continuously maintain a high quality standard of instruction.

1943. (a) The committee may deny an application to take an examination for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions at any time prior to licensure for any of the following reasons:

(1) The applicant committed an act that is a ground for license suspension or revocation under this code or that is a ground for the denial of licensure under Section 480.

(2) The applicant committed or aided and abetted the commission of any act for which a license is required under this chapter.

(3) Another state or territory suspended or revoked the license that it had issued to the applicant on a ground that constitutes a basis in this state for the suspension or revocation of licensure under this article.

(b) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all of the powers granted therein.

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license shall not exceed twenty dollars ($20). On and after January 1, 2010, the application fee for an original license shall not exceed fifty dollars ($50).

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(5) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(6) The biennial renewal fee shall not exceed eighty dollars ($80).

(7) The delinquency fee shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(8) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater.

(9) The fee for each curriculum review and site evaluation for educational programs for dental hygienists that are not accredited by a committee-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars ($1,400).

(10) The fee for each review of courses required for licensure that are not accredited by a committee-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars ($300).

(11) The fee for a provider of continuing education shall not exceed five hundred dollars ($500) per year.

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars ($5).

(c) Fees fixed by the committee pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement the provisions of this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

1945. On July 1, 2009, a percentage of the funds in the State Dental Auxiliary Fund shall be transferred to the State Dental Hygiene Fund based on the number of registered dental hygienists, registered hygienists in alternative practice, and registered dental hygienists in extended functions licensed on June 30, 2009, compared to all dental auxiliaries licensed by the Committee on Dental Auxiliaries on June 30, 2009. The board's authority to expend those funds, as appropriated in the 2008 Budget Act, shall be vested in the committee to carry out the provisions of this chapter as they relate to dental hygienists for the 2008–09 fiscal year, including the payment of any encumbrances related to dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions incurred by the State Dental Auxiliary Fund. The remainder of the funds in the State Dental Auxiliary Fund shall be transferred to the State Dental Assistant Fund pursuant to Section 1721.5.

1947. A license issued under this article and a license issued under this chapter to a registered dental hygienist, to a registered dental hygienist in alternative practice, or to a registered dental hygienist in extended functions may be revoked or suspended by the committee for any reason specified in this article for the suspension or revocation of a license to practice dental hygiene.

1949. A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee for unprofessional conduct, incompetence, gross negligence, repeated acts of negligence in his or her profession, receiving a license by mistake, or for any other cause applicable to the licentiate provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all the powers granted therein.

1950. (a) A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's

qualifications, functions, or duties. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of conviction.

(b) The committee shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee's qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.

(c) The committee may order a license suspended or revoked, or may decline to issue a license when any of the following occur:

(1) The time for appeal has elapsed.

(2) The judgment of conviction has been affirmed on appeal.

(3) An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

1950.5. Unprofessional conduct by a person licensed under this article is defined as, but is not limited to, any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The aiding or abetting of any unlicensed person to practice dentistry.

(c) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(d) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dental hygiene.

(e) 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.

(f) 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.

(g) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(h) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This

subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(i) The employing or the making use of solicitors.

(j) Advertising in violation of Section 651.

(k) Advertising to guarantee any dental hygiene service, or to perform any dental hygiene procedure painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(*l*) The violation of any of the provisions of this division.

(m) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(n) The clearly excessive administering of drugs or treatment, or the clearly excessive use of treatment procedures, or the clearly excessive use of treatment facilities, as determined by the customary practice and standards of the dental hygiene 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.

(o) The use of threats or harassment against any patient or licensee 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.

(p) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.

(q) The alteration of a patient's record with intent to deceive.

(r) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental hygiene profession.

(s) The abandonment of the patient by the licensee, 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 registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.

(t) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.

(u) Use of fraud in the procurement of any license issued pursuant to this article.

(v) Any action or conduct that would have warranted the denial of the license.

(w) The aiding or abetting of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dental hygiene in a negligent or incompetent manner.

(x) The failure to report to the committee in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental hygiene procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient as a result of dental or dental hygiene treatment. Upon receipt of a report pursuant to this subdivision, the committee may conduct an inspection of the dental hygiene practice office if the committee finds that it is necessary.

(y) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the committee all deaths occurring in his or her practice with a copy sent to the dental board if the death occurred while working as an employee in a dental office. A dentist shall report to the dental board all deaths occurring in his or her practice with a copy sent to the committee if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

1951. The committee may discipline a licensee by placing him or her on probation under various terms and conditions that may include, but are not limited to, the following:

(a) Requiring the licensee to obtain additional training or pass an examination upon completion of training, or both. The examination may be a written or oral examination, or both, and may be a practical or clinical examination, or both, at the option of the committee.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the committee, if warranted by the physical or mental condition of the licensee. If the committee requires the licensee to submit to an examination, the committee shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee.

(d) Requiring restitution of fees to the licensee's patients or payers of services, unless restitution has already been made.

(e) Providing the option of alternative community service in lieu of all or part of a period of suspension in cases other than violations relating to quality of care.

1952. It is unprofessional conduct for a person licensed under this article to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or a dangerous drug as defined in Section 4022, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself or herself, to any person, or the public to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Section 4022, or be convicted of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section; the committee may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

1953. (a) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions who performs a service on a patient in a dental office shall identify himself or herself in the patient record by signing his or her name or identification number and initials next to the service performed, and shall date those treatment entries in the record.

(b) A repeated violation of this section constitutes unprofessional conduct.

1954. (a) It is unprofessional conduct for a person licensed under this article to perform, or hold himself or herself out as able to perform, professional services beyond the scope of his or her license and field of competence, as established by his or her education, experience, and training. This includes, but is not limited to, using an instrument or device in a manner that is not in accordance with the customary standards and practices of the dental hygiene profession.

(b) This section shall not apply to research conducted by accredited dental schools or dental hygiene schools, or to research conducted pursuant to an investigational device exemption issued by the United States Food and Drug Administration.

1955. (a) (1) A licensee who fails or refuses to comply with a request for a patient's dental hygiene records that is accompanied by that patient's written authorization for release of the records to the committee, within 15 days of receiving the request and authorization, shall pay to the committee a civil penalty of two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars ($5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the committee together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental hygiene records to the committee within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the committee, of up to two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars ($5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the committee in obtaining the patient's authorization. The committee shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee shall pay to the committee a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is

unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars ($5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of patient records to the committee, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the committee a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars ($5,000). Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a "health care facility" means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

1956. It is unprofessional conduct for a person licensed under this article to require, either directly or through an office policy, or knowingly permit the delivery of dental hygiene care that discourages necessary treatment, or permits clearly excessive, incompetent, unnecessary, or grossly negligent treatment, or repeated negligent acts, as determined by the standard of practice in the community.

1957. (a) A person whose license has been revoked or suspended, who has been placed on probation, or whose license was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the committee for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(1) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(2) At least two years for early termination, or modification of a condition, of a probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.

(b) The petition shall state any fact required by the committee.

(c) The petition may be heard by the committee, or the committee may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

(d) In considering reinstatement or modification or penalty, the committee or the administrative law judge hearing the petition may consider the following:

(1) All activities of the petitioner since the disciplinary action was taken.

(2) The offense for which the petitioner was disciplined.

(3) The petitioner's activities during the time the license, certificate, or permit was in good standing.

(4) The petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

(e) The hearing may be continued from time to time as the committee or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

(f) The committee or the administrative law judge may impose necessary terms and conditions on the licentiate in reinstating a license, certificate, or permit or modifying a penalty.

(g) A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole.

(h) A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person.

(i) The committee may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section. Nothing in this section shall be deemed to alter Sections 822 and 823.

1958. A person, company, or association is guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in a county jail not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars ($100) nor more than one thousand five hundred dollars ($1,500), or by both that fine and imprisonment, who does any of the following:

(a) Assumes the title of "registered dental hygienist," "registered dental hygienist in alternative practice," or "registered dental hygienist in extended functions" or appends the letters "R.D.H.," "R.D.H.A.P.," or "R.D.H.E.F." to his or her name without having had the right to assume the title conferred upon him or her through licensure.

(b) Assumes any title, or appends any letters to his or her name, with the intent to represent falsely that he or she has received a dental hygiene degree or a license under this article.

(c) Engages in the practice of dental hygiene without causing to be displayed in a conspicuous place in his or her office his or her license under this article to practice dental hygiene.

(d) Within 10 days after demand is made by the executive officer of the committee, fails to furnish to the committee the name and address of all persons practicing or assisting in the practice of dental hygiene in the office of the person, company, or association, at any time within 60 days prior to the demand, together with a sworn statement showing under

and by what license or authority this person, company, or association and any employees are or have been practicing or assisting in the practice of dental hygiene. This sworn statement shall not be used in any prosecution under this section.

(e) Is under the influence of alcohol or a controlled substance while engaged in the practice of dental hygiene in actual attendance on patients to an extent that impairs his or her ability to conduct the practice of dental hygiene with safety to patients and the public.

1959. A person who holds a valid, unrevoked, and unsuspended certificate as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions under this article may append the letters "R.D.H.," "R.D.H.A.P.," or "R.D.H.E.F." to his or her name.

1960. For the first offense, a person is guilty of a misdemeanor and shall be punishable by a fine of not less than two hundred dollars ($200) nor more than three thousand dollars ($3,000), or by imprisonment in a county jail for not to exceed six months, or by both that fine and imprisonment, and for the second or a subsequent offense is guilty of a felony and upon conviction thereof shall be punished by a fine of not less than two thousand dollars ($2,000) nor more than six thousand dollars ($6,000), or by imprisonment in the state prison, or by both that fine and imprisonment, who does any of the following:

(a) Sells or barters or offers to sell or barter a dental hygiene degree or transcript or a license issued under, or purporting to be issued under, laws regulating licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(b) Purchases or procures by barter a diploma, license, or transcript with intent that it shall be used as evidence of the holder's qualification to practice dental hygiene, or in fraud of the laws regulating the practice of dental hygiene.

(c) With fraudulent intent, makes, attempts to make, counterfeits, or materially alters a diploma, certificate, or transcript.

(d) Uses, or attempts or causes to be used, any diploma, certificate, or transcript that has been purchased, fraudulently issued, counterfeited, or materially altered or in order to procure licensure as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

(e) In an affidavit required of an applicant for an examination or license under this article, willfully makes a false statement in a material regard.

(f) Practices dental hygiene or offers to practice dental hygiene, as defined in this article, either without a license, or when his or her license has been revoked or suspended.

(g) Under 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, practices, advertises, or in any other manner indicates that he or she practices or will practice dental hygiene, except a name specified in a valid permit issued pursuant to Section 1962.

1961. A person who willfully, under circumstances that cause risk of bodily harm, serious physical or mental illness, or death, practices, attempts to practice, advertises, or holds himself or herself out as practicing dental hygiene without having at the time of so doing a valid, unrevoked, and unsuspended license as provided in this chapter, is guilty of a crime, punishable by imprisonment in a county jail for up to one year. The remedy provided in this section shall not preclude any other remedy provided by law.

1962. (a) An association, partnership, corporation, or group of three or more registered dental hygienists in alternative practice engaging in practice under a name that would otherwise be in violation of Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the committee under this section.

(b) An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the committee under this section. The committee shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder's practice if the committee finds all of the following:

(1) The applicant or applicants are duly licensed registered dental hygienists in alternative practice.

(2) The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.

(3) The name under which the applicant or applicants propose to operate contains at least one of the following designations: "dental hygiene group," "dental hygiene practice," or "dental hygiene office," contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group,

and is in conformity with Section 651 and not in violation of subdivisions (i) and (*l*) of Section 1680.

(4) All licensed persons practicing at the location designated in the application hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location.

(c) A permit issued under this section shall expire and become invalid unless renewed in the manner provided for in this article for the renewal of certificates issued under this article.

(d) A permit issued under this section may be revoked or suspended if the committee finds that any requirement for original issuance of a permit is no longer being fulfilled by the permitholder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(e) If charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association, partnership, group, or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until a final determination of the charges of unprofessional conduct, unless the charges have resulted in revocation or suspension of a license.

1963. The committee may prefer a complaint for violation of any part of this article before any court of competent jurisdiction and may, by its officers, counsel and agents, assist in presenting the law or facts at the trial. The district attorney of each county in this state shall prosecute all violations of this article in their respective counties in which the violations occur.

1964. In addition to the other proceedings provided for in this article, on application of the committee, the superior court of any county shall issue an injunction to restrain an unlicensed person from conducting the practice of dental hygiene, as defined in this article.

1965. If a person has engaged in or is about to engage in an act that constitutes an offense against this chapter, the superior court of any county, on application of 10 or more persons holding licenses to practice dental hygiene issued under this article, may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

1966. (a) It is the intent of the Legislature that the committee seek ways and means to identify and rehabilitate licensees whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licensees so afflicted may be treated and returned to the practice of dental hygiene in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the committee establish a

diversion program as a voluntary alternative approach to traditional disciplinary actions.

(b) One or more diversion evaluation committees shall be established by the committee. The committee shall establish criteria for the selection of each diversion evaluation committee. Each member of a diversion evaluation committee shall receive per diem and expenses as provided in Section 103.

1966.1. (a) The committee shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the committee as a condition of a licensee's disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a diversion program.

(b) A licensee who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licensee under current investigation by the committee may also request entry into a diversion program by contacting the committee. The committee may refer the licensee requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licensee to enter into the diversion program, the committee may require the licensee, while under current investigation for any violations of this article or other violations, to execute a statement of understanding that states that the licensee understands that his or her violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licensee are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1681, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the committee shall close the investigation without further action if the licensee is accepted into the committee's diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the committee.

(e) Neither acceptance nor participation in the diversion program shall preclude the committee from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action

against, any licensee for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licensees shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the committee of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the committee for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the committee and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the committee.

1966.2. Each diversion evaluation committee shall have the following duties and responsibilities:

(a) To evaluate those licensees who request to participate in the diversion program according to the guidelines prescribed by the committee and to consider the recommendations of any licensees designated by the committee to serve as consultants on the admission of the licensee to the diversion program.

(b) To review and designate those treatment facilities to which licensees in a diversion program may be referred.

(c) To receive and review information concerning a licensee participating in the program.

(d) To consider in the case of each licensee participating in a program whether he or she may safely continue or resume the practice of dental hygiene.

(e) To perform other related duties as the committee may by regulation require.

1966.3. Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a diversion evaluation committee may convene in closed session to consider reports pertaining to any licentiate requesting or participating in a diversion program. A diversion evaluation committee shall only convene in closed session to the extent that it is necessary to protect the privacy of a licensee.

1966.4. Each licensee who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a diversion evaluation committee and to bear all costs related to the program, unless the cost is waived by the committee. Any failure to

comply with the provisions of a treatment program may result in termination of the licensee's participation in a program.

1966.5. (a) After a diversion evaluation committee, in its discretion, has determined that a licensee has been rehabilitated and the diversion program is completed, the diversion evaluation committee shall purge and destroy all records pertaining to the licensee's participation in the diversion program.

(b) Except as authorized by subdivision (f) of Section 1966.1, all committee and diversion evaluation committee records and records of proceedings pertaining to the treatment of a licensee in a program shall be kept confidential and are not subject to discovery or subpoena.

1966.6. The committee shall provide for the representation of any person making reports to a diversion evaluation committee or the committee under this article in any action for defamation for reports or information given to the diversion evaluation committee or the committee regarding a licensee's participation in the diversion program.

SEC. 48. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990.1), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals, as identified in subparagraph (A), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that all registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter are licensed pursuant to Chapter 6 (commencing with Section 2700).

(3) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(4) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(5) Ensuring that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(6) Complying with all directions and requests for information made by the department.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

SEC. 49. Section 4999.7 of the Business and Professions Code is amended to read:

4999.7. (a) Nothing in this section shall limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For the purposes of this chapter, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

(c) For the purposes of this chapter, "health care professional" is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental

hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990.1), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 50. Section 44876 of the Education Code is amended to read:

44876. The qualifications for a dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions shall be a valid license issued by the Dental Hygiene Committee of California or by the Dental Board of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

SEC. 51. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4

(commencing with Section 1600) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990.1) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Requires that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

(c) For the purposes of this section, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

SEC. 52. Section 128160 of the Health and Safety Code is amended to read:

128160. (a) Pilot projects may be approved in the following fields:

(1) Expanded role medical auxiliaries.

(2) Expanded role nursing.

(3) Expanded role dental assistants, dental hygienists, dental hygienists in alternative practice, or dental hygienists in extended functions.

(4) Maternal child care personnel.

(5) Pharmacy personnel.

(6) Mental health personnel.

(7) Other health care personnel including, but not limited to, veterinary personnel, chiropractic personnel, podiatric personnel, geriatric care personnel, therapy personnel, and health care technicians.

(b) Projects that operate in rural and central city areas shall be given priority.

SEC. 53. The Legislature finds and declares that Section 47 of this act, which adds Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that

constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to encourage participation in a diversion evaluation program that would identify and rehabilitate dental hygiene licensees who may be impaired due to abuse of dangerous drugs or alcohol, in order to protect the public health and safety, it is necessary and appropriate to provide limited confidentiality to ceratin records and proceedings.

SEC. 54. (a) It is the intent of the Legislature that the Committee on Dental Auxiliaries, in cooperation with the Dental Board of California, the Department of Consumer Affairs, and the Department of Finance, carefully review this act and recommend appropriate changes to the fees paid by dental assistants, dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions and the funds into which those moneys are deposited. It is further the intent of the Legislature that these recommended changes be submitted to the Legislature with the Governor's 2009 Budget Act.

(b) On July 1, 2009, the executive officer of the Committee on Dental Auxiliaries shall become the executive officer of the Dental Hygiene Committee of California. Beginning January 1, 2009, the executive officer of the Committee on Dental Auxiliaries shall use the six-month period until the Committee on Dental Auxiliaries sunsets to transition the duties of the Committee on Dental Auxiliaries relative to dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions.

SEC. 55. This act shall become operative on July 1, 2009, except Section 54, which shall become operative on January 1, 2009.

SEC. 56. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 32

An act to amend Section 51241 of the Education Code, relating to physical education.

[Approved by Governor June 23, 2008. Filed with
Secretary of State June 23, 2008.]

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

SECTION 1. Section 51241 of the Education Code is amended to read:

51241. (a) The governing board of a school district or the office of the county superintendent of schools of a county may grant a temporary exemption to a pupil from courses in physical education, if the pupil is one of the following:

(1) Ill or injured and a modified program to meet the needs of the pupil cannot be provided.

(2) Enrolled for one-half, or less, of the work normally required of full-time pupils.

(b) (1) The governing board of a school district or the office of the county superintendent of schools of a county, with the consent of a pupil, may grant a pupil an exemption from courses in physical education for two years any time during grades 10 to 12, inclusive, if the pupil has met satisfactorily at least five of the six standards of the physical performance test administered in grade 9 pursuant to Section 60800.

(2) Pursuant to Sections 51210, 51220, and 51222, physical education is required to be offered to all pupils, and, therefore, schools are required to provide adequate facilities and instructional resources for that instruction. In this regard, paragraph (1) shall be implemented in a manner that does not create a new program or impose a higher level of service on a local educational agency. Paragraph (1) does not mandate any overall increase in staffing or instructional time because, pursuant to subdivision (d), pupils are not permitted to attend fewer total hours of class if they do not enroll in physical education. Paragraph (1) does not mandate any new costs because any additional physical education instruction that a local educational agency provides may be accomplished during the existing instructional day, with existing facilities. Paragraph (1) does not prevent a local educational agency from implementing any other temporary or permanent exemption authorized by this section.

(c) The governing board of a school district or the office of the county superintendent of a county may grant permanent exemption from courses in physical education if the pupil complies with any one of the following:

(1) Is 16 years of age or older and has been enrolled in the grade 10 for one academic year or longer.

(2) Is enrolled as a postgraduate pupil.

(3) Is enrolled in a juvenile home, ranch, camp, or forestry camp school where pupils are scheduled for recreation and exercise pursuant

to the requirements of Section 4346 of Title 15 of the California Code of Regulations.

(d) A pupil exempted under paragraph (1) of subdivision (b) or paragraph (1) of subdivision (c) shall not attend fewer total hours of courses and classes if he or she elects not to enroll in a physical education course than he or she would have attended if he or she had elected to enroll in a physical education course.

(e) Notwithstanding any other law, the governing board of a school district also may administer to pupils in grades 10 to 12, inclusive, the physical performance test required in grade 9 pursuant to Section 60800. A pupil who meets satisfactorily at least five of the six standards of this physical performance test in any of grades 10 to 12, inclusive, is eligible for an exemption pursuant to subdivision (b).

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## CHAPTER 33

An act to amend Sections 490, 1616.5, 2006, 2531.75, 2847, 3041.3, 4982, 4989.54, 4990.32, 4992.3, 5552.5, 7028, 7303, 8005, 22258, and 22259 of and to add and repeal Sections 101.2 and 7303.5 of, the Business and Professions Code, and to amend Sections 12529, 12529.5, 12529.6, and 12529.7 of the Government Code, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 23, 2008. Filed with Secretary of State June 23, 2008.]

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

SECTION 1. Section 101.2 is added to the Business and Professions Code, to read:

101.2. (a) Notwithstanding paragraph (3) of subdivision (b) of Section 101.1, if the Dental Board of California, the Speech-Language Pathology and Audiology Board, the Board of Vocational Nursing and Psychiatric Technicians, or the Board of Barbering and Cosmetology becomes inoperative or is repealed, both of the following shall apply:

(1) The executive officer of the board shall have the same administrative duties with regard to any bureau replacing the board as he or she had with regard to the board, and shall operate under the direction of the Department of Consumer Affairs.

(2) The Governor shall succeed to the authority of the board to appoint an executive officer pursuant to Section 1616.5, 2531.75, 2847, or 7303.5, respectively.

(b) The Department of Consumer Affairs may create an advisory committee for each bureau described in subdivision (a) to advise and direct the bureau's executive officer. An advisory committee created under this subdivision shall consist of the prior members of the board, and the committee shall be subject to the per diem provisions related to the prior board and to all procedural requirements governing the actions of the prior board.

(c) An advisory committee created pursuant to subdivision (b) shall meet as often as is necessary, as determined by that committee.

(d) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 2. Section 490 of the Business and Professions Code is amended to read:

490. (a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in Petropoulos v. Department of Real Estate (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and

that the amendments to this section made by Senate Bill 797 of the 2007–08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

SEC. 3. Section 1616.5 of the Business and Professions Code is amended to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date..

SEC. 4. Section 2006 of the Business and Professions Code is amended to read:

2006. (a) On and after January 1, 2006, any reference in this chapter to an investigation by the board, or one of its divisions, shall be deemed to refer to an investigation directed by employees of the Department of Justice.

(b) This section shall become inoperative on July 1, 2010, and as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 2531.75 of the Business and Professions Code is amended to read:

2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 6. Section 2847 of the Business and Professions Code is amended to read:

2847. (a) The board may select an executive officer who shall perform duties as are delegated by the board and who shall be responsible to it for the accomplishment of those duties.

(b) The person selected to be the executive officer of the board shall be a duly licensed vocational nurse under this chapter, a duly licensed professional nurse as defined in Section 2725, or a duly licensed psychiatric technician. The executive officer shall not be a member of the board.

(c) With the approval of the Director of Finance, the board shall fix the salary of the executive officer.

(d) The executive officer shall be entitled to traveling and other necessary expenses in the performance of his or her duties. He or she shall make a statement, certified before a duly authorized person, that the expenses have been actually incurred.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 7. Section 3041.3 of the Business and Professions Code is amended to read:

3041.3. (a) In order to be certified to use therapeutic pharmaceutical agents and authorized to diagnose and treat the conditions listed in subdivisions (b), (d), and (e) of Section 3041, an optometrist shall apply for a certificate from the board and meet all requirements imposed by the board.

(b) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry prior to January 1, 1996, is licensed as an optometrist in California, and meets all of the following requirements:

(1) Satisfactorily completes a didactic course of no less than 80 classroom hours in the diagnosis, pharmacological, and other treatment and management of ocular disease provided by either an accredited school of optometry in California or a recognized residency review committee in ophthalmology in California.

(2) Completes a preceptorship of no less than 65 hours, during a period of not less than two months nor more than one year, in either an ophthalmologist's office or an optometric clinic. The training received during the preceptorship shall be on the diagnosis, treatment, and management of ocular, systemic disease. The preceptor shall certify completion of the preceptorship. Authorization for the ophthalmologist to serve as a preceptor shall be provided by an accredited school of optometry in California, or by a recognized residency review committee in ophthalmology, and the preceptor shall be licensed as an ophthalmologist in California, board-certified in ophthalmology, and in good standing with the Medical Board of California. The individual serving as the preceptor shall schedule no more than three optometrist applicants for each of the required 65 hours of the preceptorship program. This paragraph shall not be construed to limit the total number of optometrist applicants for whom an individual may serve as a preceptor, and is intended only to ensure the quality of the preceptorship by requiring that the ophthalmologist preceptor schedule the training so that each applicant optometrist completes each of the 65 hours of the preceptorship while scheduled with no more than two other optometrist applicants.

(3) Successfully completes a minimum of 20 hours of self-directed education.

(4) Passes the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" examination or, in the event this examination is no longer offered, its equivalent, as determined by the State Board of Optometry.

(5) Passes the examination issued upon completion of the 80-hour didactic course required under paragraph (1) and provided by the accredited school of optometry or residency program in ophthalmology.

(6) When any or all of the requirements contained in paragraph (1), (4), or (5) have been satisfied on or after July 1, 1992, and before January 1, 1996, an optometrist shall not be required to fulfill the satisfied requirements in order to obtain certification to use therapeutic pharmaceutical agents. In order for this paragraph to apply to the requirement contained in paragraph (5), the didactic examination that the applicant successfully completed shall meet equivalency standards, as determined by the board.

(7) Any optometrist who graduated from an accredited school of optometry on or after January 1, 1992, and before January 1, 1996, shall not be required to fulfill the requirements contained in paragraphs (1), (4), and (5).

(c) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry on or after January 1, 1996, who is licensed as an optometrist in California, and who meets all of the following requirements:

(1) Passes the National Board of Examiners in Optometry's national board examination, or its equivalent, as determined by the State Board of Optometry.

(2) Of the total clinical training required by a school of optometry's curriculum, successfully completed at least 65 of those hours on the diagnosis, treatment, and management of ocular, systemic disease.

(3) Is certified by an accredited school of optometry as competent in the diagnosis, treatment, and management of ocular, systemic disease to the extent authorized by this section.

(4) Is certified by an accredited school of optometry as having completed at least 10 hours of experience with a board-certified ophthalmologist.

(d) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who is an optometrist who obtained his or her license outside of California if he or she meets all of the requirements for an optometrist licensed in California to be certified to use therapeutic pharmaceutical agents.

(1) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and graduated from an accredited school of optometry prior to January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (b). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received at the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry in California for persons who graduate before January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (b) be waived based on fulfillment of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(2) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and who graduated from an accredited school of optometry on or after January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (c). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received by the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry for persons who graduate on or after January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (c) be waived based on fulfillment of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(3) The State Board of Optometry shall decide all issues relating to the equivalency of an optometrist's education or training under this subdivision.

SEC. 8. Section 4982 of the Business and Professions Code is amended to read:

4982. The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the

qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.

(*l*) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee or registered intern under one's supervision or control to perform, or permitting the trainee or registered intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(z) Failure to comply with Section 2290.5.

(aa) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

SEC. 9. Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.

(d) Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in subdivision (c) or any combination thereof.

(e) Advertising in a manner that is false, misleading, or deceptive.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or marriage and family therapist.

(j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(k) Gross negligence or incompetence in the practice of educational psychology.

(*l*) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of

the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(y) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

SEC. 10. Section 4990.32 of the Business and Professions Code is amended to read:

4990.32. (a) Except as otherwise provided in this section, an accusation filed pursuant to Section 11503 of the Government Code against a licensee or registrant under the chapters the board administers and enforces shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitations period provided by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) An accusation alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action or within 10 years after the act or omission alleged as the grounds for disciplinary action occurred, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(e) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (d) shall be tolled until the minor reaches the age of majority. However, if the board discovers an alleged act of sexual contact with a minor under Section 261, 286, 288, 288.5, 288a, or 289 of the Penal Code after the limitations periods described in this subdivision have otherwise expired, and there is independent evidence that corroborates the allegation, an accusation shall be filed within three years from the date the board discovers that alleged act.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

(g) For purposes of this section, "discovers" means the latest of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:

(1) The date the board received a complaint or report describing the act or omission.

(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.

(3) The date the board receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.

SEC. 11. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The

record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Gross negligence or incompetence in the performance of clinical social work.

(e) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(*l*) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall

be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered associate clinical social worker or intern by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(t) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(u) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(v) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(w) Failure to comply with Section 2290.5.

(x) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

SEC. 12. Section 5552.5 of the Business and Professions Code is amended to read:

5552.5. The board may, by regulation, implement an intern development program until July 1, 2011.

SEC. 13. Section 7028 of the Business and Professions Code is amended to read:

7028. (a) It is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless the person is particularly exempted from the provisions of this chapter.

(b) If a person has been previously convicted of the offense described in this section, unless the provisions of subdivision (c) are applicable, 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, and, unless the sentence prescribed in subdivision (c) is imposed, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a jail sentence of less than 90 days for second or subsequent convictions under this section, the court shall state the reasons for its sentencing choice on the record.

(c) A third or subsequent conviction for the offense described in this section is punishable by a fine of not less than four thousand five hundred dollars ($4,500) nor more than the greater amount of either ten thousand dollars ($10,000) or 20 percent of the contract price under which the unlicensed person performed contracting work or by imprisonment in a county jail for not more than one year or less than 90 days, or by both that fine and imprisonment. The penalty provided by this subdivision is cumulative to the penalties available under all other laws of this state.

(d) A person who violates this section is subject to the penalties prescribed in subdivision (c) if the person was named on a license that was previously revoked and, either in fact or under law, was held responsible for any act or omission resulting in the revocation.

(e) 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 section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(f) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section by the unlicensed contractor shall be found or an information or complaint filed within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

SEC. 14. Section 7303 of the Business and Professions Code is amended to read:

7303. (a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board

of Barbering and Cosmetology in which the administration of this chapter is vested.

(b) The board shall consist of nine members. Five members shall be public members and four members shall represent the professions. The Governor shall appoint three of the public members and the four professions members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.

(c) The board may appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

(d) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 15. Section 7303.5 is added to the Business and Professions Code, to read:

7303.5. (a) The board may appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director.

(b) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

(c) This section shall become operative on July 1, 2008.

(d) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 16. Section 8005 of the Business and Professions Code is amended to read:

8005. The Court Reporters Board of California is charged with the executive functions necessary for effectuating the purposes of this

chapter. It may appoint committees as it deems necessary or proper. The board may appoint, prescribe the duties, and fix the salary of an executive officer. Except as provided by Section 159.5, the board may also employ other employees as may be necessary, subject to civil service and other provisions of law.

This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 17. Section 22258 of the Business and Professions Code is amended to read:

22258. (a) The following persons are exempt from the requirements of this title, subject to the requirements of subdivision (b):

(1) A person with a current and valid license issued by the California Board of Accountancy.

(2) A person who is an active member of the State Bar of California.

(3) Any trust company or trust business as defined in Chapter 1 (commencing with Section 99) of Division 1 of the Financial Code.

(4) A financial institution regulated by the state or federal government, insofar as the activities of the financial institution with respect to tax preparation are subject to federal or state examination or oversight.

(5) A person who is enrolled to practice before the Internal Revenue Service pursuant to Subpart A (commencing with Section 10.1) of Part 10 of Title 31 of the Code of Federal Regulations.

(6) Any employee of any person described in paragraph (1), (2), (3), (4), or (5), while functioning within the scope of that employment.

(7) Any employee of any corporation, partnership, association, or any entity described in subparagraph (B) of paragraph (1) of subdivision (a) of Section 22251.

(b) (1) Except for employees of entities described in paragraph (3) or (4) of subdivision (a), paragraph (6) of subdivision (a) shall apply only if all tax returns prepared by that employee are signed by a person described in paragraph (1), (2), or (5) of subdivision (a).

(2) Paragraph (7) of subdivision (a) shall apply only if all tax returns prepared by that employee are signed by the person described in paragraph (7) of subdivision (a).

(3) No person described in this subdivision as an employee may sign a tax return, unless that employee is otherwise exempt under this section, is registered as a tax preparer with the council, or is an employee of either a trust company or trust business described in paragraph (3) of subdivision (a), or any employee of a financial institution described in paragraph (4) of subdivision (a).

(c) For purposes of this section, preparation of a tax return includes the inputting of tax data into a computer.

SEC. 18. Section 22259 of the Business and Professions Code is amended to read:

22259. This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473).

This chapter shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 19. Section 12529 of the Government Code, as amended by Section 90 of Chapter 588 of the Statutes of 2007, is amended to read:

12529. (a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or any committee under the jurisdiction of the Medical Board of California or a division of the board.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the division or board.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, and the committees under the jurisdiction of the Medical Board of California or a division of the board, with the intent that the expenses be proportionally shared as to services rendered.

(e) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 12529 of the Government Code, as amended by Section 91 of Chapter 588 of the Statutes of 2007, is amended to read:

12529. (a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to

prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or any committee under the jurisdiction of the Medical Board of California or a division of the board, and to provide ongoing review of the investigative activities conducted in support of those prosecutions, as provided in subdivision (b) of Section 12529.5.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the division or board.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, and the committees under the jurisdiction of the Medical Board of California or a division of the board, with the intent that the expenses be proportionally shared as to services rendered.

(e) This section shall become operative July 1, 2010.

SEC. 21. Section 12529.5 of the Government Code, as amended by Section 92 of Chapter 588 of the Statutes of 2007, is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, or the Board of Psychology shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to work on location at the intake unit of the boards described in subdivision (d) of Section 12529 to assist in evaluating and screening complaints and to assist in developing uniform standards and procedures for processing complaints.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards, division, or committees in designing and providing initial and in-service training programs for staff

of the division, boards, or committees, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the division or the boards shall be made by the executive officer of the division, boards, or committees as appropriate in consultation with the senior assistant.

(e) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 22. Section 12529.5 of the Government Code, as amended by Section 93 of Chapter 588 of the Statutes of 2007, is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, or the Board of Psychology shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to assist the division and the boards in intake and investigations and to direct discipline-related prosecutions. Attorneys shall be assigned to work closely with each major intake and investigatory unit of the boards, to assist in the evaluation and screening of complaints from receipt through disposition and to assist in developing uniform standards and procedures for the handling of complaints and investigations.

A deputy attorney general of the Health Quality Enforcement Section shall frequently be available on location at each of the working offices at the major investigation centers of the boards, to provide consultation and related services and engage in case review with the boards' investigative, medical advisory, and intake staff. The Senior Assistant Attorney General and deputy attorneys general working at his or her direction shall consult as appropriate with the investigators of the boards, medical advisors, and executive staff in the investigation and prosecution of disciplinary cases.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards, division, or committees in designing and providing initial and in-service training programs for staff of the division, boards, or committees, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the division or the boards shall be made by the executive officer of the division, boards, or committees as appropriate in consultation with the senior assistant.

(e) This section shall become operative July 1, 2010.

SEC. 23. Section 12529.6 of the Government Code is amended to read:

12529.6. (a) The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical enforcement and prosecution model for those investigations is in the best interests of the people of California.

(b) Notwithstanding any other provision of law, as of January 1, 2006, each complaint that is referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction but not the supervision of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action.

(c) The Medical Board of California, the Department of Consumer Affairs, and the Office of the Attorney General shall, if necessary, enter into an interagency agreement to implement this section.

(d) This section does not affect the requirements of Section 12529.5 as applied to the Medical Board of California where complaints that have not been assigned to a field office for investigation are concerned.

(e) It is the intent of the Legislature to enhance the vertical enforcement and prosecution model as set forth in subdivision (a). The Medical Board of California shall do both of the following:

(1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.

(2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model.

(f) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted

before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 24. Section 12529.7 of the Government Code is amended to read:

12529.7. By July 1, 2009, the Medical Board of California, in consultation with the Department of Justice, the Department of Consumer Affairs, the Department of Finance, and the Department of Personnel Administration, shall report and make recommendations to the Governor and the Legislature on the vertical enforcement and prosecution model created under Section 12529.6.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 individuals engaging in certain professions and vocations are adequately regulated in order to protect and safeguard consumers and the public in this state, it is necessary that this act take effect immediately.

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## CHAPTER 34

An act relating to infant botulism treatment and prevention, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 23, 2008. Filed with Secretary of State June 23, 2008.]

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

SECTION 1. The sum of one million four hundred seventy-two thousand dollars ($1,472,000) is hereby appropriated from the Infant Botulism Treatment and Prevention Fund, established pursuant to Section 123709 of the Health and Safety Code, for the 2007–08 fiscal year in

augmentation of Item 4265-001-0272 of Section 2.00 of the Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007). These funds shall be allocated by the Controller to Schedule (2), 20 - Public and Environmental Health, of Item 4265-001-0001 of Section 2.00 of the Budget Act of 2007 for any purpose that is described in Article 2.5 (commencing with Section 123700) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, including the purpose of supporting the continued production of BabyBIG (R) for distribution to patients with infant botulism.

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 a 2007–08 fiscal year budget adjustment to enable the State Department of Public Health to adequately produce and maintain BabyBIG (R), it is necessary that this act take effect immediately.

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## CHAPTER 35

An act to add and repeal Sections 1601.1, 1616.5, 2531, 2531.75, 2841, 2847, 4501, 4503, and 7303 of the Business and Professions Code, relating to professions and vocations.

[Approved by Governor June 23, 2008. Filed with Secretary of State June 23, 2008.]

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

SECTION 1. Section 1601.1 is added to the Business and Professions Code, to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college, and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 2. Section 1616.5 is added to the Business and Professions Code, to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 3. Section 2531 is added to the Business and Professions Code, to read:

2531. (a) There is in the Department of Consumer Affairs a Speech-Language Pathology and Audiology Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 4. Section 2531.75 is added to the Business and Professions Code, to read:

2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 5. Section 2841 is added to the Business and Professions Code, to read:

2841. (a) There is in the Department of Consumer Affairs a Board of Vocational Nursing and Psychiatric Technicians of the State of California, consisting of 11 members.

(b) Within the meaning of this chapter, "board," or "the board," refers to the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(c) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 6. Section 2847 is added to the Business and Professions Code, to read:

2847. (a) The board shall select an executive officer who shall perform duties as are delegated by the board and who shall be responsible to it for the accomplishment of those duties.

(b) The person selected to be the executive officer of the board shall be a duly licensed vocational nurse under this chapter, a duly licensed professional nurse as defined in Section 2725, or a duly licensed psychiatric technician. The executive officer shall not be a member of the board.

(c) With the approval of the Director of Finance, the board shall fix the salary of the executive officer.

(d) The executive officer shall be entitled to traveling and other necessary expenses in the performance of his or her duties. He or she shall make a statement, certified before a duly authorized person, that the expenses have been actually incurred.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 7. Section 4501 is added to the Business and Professions Code, to read:

4501. (a) "Board," as used in this chapter, means the Board of Vocational Nursing and Psychiatric Technicians.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 8. Section 4503 is added to the Business and Professions Code, to read:

4503. (a) The board shall administer and enforce this chapter.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 9. Section 7303 is added to the Business and Professions Code, to read:

7303. (a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested.

(b) The board shall consist of nine members. Five members shall be public members, and four members shall represent the professions. The Governor shall appoint three of the public members and the four professional members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.

(c) The board may appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

(d) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 10. (a) If members are not appointed to a board on January 1, 2009, pursuant to Section 1601.1, 2531, 2841, or 7303 of the Business and Professions Code, persons who served as board members of the prior board on June 30, 2008, shall serve temporarily as interim board members on the board until such time as board members are appointed to that board pursuant to Section 1601.1, 2531, 2841, or 7303 of the Business and Professions Code. For purposes of appointing board members pursuant to Sections 1601.1, 2531, 2841, and 7303 of the Business and Professions Code, the appointing powers may appoint to any board a person who was a member of the prior board on June 30, 2008.

(b) Notwithstanding any other provision of law, a person serving on December 31, 2008, as executive officer of a board pursuant to Section 1616.5, 2531.75, 2847, or 7303.5 may serve as an interim executive

officer of the Dental Board of California, Speech-Language Pathology and Audiology Board, Board of Vocational Nursing and Psychiatric Technicians, or Board of Barbering and Cosmetology, respectively, until the board appoints a permanent executive officer for that board pursuant to Section 1616.5, 2531.75, 2847, or 7303 of the Business and Professions Code. An appointing power may, pursuant to Section 1616.5, 2531.75, 2847, or 7303, appoint the executive officer of the previous board as an executive officer.

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## CHAPTER 36

An act to add Sections 4511.1 and 4511.2 to the Food and Agricultural Code, relating to county fairs.

[Approved by Governor June 23, 2008. Filed with Secretary of State June 23, 2008.]

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

SECTION 1. Section 4511.1 is added to the Food and Agricultural Code, to read:

4511.1. For the purposes of this chapter, "carnival" is defined as a company of transportable amusement rides, food and beverage units, and games that may have one or more owners and travels from place to place, in a group or separately, providing entertainment and recreation to the public.

SEC. 2. Section 4511.2 is added to the Food and Agricultural Code, to read:

4511.2. For the purposes of this chapter, "carnival workers" are defined as employees of a carnival.

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## CHAPTER 37

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

[Approved by Governor June 23, 2008. Filed with Secretary of State June 23, 2008.]

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

SECTION 1. (a) The sum of six hundred eighteen thousand four hundred seventy-nine dollars and eighty-two cents ($618,479.82) is hereby appropriated from the various funds, as specified in subdivision (b), to the Executive Officer of the California Victim Compensation and Government Claims Board for the payment of claims accepted by the board in accordance with the schedule set forth in subdivision (b).

(b) Pursuant to subdivision (a), claims accepted by the California Victim Compensation and Government Claims Board shall be paid in accordance with the following schedule:

Total for Fund: General Fund (0001) .....$460,937.58
Total for Fund: Item 1110-001-0767
Budget Act of 2008, Program 72..... $57.50
Total for Fund: Item 1870-001-0214
Budget Act of 2008, Program 11.....$325.00
Total for Fund: Item 2740-001-0044
Budget Act of 2008, Program 11..... $2,329.78
Total for Fund: Item 4260-601-0912
Budget Act of 2008..... $15,707.87
Total for Fund: Item 5225-001-0001
Budget Act of 2008, Program 30..... $105,441.84
Total for Fund: Item 7100-001-0185
Budget Act of 2008, Program 21..... $10,473.96
Total for Fund: Item 7100-101-0588
Budget Act of 2008, Program 21.....$9,845.29
Total for Fund: Item 7100-101-0871
Budget Act of 2008, Program 21.....$13,361.00

(c) In addition to amounts identified in subdivision (b), notwithstanding subdivision (c) of Section 34 of Chapter 127 of the Statutes of 2000 or any other provision of law, the sum of five hundred fifty-five thousand five hundred eight dollars and seventeen cents ($555,508.17) is hereby appropriated from Item 1760-001-0666, Budget Act of 2008, Program 15.70 to the Executive Officer of the California Victim Compensation and Government Claims Board to pay Hearn Construction Company of Vacaville, California, for a claim arising from the renovation of the Lincoln Theater in Yountville, California.

SEC. 2. Upon the request of the California Victim Compensation and Government Claims Board in a form prescribed by the Controller, the Controller shall transfer surcharges and fees from the Budget Act items of appropriation identified in subdivisions (b) and (c) of Section

1 of this act to Item 1870-001-0001 of Section 2.00 of the Budget Act of 2008. For each Budget Act item of appropriation, this amount shall not exceed the cumulative total of the per claim filing fees authorized by subdivision (b) of Section 905.2 of the Government Code and the surcharge authorized by subdivision (f) of Section 905.2 of the Government Code. For those items in subdivisions (b) and (c) of Section 1 of this act that do not reflect a Budget Act appropriation, the Controller shall transfer an amount not to exceed the cumulative total of the per claim filing fees authorized by subdivision (b) of Section 905.2 of the Government Code and the surcharge authorized by subdivision (f) of Section 905.2 of the Government Code. This amount shall be transferred for support of the board as reimbursements to Item 1870-001-0001 of Section 2.00 of the Budget Act of 2008. The board shall provide a report of the amounts recovered pursuant to this authority to the Department of Finance within 90 days of the enactment of this act.

SEC. 3. (a) The sum of eight hundred seventy-eight thousand dollars ($878,000) is hereby appropriated from the General Fund to the Executive Officer of the California Victim Compensation and Government Claims Board to pay claims resulting from county special election costs pursuant to Chapter 487 of the Statutes of 2007.

(b) This amount is based on, and reimbursement shall be provided at, a maximum rate of up to one dollar and thirty-seven cents ($1.37) per registered voter or the actual amount claimed for nonconsolidated elections, whichever is less, and a maximum rate of up to sixty-six cents ($0.66) per registered voter or the actual amount claimed for consolidated elections, whichever is less.

(c) The funds appropriated in this section may only be used to pay claims for special election costs authorized pursuant to Chapter 487 of the Statutes of 2007. Any funds appropriated in excess of the amounts actually required for the payment of these claims shall revert to the General Fund on June 30, 2009.

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 pay claims against the state and end hardship to claimants as soon as possible, it is necessary that this act go into immediate effect.

## CHAPTER 38

An act to amend Section 186.22a of the Penal Code, relating to criminal street gangs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 25, 2008. Filed with Secretary of State June 25, 2008.]

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

SECTION 1. Section 186.22a of the Penal Code is amended to read:

186.22a. (a) Every building or place used by members of a criminal street gang for the purpose of the commission of the offenses listed in subdivision (e) of Section 186.22 or any offense involving dangerous or deadly weapons, burglary, or rape, and every building or place wherein or upon which that criminal conduct by gang members takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to subdivision (a), including an action filed by the Attorney General, shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, except that all of the following shall apply:

(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.

(2) No order of eviction or closure may be entered.

(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.

(4) Suit may not be filed until 30-day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address.

(c) Whenever an injunction is issued pursuant to subdivision (a), or Section 3479 of the Civil Code, to abate gang activity constituting a nuisance, the Attorney General or any district attorney or any prosecuting city attorney may maintain an action for money damages on behalf of the community or neighborhood injured by that nuisance. Any money damages awarded shall be paid by or collected from assets of the criminal street gang or its members. Only members of the criminal street gang who created, maintained, or contributed to the creation or maintenance of the nuisance shall be personally liable for the payment of the damages awarded. In a civil action for damages brought pursuant to this

subdivision, the Attorney General, district attorney, or city attorney may use, but is not limited to the use of, the testimony of experts to establish damages suffered by the community or neighborhood injured by the nuisance. The damages recovered pursuant to this subdivision shall be deposited into a separate segregated fund for payment to the governing body of the city or county in whose political subdivision the community or neighborhood is located, and that governing body shall use those assets solely for the benefit of the community or neighborhood that has been injured by the nuisance.

(d) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no governmental entity, shall be abated pursuant to subdivisions (a) and (b).

(e) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

(f) (1) Any firearm, ammunition which may be used with the firearm, or any deadly or dangerous weapon which is owned or possessed by a member of a criminal street gang for the purpose of the commission of any of the offenses listed in subdivision (e) of Section 186.22, or the commission of any burglary or rape, may be confiscated by any law enforcement agency or peace officer.

(2) In those cases where a law enforcement agency believes that the return of the firearm, ammunition, or deadly weapon confiscated pursuant to this subdivision, is or will be used in criminal street gang activity or that the return of the item would be likely to result in endangering the safety of others, the law enforcement agency shall initiate a petition in the superior court to determine if the item confiscated should be returned or declared a nuisance.

(3) No firearm, ammunition, or deadly weapon shall be sold or destroyed unless reasonable notice is given to its lawful owner if his or her identity and address can be reasonably ascertained. The law enforcement agency shall inform the lawful owner, at that person's last known address by registered mail, 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, ammunition, or deadly weapon as a nuisance.

(4) 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.

(5) At the hearing, the burden of proof is upon the law enforcement agency or peace officer to show by a preponderance of the evidence that the seized item is or will be used in criminal street gang activity or that

return of the item would be likely to result in endangering the safety of others. All returns of firearms shall be subject to Section 12021.3.

(6) If the person does not request a hearing within 30 days of the notice or the lawful owner cannot be ascertained, the law enforcement agency may file a petition that the confiscated firearm, ammunition, or deadly weapon be declared a nuisance. If the items are declared to be a nuisance, the law enforcement agency shall dispose of the items as provided in Section 12028.

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

Due to the recent increase in gang-related crimes, it is necessary that this act take effect immediately.

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## CHAPTER 39

An act relating to housing and transportation infrastructure, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. The Legislature finds and hereby declares that it is necessary to expedite the funding of eligible applications for regional planning, housing, and infill incentive programs and the Transit-Oriented Development Implementation Program that are funded under the Housing and Emergency Shelter Trust Fund Act of 2006, in order to address the state's pressing housing and infrastructure needs and stimulate the economy. Furthermore, the Legislature finds and declares that it is necessary to expedite the funding to eligible applicants from specified funds contained in the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, in order to improve the condition and safety of neighborhood streets and roads, and to improve traffic congestion, safety, and air quality at locations where roads and highways intersect with railroad crossings at grade. The combined effects of the infrastructure improvements funded pursuant to this act will be more housing that is closer to jobs; shorter, faster, and safer commutes with improved air quality; and a commensurate reduction in energy usage.

Towards this end, the following amounts are appropriated from the following accounts for the following purposes:

(a) The sum of one hundred million dollars ($100,000,000) is hereby appropriated to the Department of Housing and Community Development from the Regional Planning, Housing, and Infill Incentive Account established in the Housing and Emergency Shelter Trust Fund of 2006 under subdivision (b) of Section 53545 of the Health and Safety Code, for the purposes of augmenting the Infill Infrastructure Grant Program Notice of Funding Availability issued by that department on February 28, 2008, and for associated support costs.

(b) The sum of fifty million dollars ($50,000,000) is hereby appropriated to the Department of Housing and Community Development from the Transit-Oriented Development Account established in the Housing and Emergency Shelter Trust Fund of 2006 under subdivision (c) of Section 53545 of the Health and Safety Code, for the purposes of augmenting the Transit-Oriented Development Grant Program Notice of Funding Availability issued by that department on December 7, 2007, and for associated support costs.

(c) The sum of sixty-three million dollars ($63,000,000) is hereby appropriated from the Highway-Railroad Crossing Safety Account established pursuant to subdivision (j) of Section 8879.23 of the Government Code, for allocation to the department and other eligible applicants consistent with Section 8879.63 of the Government Code and guidelines adopted by the California Transportation Commission pursuant to that section. These funds are appropriated for purposes of augmenting the amount appropriated in Item 2660-104-6063 of Section 2 of the Budget Act of 2007.

(d) The sum of eighty-seven million dollars ($87,000,000) is hereby appropriated from the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006, established pursuant to subdivision (*l*) of Section 8879.23 of the Government Code, for allocation to counties pursuant to subparagraph (A) of paragraph (1) of subdivision (*l*) of Section 8879.23 of the Government Code for purposes of augmenting the amount appropriated in Item 9350-104-6065 of Section 2 of the Budget Act of 2007.

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 make available, at the earliest possible time, funds to address the state's pressing need for affordable housing and transportation infrastructure to remedy the need for housing options that are located closer to workers' jobs and to improve related transportation facilities

and options to shorten commutes and make existing trips faster, safer, and more economical, and to stimulate the economy, it is necessary that this act take effect immediately.

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## CHAPTER 40

An act to amend Section 714 of the Civil Code, relating to common interest developments.

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. Section 714 of the Civil Code is amended to read:

714. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document, as defined in subdivision (j) of Section 1351, that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

(c) (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agencies. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall also meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters

Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(d) For the purposes of this section:

(1) (A) For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, "significantly" means an amount exceeding 20 percent of the cost of the system or decreasing the efficiency of the solar energy system by an amount exceeding 20 percent, as originally specified and proposed.

(B) For photovoltaic systems that comply with state and federal law, "significantly" means an amount not to exceed two thousand dollars ($2,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 20 percent as originally specified and proposed.

(2) "Solar energy system" has the same meaning as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5.

(e) Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

(f) Any entity, other than a public entity, that willfully violates this section shall be liable to the applicant or other party for actual damages occasioned thereby, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars ($1,000).

(g) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney's fees.

(h) (1) A public entity that fails to comply with this section may not receive funds from a state-sponsored grant or loan program for solar energy. A public entity shall certify its compliance with the requirements of this section when applying for funds from a state-sponsored grant or loan program.

(2) A local public entity may not exempt residents in its jurisdiction from the requirements of this section.

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## CHAPTER 41

An act to amend and repeal Section 44265.1 of the Education Code, relating to teacher credentialing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. Section 44265.1 of the Education Code is amended to read:

44265.1. (a) By December 1, 2007, the commission shall report to the Legislature and the Governor on the current existing process and requirements for obtaining a specialist credential in special education and recommend modifications to enhance and expedite these procedures.

(b) Notwithstanding any other provision of law, a local educational agency or school may assign a teacher who holds a level 1 education specialist credential, or a previously issued credential, that authorizes him or her to provide instruction to individuals with mild and moderate disabilities to provide instruction to pupils with autism, as defined by Section 300.8(c)(1) of Title 34 of the Code of Federal Regulations if the teacher consents to the assignment and satisfies the criteria described in subdivision (c).

(c) The local educational agency or school shall determine that a teacher described in subdivision (b) has satisfied either of the following prior to allowing the teacher to provide instruction to pupils with autism:

(1) He or she has provided full-time instruction for at least one year prior to September 1, 2007, in a special education program that serves pupils with autism pursuant to their individualized education programs and received a favorable evaluation or recommendation to teach pupils with autism from the local educational agency or school.

(2) He or she has completed a minimum of three semester units of coursework in the subject of autism offered by a regionally accredited institution of higher education. The local educational agency or school shall maintain the certificate or other verification of completion of the coursework on file in its office.

(d) Local educational agencies and schools shall report teacher assignments made pursuant to this section as part of their annual assignment monitoring pursuant to Section 44258.9.

(e) This section shall become inoperative two years after the commission adopts regulations to implement the recommended modifications described in subdivision (a), or on August 31, 2011, whichever occurs first, and is repealed on January 1, 2012, unless a later enacted statute that is enacted before January 1, 2012, 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 allow local educational agencies and public and nonpublic, nonsectarian schools to hire and retain more credentialed special education teachers to provide instruction to pupils with autism at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 42

An act to amend Section 11624.7 of the Insurance Code, relating to insurance.

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. Section 11624.7 of the Insurance Code is amended to read:

11624.7. Within 60 days after the effective date of any policy issued or renewed under this article, the insurer shall obtain from the Department of Motor Vehicles, or from a subscribing loss underwriting exchange carrier, a report on the applicant and any other person who may reasonably be expected to operate the applicant's motor vehicle with the permission of the applicant. Any premium adjustments that occur as a result of the inspection of the reports shall be billed within the same 60-day period. This section does not apply to amendments of a policy other than upon original issuance or renewal.

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## CHAPTER 43

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

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve addenda to memoranda of understanding entered into by the state employer and State Bargaining Units 2, 4, 16, 17, 19, and 20, that require the expenditure of funds.

SEC. 2. The provisions of the addenda to memoranda of understanding entered into by the state employer and State Bargaining Units 2, 4, 16, 17, 19, and 20, that require the expenditure of funds are hereby approved for the purposes of Section 3517.63 of the Government Code.

SEC. 3. Addenda to memoranda of understanding entered into by the state employer and the following state bargaining units are hereby approved:

(a) Bargaining Unit 2: California Attorneys, Administrative Law Judges, and Hearing Officers in State Employment, addendum dated August 30, 2007, effective January 1, 2008.

(b) Bargaining Unit 4: Service Employees International Union, addendum dated December 20, 2007, effective January 1, 2008.

(c) Bargaining Unit 16: Union of American Physicians and Dentists, addenda dated December 21, 2007, and January 3, 2008, effective January 1, 2008.

(d) Bargaining Unit 17: Service Employees International Union, addendum dated December 20, 2007, effective January 1, 2008.

(e) Bargaining Unit 19: American Federation of State, County and Municipal Employees, addenda dated January 4, 2008, effective January 1, 2008; January 23, 2008, effective July 1, 2007; and March 18, 2008, effective July 1, 2007.

(f) Bargaining Unit 20: Service Employees International Union, addenda dated December 20, 2007, effective January 1, 2008.

SEC. 4. The provisions of the addenda to memoranda of understanding approved by Sections 2 and 3 of this act and that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature or already exist within available appropriations. If the Legislature does not approve or fully fund any addendum included in this act, either party may reopen negotiations on all or part of the addendum.

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 the provisions of this act to be applicable as soon as possible in the 2007–08 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

# CHAPTER 44

An act to add Section 25608.10 to the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. Section 25608.10 is added to the Business and Professions Code, to read:

25608.10. (a) On the portion of the Truckee River, from the outfall of Lake Tahoe upstream of the Highway 89 Bridge in Tahoe City to the Alpine Meadows Bridge, a person in a vessel, as defined by Section 651 of the Harbors and Navigation Code, or a bather, as defined by Section 651.1 of the Harbors and Navigation Code, shall not possess a container with an alcoholic beverage, whether opened or closed, during the summer holiday periods that the Placer County Board of Supervisors prohibits the consumption of an alcoholic beverage or possession of an open alcoholic beverage container on the land portions along this portion of the river.

(b) For purposes of this section, "container" means a bottle, can, or other receptacle.

(c) A violation of this section is punishable as an infraction pursuant to subdivision (b) of Section 25132 of the Government Code.

(d) Placer County shall provide notice on the land portions along the Truckee River described in subdivision (a) that a violation of this section is punishable as an infraction.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique problem of prevalent consumption of alcohol during certain summer holiday periods on this portion of the Truckee River and the health hazards created by improper disposal of beverage containers.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, 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.

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 health and safety of the public due to the problem of consumption of alcohol during certain summer holiday periods on a portion of the Truckee River, it is necessary for this act to take effect immediately.

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## CHAPTER 45

An act to amend Sections 27491 and 27520 of the Government Code, relating to local government.

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (e) of Section 1746 of the Health and Safety Code in the 20 days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known

or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state mental hospitals serving the mentally disabled and operated by the State Department of Mental Health; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

In any case in which the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his or her report to the state agency responsible for the state hospital.

The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

Any funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 2. Section 27520 of the Government Code is amended to read:

27520. (a) The coroner shall perform or cause to be performed an autopsy on a decedent, for which an autopsy has not already been performed, if the surviving spouse requests him to do so in writing. If there is no surviving spouse, the coroner shall perform the autopsy if requested to do so in writing by a surviving child or parent, or if there is no surviving child or parent, by the next of kin of the deceased.

(b) The coroner may perform or cause to be performed an autopsy on a decedent, for which an autopsy has already been performed, if the surviving spouse requests him to do so in writing. If there is no surviving spouse, the coroner may perform the autopsy if requested to do so in

writing by a surviving child or parent, or if there is no surviving child or parent, by the next of kin of the deceased.

(c) The cost of an autopsy requested pursuant to either subdivision (a) or (b) shall be borne by the person requesting that it be performed.

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## CHAPTER 46

An act to amend Section 8514 of the Business and Professions Code, relating to pest control.

[Approved by Governor June 30, 2008. Filed with Secretary of State June 30, 2008.]

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

SECTION 1. Section 8514 of the Business and Professions Code is amended to read:

8514. No registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made.

Notwithstanding any provision of this chapter, after an inspection has been made, a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but its branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided that it subcontracts in writing the actual performance of the work to a registered company which holds a branch registration authorizing the particular method to be used.

A registered company may in writing subcontract any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do such work.

Nothing in this chapter shall be construed to prohibit a registered company or the consumer from subcontracting with a licensed contractor to do any work authorized under Section 8556.

A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer must be informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the

subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

Nothing herein contained shall permit or authorize a registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified, or registered to perform, pest control work in a branch, or by a method, for which it is not registered, except that a Branch 2 or Branch 3 registered company may advertise fumigation or any all encompassing treatment described in paragraph (8) of subdivision (a) of Section 1991 of Title 16 of the California Code of Regulations if the company complies with the requirements of this section.

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, an act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for an act or omission in the performance of the work that the consumer directly contracts with another registered company to perform, as permitted by this section.

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## CHAPTER 47

An act to amend Section 786 of the Penal Code, relating to crime.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

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

786. (a) When property taken in one jurisdictional territory by burglary, carjacking, robbery, theft, or embezzlement has been brought into another, or when property is received in one jurisdictional territory with the knowledge that it has been stolen or embezzled and the property was stolen or embezzled in another jurisdictional territory, the jurisdiction of the offense is in any competent court within either jurisdictional territory, or any contiguous jurisdictional territory if the arrest is made within the contiguous territory, the prosecution secures on the record

the defendant's knowing, voluntary, and intelligent waiver of the right of vicinage, and the defendant is charged with one or more property crimes in the arresting territory.

(b) (1) The jurisdiction of a criminal action for unauthorized use, retention, or transfer of personal identifying information, as defined in subdivision (b) of Section 530.55, shall also include the county where the theft of the personal identifying information occurred, the county in which the victim resided at the time the offense was committed, or the county where the information was used for an illegal purpose. If multiple offenses of unauthorized use of personal identifying information, all involving the same defendant or defendants and the same personal identifying information belonging to the one person, occur in multiple jurisdictions, any one of those jurisdictions is a proper jurisdiction for all of the offenses.

(2) When charges alleging multiple offenses of unauthorized use of personal identifying information occurring in multiple territorial jurisdictions are filed in one county pursuant to this section, the court shall hold a hearing to consider whether the matter should proceed in the county of filing, or whether one or more counts should be severed. The district attorney filing the complaint shall present evidence to the court that the district attorney in each county where any of the charges could have been filed has agreed that the matter should proceed in the county of filing. In determining whether all counts in the complaint should be joined in one county for prosecution, the court shall consider the location and complexity of the likely evidence, where the majority of the offenses occurred, the rights of the defendant and the people, and the convenience of, or hardship to, the victim and witnesses.

(3) When an action for unauthorized use, retention, or transfer of personal identifying information is filed in the county in which the victim resided at the time the offense was committed, and no other basis for the jurisdiction applies, the court, upon its own motion or the motion of the defendant, shall hold a hearing to determine whether the county of the victim's residence is the proper venue for trial of the case. In ruling on the matter, the court shall consider the rights of the parties, the access of the parties to evidence, the convenience to witnesses, and the interests of justice.

(c) This section shall not be interpreted to alter victims' rights under Section 530.6.

# CHAPTER 48

An act to amend Section 868.5 of the Penal Code, relating to witness testimony.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other law, a prosecuting witness in a case involving a violation of Section 187, 203, 205, 207, 211, 215, 220, 240, 242, 243.4, 245, 261, 262, 273a, 273d, 273.5, 273.6, 278, 278.5, 285, 286, 288, 288a, 288.5, 289, or 647.6, former Section 277 or 647a, subdivision (1) of Section 314, or subdivision (b), (d), or (e) of Section 368 when the prosecuting witness is the elder or dependent adult, shall be entitled, for support, to the attendance of up to two persons of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing or proceeding.

(b) If the person or persons so chosen are also witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony. In the case of a juvenile court proceeding, the judge shall inform the support person or persons that juvenile court proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. In all cases, the judge shall admonish the support person or persons to not prompt, sway, or influence the witness in any way. Nothing in this section shall preclude a court from exercising its discretion to remove a person from the courtroom whom it believes is prompting, swaying, or influencing the witness.

(c) The testimony of the person or persons so chosen who are also witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because it has been given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

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## CHAPTER 49

An act to amend Section 1219 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. 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 or domestic violence crime for contempt when the contempt consists of refusing to testify concerning that sexual assault or domestic violence crime.

(c) As used in this section, the following terms have the following meanings:

(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 "domestic violence" as defined in Section 6211 of the Family Code.

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## CHAPTER 50

An act to amend Section 7643 of the Family Code, relating to paternity actions.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 7643 of the Family Code is amended to read:

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, their attorneys, and by agents acting pursuant to written authorization from the parties to the action or their attorneys. An attorney shall obtain the consent of the party to the action prior to authorizing an agent to inspect the permanent record. An attorney shall also state on the written authorization that he or she has obtained the consent of the party to authorize an agent to inspect the permanent record.

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## CHAPTER 51

An act to amend Section 4519.7 of the Welfare and Institutions Code, relating to developmental centers.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 4519.7 of the Welfare and Institutions Code is amended to read:

4519.7. (a) Any regional center employee shall not be liable for civil damages on account of an injury or death resulting from an employee's

act or omission where the act or omission was the result of the exercise of the discretion vested in him or her, in good faith, in carrying out the intent of this division, except for acts or omissions of gross negligence or acts or omissions giving rise to a claim under Section 3294 of the Civil Code. This section shall not be applied to provide immunity from liability for any criminal act.

(b) This section is not intended to change, alter, or affect the liability of regional centers, including, but not limited to, the vicarious liability of a regional center due to a negligent employee.

(c) A regional center employee, when participating in filing a complaint or providing information as required by law regarding a consumer's health, safety, or well-being, or participating in a judicial proceeding resulting therefrom, shall be presumed to be acting in good faith, and unless the presumption is rebutted, shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that might be incurred or imposed. The presumption established by this subdivision is a presumption affecting the burden of producing evidence.

(d) This section shall apply only to acts or omissions that occur on or after January 1, 2001.

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## CHAPTER 52

An act to amend Sections 1063, 2400, and 2600 of, and to add Section 2401.1 to, the Probate Code, relating to guardians and conservators.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 1063 of the Probate Code is amended to read:

1063. (a) In all accounts, there shall be an additional schedule showing the estimated market value of the assets on hand as of the end of the accounting period, and a schedule of the estimated market value of the assets on hand as of the beginning of the accounting period for all accounts subsequent to the initial account. The requirement of an estimated value of real estate, a closely held business, or other assets without a ready market, may be satisfied by a good faith estimate by the fiduciary.

(b) If there were purchases or other changes in the form of assets occurring during the period of the account, there shall be a schedule

showing these transactions. However, no reporting is required for transfers between cash or accounts in a financial institution or money market mutual funds as defined in subdivision (d) of Section 8901.

(c) If an estate of a decedent or a trust will be distributed to an income beneficiary, there shall be a schedule showing an allocation of receipts and disbursements between principal and income.

(d) If there is specifically devised property, there shall be an additional schedule accounting for income, disbursements, and proceeds of sale pursuant to Section 12002 and subdivision (a) of Section 16340.

(e) If any interest has been paid or is to be paid under Section 12003, 12004, or 12005, or subdivision (b) of Section 16340, there shall be a schedule showing the calculation of the interest.

(f) If the accounting contemplates a proposed distribution, there shall be a schedule setting forth the proposed distribution, including the allocation of income required under Section 12006. If the distribution requires an allocation between trusts, the allocation shall be set forth on the schedule, unless the allocation is to be made by a trustee after receipt of the assets. If the distribution requires valuation of assets as of the date of distribution, the schedule shall set forth the fair market value of those assets.

(g) If, at the end of the accounting period, there are liabilities of the estate or trust, except current or future periodic payments, including rent, salaries, utilities, or other recurring expenses, there shall be a schedule showing all of the following:

(1) All liabilities which are a lien on estate or trust assets.

(2) Taxes due but unpaid as shown on filed returns or assessments received subsequent to filing of returns.

(3) All notes payable.

(4) Any judgments for which the estate or trust is liable.

(5) Any other material liability.

(h) If the guardian or conservator has knowledge of any real property of the conservatee or ward located in a foreign jurisdiction, the guardian or conservator shall include an additional schedule that identifies the real property, provides a good faith estimate of the fair market value of the real property, and states what action, if any, will or has been taken to preserve and protect the real property, including a recommendation whether an ancillary proceeding is necessary to preserve and protect the real property.

SEC. 2. Section 2400 of the Probate Code is amended to read:

2400. As used in this chapter:

(a) "Conservator" means the conservator of the estate, or the limited conservator of the estate to the extent that the powers and duties of the

limited conservator are specifically and expressly provided by the order appointing the limited conservator.

(b) "Estate" means all of the conservatee's or ward's personal property, wherever located, and real property located in this state.

(c) "Guardian" means the guardian of the estate.

SEC. 3. Section 2401.1 is added to the Probate Code, to read:

2401.1. The guardian or conservator shall use ordinary care and diligence to determine whether the ward or conservatee owns real property in a foreign jurisdiction and to preserve and protect that property. What constitutes use of ordinary care and diligence shall be determined by all the facts and circumstances known, or that become known, to the guardian or conservator, the value of the real property located in the foreign jurisdiction, and the needs of the ward or conservatee. The guardian or conservator, except as provided in subdivision (a) of Section 1061 and in Section 1062, is not charged with, and shall have no duty to inventory or account for the real property located in a foreign jurisdiction, but the guardian or conservator shall, when presenting the inventory and appraisal and accounting to the court, include the schedule set forth in subdivision (h) of Section 1063.

SEC. 4. Section 2600 of the Probate Code is amended to read:

2600. As used in this chapter, unless the context otherwise requires:

(a) "Conservator" means (1) the conservator of the estate or (2) the limited conservator of the estate to the extent that the powers and duties of the limited conservator are specifically and expressly provided by the order appointing the limited conservator.

(b) "Estate" means all of the conservatee's or ward's personal property, wherever located, and real property located in this state.

(c) "Guardian" means the guardian of the estate.

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## CHAPTER 53

An act to amend Section 6110 of the Probate Code, relating to wills.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 6110 of the Probate Code is amended to read:

6110. (a) Except as provided in this part, a will shall be in writing and satisfy the requirements of this section.

(b) The will shall be signed by one of the following:

(1) By the testator.

(2) In the testator's name by some other person in the testator's presence and by the testator's direction.

(3) By a conservator pursuant to a court order to make a will under Section 2580.

(c) (1) Except as provided in paragraph (2), the will shall be witnessed by being signed, during the testator's lifetime, by at least two persons each of whom (A) being present at the same time, witnessed either the signing of the will or the testator's acknowledgment of the signature or of the will and (B) understand that the instrument they sign is the testator's will.

(2) If a will was not executed in compliance with paragraph (1), the will shall be treated as if it was executed in compliance with that paragraph if the proponent of the will establishes by clear and convincing evidence that, at the time the testator signed the will, the testator intended the will to constitute the testator's will.

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## CHAPTER 54

An act to amend Section 3064 of the Family Code, relating to child custody.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 3064 of the Family Code is amended to read:

3064. (a) 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.

(b) "Immediate harm to the child" includes, but is not limited to, the following:

(1) 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.

(2) Sexual abuse of the child, where the court determines that the acts of sexual abuse are of recent origin or are a part of a demonstrated and continuing pattern of acts of sexual abuse.

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## CHAPTER 55

An act to amend Section 1024 of the Labor Code, relating to employment.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 1024 of the Labor Code is amended to read:

1024. All civil penalties collected pursuant to this chapter shall be deposited in the Industrial Relations Construction Industry Enforcement Fund, which is hereby created. All moneys in the fund shall be used for the purpose of enforcing the provisions of this chapter, as appropriated by the Legislature.

It is the intent of the Legislature in enacting this section to provide for the prompt and effective enforcement of labor laws relating to the construction industry.

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## CHAPTER 56

An act to repeal and add Section 396 of the Code of Civil Procedure, to amend Sections 16265.1, 16265.2, 16265.4, 16265.5 of, and to repeal Sections 16265.3, 16265.6, 68618, and 71617 of, the Government Code, and to amend Section 603.5 of the Welfare and Institutions Code, relating to trial courts.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 396 of the Code of Civil Procedure is repealed.

SEC. 2. Section 396 is added to the Code of Civil Procedure, to read:

396. (a) No appeal or petition filed in the superior court shall be dismissed solely because the appeal or petition was not filed in the proper state court.

(b) If the superior court lacks jurisdiction of an appeal or petition, and a court of appeal or the Supreme Court would have jurisdiction, the appeal or petition shall be transferred to the court having jurisdiction upon terms as to costs or otherwise as may be just, and proceeded with as if regularly filed in the court having jurisdiction.

SEC. 3. Section 16265.1 of the Government Code is amended to read:

16265.1. The Legislature finds and declares all of the following:

(a) The provision of basic social welfare and public health programs by counties is a matter of statewide interest.

(b) In some cases, the costs of these programs have grown more quickly than the counties' own general purpose revenues.

(c) A county should not be required to drastically divert its own general purpose revenues from other public programs in order to pay for basic social welfare and public health programs.

(d) California residents should not be denied the benefits of these programs because counties are hampered by a severe lack of funds for these purposes.

(e) Accordingly, it is the intent of the Legislature in enacting this chapter to protect the public peace, health, and safety by stabilizing counties' revenues.

SEC. 4. Section 16265.2 of the Government Code is amended to read:

16265.2. As used in this chapter:

(a) "County" means a county and a city and county.

(b) "County costs of eligible programs" means the amount of money other than federal and state funds, as reported by the State Department of Social Services to the Department of Finance or as derived from the Controller's "Annual Report of Financial Transactions Concerning Counties of California," that each county spends for each of the following:

(1) The Aid to Families with Dependent Children for Family Group and Unemployed Parents programs plus county administrative costs for each program minus the county's share of child support collections for each program, as described in Sections 10100, 10101, and 11250 of, and subdivisions (a) and (b) of Section 15200 of, the Welfare and Institutions Code.

(2) The county share of the cost of service provided for the In-Home Supportive Services Program, as described in Sections 10100, 10101, and 12306 of the Welfare and Institutions Code.

(3) The community mental health program, as described in Section 5705 of the Welfare and Institutions Code.

(4) The county share of the Food Stamp Program, as described in Section 18906.5 of the Welfare and Institutions Code.

(c) "General purpose revenues" means revenues received by a county whose purpose is not restricted by state law to a particular purpose or program, as reported in the Controller's "Annual Report of Financial Transactions Concerning Counties of California." "General purpose revenues" are limited to all of the following:

(1) Property tax revenues, exclusive of those revenues dedicated to repay voter approved indebtedness, received pursuant to Part 0.5 (commencing with Section 50) of Division 1 of the Revenue and Taxation Code, or received pursuant to Section 33401 of the Health and Safety Code.

(2) Sales tax revenues received pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(3) Any other taxes levied by a county.

(4) Fines and forfeitures.

(5) Licenses, permits, and franchises.

(6) Revenue derived from the use of money and property.

(7) Vehicle license fees received pursuant to Section 11005 of the Revenue and Taxation Code.

(8) Revenues from cigarette taxes received pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code.

(9) Revenue received as open-space subventions pursuant to Chapter 3 (commencing with Section 16140) of Part 1.

(10) Revenue received as homeowners' property tax exemption subventions pursuant to Chapter 2 (commencing with Section 16120) of Part 1.

(11) General revenue sharing funds received from the federal government.

"General purpose revenues" does not include revenues received by a county pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3.

SEC. 5. Section 16265.3 of the Government Code is repealed.

SEC. 6. Section 16265.4 of the Government Code is amended to read:

16265.4. (a) On or before October 31 of each year, the Director of Finance shall do all of the following:

(1) Determine for each county the county costs of eligible programs and each county's general purpose revenues for the 1981–82 fiscal year.

(2) Determine a percentage for each county by dividing the county costs of eligible programs by the general purpose revenues for the 1981–82 fiscal year.

(3) Make the determination as prescribed by paragraphs (1) and (2) for each county for each fiscal year.

(4) Compare the percentage determined pursuant to paragraph (3) with the percentage determined pursuant to paragraph (2).

(5) For any fiscal year in which the percentage determined pursuant to paragraph (3) is greater than the percentage determined pursuant to paragraph (2), determine an amount necessary to offset the difference.

(6) Determine an amount that is the sum of the amounts for all counties determined pursuant to paragraph (5).

(b) On or before October 31 of each year, the Director of Finance shall determine an amount for each county as prescribed by paragraph (5) of subdivision (a) for the applicable fiscal year.

(c) On or before October 31 of each year, the Director of Finance shall certify the amount determined for each county pursuant to subdivision (b) to the Controller.

(d) On or before November 30 of each year, the Controller shall issue a warrant to each county, as applicable, in the amount certified by the Director of Finance under subdivision (c).

SEC. 7. Section 16265.5 of the Government Code is amended to read:

16265.5. If a statute appropriates more than fifteen million dollars ($15,000,000) for the purposes of this chapter in a fiscal year, then Section 16265.4 shall not apply to the allocation of that amount of money which is greater than fifteen million dollars ($15,000,000). It is the intent of the Legislature to allocate any amount of money greater than fifteen million dollars ($15,000,000) based on criteria which shall consider the costs to counties of welfare and indigent health care.

SEC. 8. Section 16265.6 of the Government Code is repealed.

SEC. 9. Section 68618 of the Government Code is repealed.

SEC. 10. Section 71617 of the Government Code is repealed.

SEC. 11. Section 603.5 of the Welfare and Institutions Code is amended to read:

603.5. (a) Notwithstanding any other provision of law, in a county that adopts the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the superior court, except that the court may refer to the juvenile court for adjudication, cases involving a minor who has been adjudicated a ward

of the juvenile court, or who has other matters pending in the juvenile court.

(b) The cases specified in subdivision (a) shall not be governed by the procedures set forth in the juvenile court law.

(c) Any provisions of juvenile court law requiring that confidentiality be observed as to cases and proceedings, prohibiting or restricting the disclosure of juvenile court records, or restricting attendance by the public at juvenile court proceedings shall not apply. The procedures for bail specified in Chapter 1 (commencing with Section 1268) of Title 10 of Part 2 of the Penal Code shall apply.

(d) The provisions of this section shall apply in a county in which the trial courts make the section applicable as to any matters to be heard and the court has determined that there is available funding for any increased costs.

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## CHAPTER 57

An act to amend Section 3041.5 of the Family Code, relating to child custody.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 3041.5 of the Family Code is amended to read:

3041.5. (a) In any custody or visitation proceeding brought under this part, as described in Section 3021, or any guardianship proceeding brought under the Probate Code, the court may order any person who is seeking custody of, or visitation with, a child who is the subject of the proceeding to undergo testing for the illegal use of controlled substances and the use of alcohol if there is a judicial determination based upon a preponderance of evidence that there is the habitual, frequent, or continual illegal use of controlled substances or the habitual or continual abuse of alcohol by the parent, legal custodian, person seeking guardianship, or person seeking visitation in a guardianship. This evidence may include, but may not be limited to, a conviction within the last five years for the illegal use or possession of a controlled substance. The court shall order the least intrusive method of testing for the illegal use of controlled substances or the habitual or continual abuse of alcohol by either or both parents, the legal custodian, person seeking guardianship, or person seeking visitation in a guardianship. If substance abuse testing is ordered

by the court, the testing shall be performed in conformance with procedures and standards established by the United States Department of Health and Human Services for drug testing of federal employees. The parent, legal custodian, person seeking guardianship, or person seeking visitation in a guardianship who has undergone drug testing shall have the right to a hearing, if requested, to challenge a positive test result. A positive test result, even if challenged and upheld, shall not, by itself, constitute grounds for an adverse custody or guardianship decision. Determining the best interests of the child requires weighing all relevant factors. The court shall also consider any reports provided to the court pursuant to the Probate Code. The results of this testing shall be confidential, shall be maintained as a sealed record in the court file, and may not be released to any person except the court, the parties, their attorneys, the Judicial Council (until completion of its authorized study of the testing process) and any person to whom the court expressly grants access by written order made with prior notice to all parties. Any person who has access to the test results may not disseminate copies or disclose information about the test results to any person other than a person who is authorized to receive the test results pursuant to this section. Any breach of the confidentiality of the test results shall be punishable by civil sanctions not to exceed two thousand five hundred dollars ($2,500). The results of the testing may not be used for any purpose, including any criminal, civil, or administrative proceeding, except to assist the court in determining, for purposes of the proceeding, the best interest of the child pursuant to Section 3011, and the content of the order or judgment determining custody or visitation. The court may order either party, or both parties, to pay the costs of the drug or alcohol testing ordered pursuant to this section. As used in this section, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

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## CHAPTER 58

An act to amend Section 7646 of the Family Code, relating to paternity.

[Approved by Governor July 1, 2008. Filed with Secretary of State July 1, 2008.]

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

SECTION 1. Section 7646 of the Family Code is amended to read:

7646. (a) Notwithstanding any other provision of law, a judgment establishing paternity may be set aside or vacated upon a motion by the previously established mother of a child, the previously established father of a child, the child, or the legal representative of any of these persons if genetic testing indicates that the previously established father of a child is not the biological father of the child. The motion shall be brought within one of the following time periods:

(1) Within a two-year period commencing with the date on which the previously established father knew or should have known of a judgment that established him as the father of the child or commencing with the date the previously established father knew or should have known of the existence of an action to adjudicate the issue of paternity, whichever is first, except as provided in paragraph (2) or (3) of this subdivision.

(2) Within a two-year period commencing with the date of the child's birth if paternity was established by a voluntary declaration of paternity. Nothing in this paragraph shall bar any rights under subdivision (c) of Section 7575.

(3) In the case of any previously established father who is the legal father as a result of a default judgment as of the effective date of this section, within a two-year period from January 1, 2005, to December 31, 2006, inclusive.

(b) Subdivision (a) does not apply if the child is presumed to be a child of a marriage pursuant to Section 7540.

(c) Reconsideration of a motion brought under paragraph (3) of subdivision (a) may be requested and granted if the following requirements are met:

(1) The motion was filed with the court between September 24, 2006, and December 31, 2006, inclusive.

(2) The motion was denied solely on the basis that it was untimely.

(3) The request for reconsideration of the motion is filed on or before December 31, 2009.

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## CHAPTER 59

An act relating to the payment of claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. The sum of sixty-four thousand five hundred thirty dollars ($64,530) is hereby appropriated from the General Fund to the Department of Justice to pay the judgment in the case of Habitat for Hollywood Beach v. California Coastal Commission, Los Angeles Superior Court Case No. BS101782. Any funds appropriated in excess of the amount required for the payment of this judgment claim shall revert to the General Fund on June 30, 2008.

SEC. 2. The sum of four hundred twenty-eight thousand eight hundred twelve dollars and seventy-six cents ($428,812.76) is hereby appropriated from the General Fund to the Department of Justice to pay for the settlement in the case of State of California ex rel. Pension Obligation Bond Committee v. All Persons Interested, etc., Sacramento County Superior Court Case No. 04AS04303. Any funds appropriated in excess of the amount required for the payment of this claim shall revert to the General Fund on June 30, 2008.

SEC. 3. The sum of two hundred eighty-six thousand five hundred seventy-seven dollars ($286,577) is hereby appropriated from the General Fund to the Department of Justice to pay for the settlement in the case of Video Software Dealers Association v. Schwarzenegger, et al., United States District Court for the Northern District of California Case No. C 05-4188 RMW (RS). Any funds appropriated in excess of the amount required for the payment of this claim shall revert to the General Fund on June 30, 2008.

SEC. 4. The sum of thirteen thousand eight hundred eleven dollars ($13,811) is hereby appropriated from the General Fund to the Department of Justice to pay litigation costs related to the settlement in the case of Teachers' Retirement Board v. Genest and Chiang, Sacramento County Superior Court Case No. 03CS01503. It is the intent of the Legislature to appropriate in the annual Budget Act for future fiscal years the following amounts to pay interest on the judgment in this case: the sum of fifty-six million nine hundred seventy-nine thousand nine hundred forty-nine dollars ($56,979,949) in 2009–10; the sum of fifty-six million nine hundred seventy-nine thousand nine hundred forty-nine dollars ($56,979,949) in 2010–11; the sum of fifty-six million nine hundred seventy-nine thousand nine hundred forty-nine dollars ($56,979,949) in 2011–12; and the sum of fifty-six million nine hundred seventy-nine thousand nine hundred forty-nine dollars ($56,979,949) in 2012–13.

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 pay claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

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## CHAPTER 60

An act to amend Section 76000.5 of the Government Code, and to amend Section 1797.98a of the Health and Safety Code, relating to county penalties.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 76000.5 of the Government Code is amended to read:

76000.5. (a) (1) Except as otherwise provided elsewhere in this section, 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, in addition to the penalties set forth in Section 76000, the county board of supervisors may elect to levy an additional penalty in the amount of two dollars ($2) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including violations of Division 9 (commencing with Section 23000) of the Business and Professions Code relating to the control of alcoholic beverages, and all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. This penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code.

(2) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) Funds shall be collected pursuant to subdivision (a) only if the county board of supervisors provides that the increased penalties do not offset or reduce the funding of other programs from other sources, but that these additional revenues result in increased funding to those programs.

(c) Money collected pursuant to subdivision (a) shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(d) Funds collected pursuant to this section shall be deposited into the Maddy Emergency Medical Services (EMS) Fund established pursuant to Section 1797.98a of the Health and Safety Code.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 2. Section 1797.98a of the Health and Safety Code is amended to read:

1797.98a. (a) The fund provided for in this chapter shall be known as the Maddy Emergency Medical Services (EMS) Fund.

(b) (1) Each county may establish an emergency medical services fund, upon the adoption of a resolution by the board of supervisors. The moneys in the fund shall be available for the reimbursements required by this chapter. The fund shall be administered by each county, except that a county electing to have the state administer its medically indigent services program may also elect to have its emergency medical services fund administered by the state.

(2) Costs of administering the fund shall be reimbursed by the fund, based on the actual administrative costs, not to exceed 10 percent of the amount of the fund.

(3) All interest earned on moneys in the fund shall be deposited in the fund for disbursement as specified in this section.

(4) Each administering agency may maintain a reserve of up to 15 percent of the amount in the portions of the fund reimbursable to physicians and surgeons, pursuant to subparagraph (A) of, and to hospitals, pursuant to subparagraph (B) of, paragraph (5). Each administering agency may maintain a reserve of any amount in the portion of the fund that is distributed for other emergency medical services purposes as determined by each county, pursuant to subparagraph (C) of paragraph (5).

(5) The amount in the fund, reduced by the amount for administration and the reserve, shall be utilized to reimburse physicians and surgeons and hospitals for patients who do not make payment for emergency

medical services and for other emergency medical services purposes as determined by each county according to the following schedule:

(A) Fifty-eight percent of the balance of the fund shall be distributed to physicians and surgeons for emergency services provided by all physicians and surgeons, except those physicians and surgeons employed by county hospitals, in general acute care hospitals that provide basic or comprehensive emergency services up to the time the patient is stabilized.

(B) Twenty-five percent of the fund shall be distributed only to hospitals providing disproportionate trauma and emergency medical care services.

(C) Seventeen percent of the fund shall be distributed for other emergency medical services purposes as determined by each county, including, but not limited to, the funding of regional poison control centers. Funding may be used for purchasing equipment and for capital projects only to the extent that these expenditures support the provision of emergency services and are consistent with the intent of this chapter.

(c) The source of the moneys in the fund shall be the penalty assessment made for this purpose, as provided in Section 76000 of the Government Code.

(d) Any physician and surgeon may be reimbursed for up to 50 percent of the amount claimed pursuant to subdivision (a) of Section 1797.98c for the initial cycle of reimbursements made by the administering agency in a given year, pursuant to Section 1797.98e. All funds remaining at the end of the fiscal year in excess of any reserve held and rolled over to the next year pursuant to paragraph (4) of subdivision (b) shall be distributed proportionally, based on the dollar amount of claims submitted and paid to all physicians and surgeons who submitted qualifying claims during that year.

(e) Of the money deposited into the fund pursuant to Section 76000.5 of the Government Code, 15 percent shall be utilized to provide funding for all pediatric trauma centers throughout the county, both publicly and privately owned and operated. The expenditure of money shall be limited to reimbursement to physicians and surgeons, and to hospitals for patients who do not make payment for emergency care services in hospitals up to the point of stabilization, or to hospitals for expanding the services provided to pediatric trauma patients at trauma centers and other hospitals providing care to pediatric trauma patients, or at pediatric trauma centers, including the purchase of equipment. Local emergency medical services (EMS) agencies may conduct a needs assessment of pediatric trauma services in the county to allocate these expenditures. Counties that do not maintain a pediatric trauma center shall utilize the money deposited into the fund pursuant to Section 76000.5 of the Government Code to improve access to, and coordination of, pediatric trauma and emergency

services in the county, with preference for funding given to hospitals that specialize in services to children, and physicians and surgeons who provide emergency care for children. Funds spent for the purposes of this section, shall be known as Richie's Fund. This subdivision shall remain in effect only until January 1, 2014, and shall have no force or effect on or after that date, unless a later enacted statute, that is chaptered before January 1, 2014, deletes or extends that date.

(f) Costs of administering money deposited into the fund pursuant to Section 76000.5 of the Government Code shall be reimbursed from the money collected, not to exceed 10 percent. This subdivision shall remain in effect only until January 1, 2014, and shall have no force or effect on or after that date, unless a later enacted statute, that is chaptered before January 1, 2014, deletes or extends that date.

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## CHAPTER 61

An act to amend Sections 8344 and 8346 of the Education Code, relating to child care.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 8344 of the Education Code is amended to read:

8344. The County of San Mateo may implement its individualized county child care subsidy plan until January 1, 2014, at which date the County of San Mateo shall terminate the plan. Between January 1, 2014, and January 1, 2016, the County of San Mateo shall phase out the individualized county child care subsidy plan and, as of January 1, 2016, shall implement the state's requirements for child care subsidies. A child enrolling for the first time for subsidized child care in San Mateo County after January 1, 2014, shall not be enrolled in the pilot program established pursuant to this article and is subject to existing state laws and regulations regarding child care eligibility and priority.

SEC. 2. Section 8346 of the Education Code is amended to read:

8346. This article shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2016, deletes or extends that date.

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## CHAPTER 62

An act to add Sections 6253.3 and 6253.31 to the Government Code, relating to public records.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 6253.3 is added to the Government Code, to read:

6253.3. A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to this chapter.

SEC. 2. Section 6253.31 is added to the Government Code, to read:

6253.31. Notwithstanding any contract term to the contrary, a contract entered into by a state or local agency subject to this chapter, including the University of California, that requires a private entity to review, audit, or report on any aspect of that agency shall be public to the extent the contract is otherwise subject to disclosure under this chapter.

SEC. 3. Section 1 of this act does not constitute a change in, but is declaratory of, existing law.

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## CHAPTER 63

An act to amend Section 54952.2 of, and to add Section 6252.7 to, the Government Code, relating to local agencies.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. (a) The Legislature hereby declares that it disapproves the court's holding in Wolfe v. City of Fremont (2006) 144 Cal.App.4th 533, 545, fn. 6, to the extent that it construes the prohibition against serial meetings by a legislative body of a local agency, as contained in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, to require that a series of individual meetings by members of a body actually result in a collective concurrence to violate the prohibition rather than also

including the process of developing a collective concurrence as a violation of the prohibition.

(b) It is the intent of the Legislature that the changes made by Section 3 of this act supersede the court's holding described in subdivision (a).

SEC. 2. Section 6252.7 is added to the Government Code, to read:

6252.7. Notwithstanding Section 6252.5 or any other provision of law, when the members of a legislative body of a local agency are authorized to access a writing of the body or of the agency as permitted by law in the administration of their duties, the local agency, as defined in Section 54951, shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available.

SEC. 3. Section 54952.2 of the Government Code is amended to read:

54952.2. (a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(b) (1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person that do not violate subdivision (b).

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph

is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

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## CHAPTER 64

An act to amend Sections 56375, 56375.4, and 56383 of the Government Code, relating to local government.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of districts.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, when consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at buildout, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and prezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the prezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall

notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions not inconsistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(*l*) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 25210.90 or Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) 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 property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 2. Section 56375.4 of the Government Code is amended to read:

56375.4. (a) The authority to initiate, conduct, and complete any proceeding pursuant to subdivision (a) of Section 56375.3 does not apply to any territory that, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed, except for islands that were created after January 1, 2000, as a result of boundary adjustments between two counties. The authority to initiate, conduct, and complete any proceeding pursuant to paragraph (1) of subdivision (a) of Section 56375.3 shall expire January 1, 2014. The period of time between January 1, 2000, and January 1, 2014, shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3. Upon final disposition of that case, the previously enjoined local agency may initiate, conduct, and complete proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3 for the same period of time as was remaining under that 14-year limit at the time the injunction commenced. However, if the remaining time is less than six months, that authority shall continue for six months following final disposition of the action.

(b) Between January 1, 2000, and January 1, 2014, no new proposal involving the same or substantially the same territory as a proposal initiated pursuant to paragraph (1) of subdivision (a) of Section 56375.3 after January 1, 2000, shall be initiated for two years after the date of adoption by the commission of a resolution terminating proceedings.

SEC. 3. Section 56383 of the Government Code is amended to read:

56383. (a) The commission may establish a schedule of fees and a schedule of service charges for the proceedings taken pursuant to this division, including, but not limited to, all of the following:

(1) Filing and processing applications filed with the commission.

(2) Proceedings undertaken by the commission and any reorganization committee.

(3) Amending a sphere of influence.

(4) Reconsidering a resolution making determinations.

(b) The fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016. The service charges shall not exceed the cost of providing the service for which the service charge is charged and shall be imposed pursuant to Section 60016.

(c) The commission may require that an applicant deposit some or all of the required amount that will be owed with the executive officer before any further action is taken. The deposit shall be made within the time period specified by the commission. No application shall be deemed filed until the applicant deposits the required amount with the executive officer. The executive officer shall provide the applicant with an accounting of all costs charged against the deposited amount. If the costs are less than the deposited amount, the executive officer shall refund the balance to the applicant after the executive officer verifies the completion of all proceedings. If the costs exceed the deposited amount, the applicant shall pay the difference prior to the completion of all proceedings.

(d) The commission may reduce or waive a fee, service charge, or deposit if it finds that payment would be detrimental to the public interest. The reduction or waiver of any fee, service charge, or deposit is limited to the costs incurred by the commission in the proceedings of an application.

(e) Any mandatory time limits for commission action may be deferred until the applicant pays the required fee, service charge, or deposit.

(f) The signatures on a petition submitted to the commission by registered voters shall be verified by the elections official of the county and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county.

(g) For incorporation proceedings that have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified by the county registrar of voters, the commission may, upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees, service charges, or deposits for the proceedings, take no action on the proposal and request a loan from the General Fund of an amount sufficient to cover those expenses subject to availability of an appropriation for those purposes and in accordance with any provisions of the appropriation. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Repayment shall be made within two years of the effective date of incorporation. If the proposal is denied by the commission or defeated at an election, the loan shall be forgiven.

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## CHAPTER 65

An act to amend Sections 14825, 14826, 14827, 14830, 14838, 14841, 14842, 14843, 14844, 14845, 14855, and 14860 of, to add Sections

14832 and 14833 to, to repeal Sections 14857, 14858, and 14859 of, and to repeal and add Section 14856 of, the Health and Safety Code, relating to firefighters.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 14825 of the Health and Safety Code is amended to read:

14825. (a) Fire companies in unincorporated towns may be organized by filing a certificate signed by the foreman or presiding officer and by the secretary, with the Fire and Rescue Operational Area Coordinator in the same county, or other county agency as designated by ordinance of the county board of supervisors.

(b) Fire companies in incorporated cities may be organized, subject to any local ordinance established pursuant to Section 14832, by filing a certificate signed by the foreman or presiding officer and by the secretary, with the city council or other agency as designated by ordinance of the city council and with the Fire and Rescue Operational Area Coordinator in the same county as the city.

SEC. 2. Section 14826 of the Health and Safety Code is amended to read:

14826. The certificate shall set forth the following matters:

(a) The date of organization.

(b) The name of the company.

(c) The names of the officers.

(d) The roll of active volunteer firefighters and those volunteer firefighters on leave.

(e) Where an ordinance has been adopted pursuant to Section 14831, a copy of the determination of the board of supervisors pursuant to Section 14831.

SEC. 3. Section 14827 of the Health and Safety Code is amended to read:

14827. The certificate shall be filed by February 1 of each year. The board of supervisors may, by ordinance, require an updated or second filing each year.

SEC. 4. Section 14830 of the Health and Safety Code is amended to read:

14830. Every fire company shall choose or elect a foreman, or president, who is the presiding officer, and a secretary and treasurer.

SEC. 5. Section 14832 is added to the Health and Safety Code, to read:

14832. The city council of an incorporated city may, by ordinance, regulate the formation and continued existence of fire companies providing services within its city.

SEC. 6. Section 14833 is added to the Health and Safety Code, to read:

14833. Fire company vehicles granted exempt California vehicle registration or displaying exempt California license plates shall be properly insured, marked, and identified as a fire company vehicle. The fire company shall not allow those vehicles to be loaned, rented, or used for personal pleasure or by for-profit businesses for private economic gain of a business or contractor. This limitation is not intended to prohibit or hinder the fire company's legitimate use of fire company vehicles for emergency services, including contract arrangements or agreements to provide temporary emergency services or standby services to organizations or governmental agencies requesting those services.

SEC. 7. Section 14838 of the Health and Safety Code is amended to read:

14838. The secretary of every company having a seal shall take the constitutional oath of office and give a bond as the bylaws provide for the faithful performance of his or her duties.

SEC. 8. Section 14841 of the Health and Safety Code is amended to read:

14841. The chief or ranking officer of every fire company shall inquire into the cause of, and keep a record of, every fire occurring in the town.

SEC. 9. Section 14842 of the Health and Safety Code is amended to read:

14842. The chief or ranking officer shall aid in the enforcement of all fire ordinances, examine buildings in process of erection, report violations of ordinances relating to prevention or extinguishment of fires, and when directed by the proper authorities institute prosecutions therefor.

SEC. 10. Section 14843 of the Health and Safety Code is amended to read:

14843. The chief or ranking officer shall perform other duties as may be by proper authority imposed upon him or her.

SEC. 11. Section 14844 of the Health and Safety Code is amended to read:

14844. Every chief, if any, shall attend all fires with his or her badge of office conspicuously displayed.

SEC. 12. Section 14845 of the Health and Safety Code is amended to read:

14845. The chief or ranking officer shall prevent injury to, take charge of, and preserve all property rescued from fires, and return the property to its owner on the payment of the expenses incurred in saving and keeping it.

SEC. 13. Section 14855 of the Health and Safety Code is amended to read:

14855. The active volunteer firefighters of volunteer fire companies or departments regularly organized and recognized by the Fire and Rescue Operational Area Coordinator or the county board of supervisors are exempt from military duty, except in case of war, invasion, or insurrection.

SEC. 14. Section 14856 of the Health and Safety Code is repealed.

SEC. 15. Section 14856 is added to the Health and Safety Code, to read:

14856. The burden of providing proof of eligibility for the privileges and exemptions of Section 14855 shall be the responsibility of the volunteer firefighter with the reasonable cooperation of his or her department.

SEC. 16. Section 14857 of the Health and Safety Code is repealed.

SEC. 17. Section 14858 of the Health and Safety Code is repealed.

SEC. 18. Section 14859 of the Health and Safety Code is repealed.

SEC. 19. Section 14860 of the Health and Safety Code is amended to read:

14860. Every officer of a fire company or department who willfully issues or causes to be issued any certificate of exemption to a person not entitled to it, is guilty of a misdemeanor.

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## CHAPTER 66

An act to repeal Sections 19830, 19831, and 19832 of, and to repeal and add Section 19825 of, the Health and Safety Code, relating to building permits.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 19825 of the Health and Safety Code is repealed.

SEC. 2. Section 19825 is added to the Health and Safety Code, to read:

19825. (a) Every city, county, or city and county, whether general law or chartered, that requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure, shall require the execution of a permit application, in substantially the same form set forth under this subdivision, and require any individual who executes the Owner-Builder Declaration to present documentation sufficient to identify the property owner and, as necessary, verify the signature of the property owner. A city, county, or city and county may require additional information on the permit application.

PERMIT APPLICATION
BUILDING PROJECT IDENTIFICATION

Applicant's Mailing Address _____
_____
_____

Property Location or Address _____

Property Owner's Name _____
Property Owner's Telephone No. _____
Licensed Design Professional (Architect or Engineer) in charge of the project _____
Mailing Address of Licensed Design Professional _____
_____
License No._____

LICENSED CONTRACTOR'S DECLARATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class _____ License No. _____
Date _____ Contractor Signature _____

OWNER-BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors' State License Law for the reason(s) indicated below by the checkmark(s) I have placed next to the applicable item(s) (Section 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for the permit to file a signed statement that he or

she is licensed pursuant to the provisions of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt from licensure and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars ($500).):

(_) I, as owner of the property, or my employees with wages as their sole compensation, will do (_) all of or (_) portions of the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who, through employees' or personal effort, builds or improves the property, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the Owner-Builder will have the burden of proving that it was not built or improved for the purpose of sale.).

(_) I, as owner of the property, am exclusively contracting with licensed Contractors to construct the project (Section 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the projects with a licensed Contractor pursuant to the Contractors' State License Law.).

(_) I am exempt from licensure under the Contractors' State License Law for the following reason:

_____

By my signature below I acknowledge that, except for my personal residence in which I must have resided for at least one year prior to completion of the improvements covered by this permit, I cannot legally sell a structure that I have built as an owner-builder if it has not been constructed in its entirety by licensed contractors. I understand that a copy of the applicable law, Section 7044 of the Business and Professions Code, is available upon request when this application is submitted or at the following Web site: http://www.leginfo.ca.gov/calaw.html.

Date _____

Signature of Property Owner or Authorized Agent

_____

WORKERS' COMPENSATION DECLARATION

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER

TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS ($100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

I hereby affirm under penalty of perjury one of the following declarations:
____ I have and will maintain a certificate of consent to self-insure for workers' compensation, issued by the Director of Industrial Relations as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.
Policy No. _____

____ I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier_____Policy Number_____ Expiration Date_____
Name of Agent _____ Phone # _____

____ I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

_____ _____
Signature of Applicant Date

DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Section 3097, Civil Code).
Lender's Name _____

Lender's Address _____

By my signature below, I certify to each of the following:
I am the property owner or authorized to act on the property owner's behalf.
I have read this application and the information I have provided is correct.
I agree to comply with all applicable city and county ordinances and state laws relating to building construction.

I authorize representatives of this city or county to enter the above-identified property for inspection purposes.
Signature of Property Owner or Authorized Agent _____
Date _____

(b) When the Permit Application and the Owner-Builder Declaration have been executed by a person other than the property owner, prior to issuing the permit, the following shall be completed by the property owner and returned to the agency responsible for issuing the permit:

AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER'S BEHALF

Excluding the Notice to Property Owner, the execution of which I understand is my personal responsibility, I hereby authorize the following person(s) to act as my agent(s) to apply for, sign, and file the documents necessary to obtain an Owner-Builder Permit for my project.

Scope of Construction Project (or Description of Work):
_____
Project Location or Address: _____
Name of Authorized
Agent: _____

Address of Authorized
Agent: _____

Phone Number of Authorized
Agent: _____

I declare under penalty of perjury that I am the property owner for the address listed above and I personally filled out the above information and certify its accuracy.
Property Owner's Signature:_____Date: _____

Note: A copy of the owner's driver's license, form notarization, or other verification acceptable to the agency is required to be presented when the permit is issued to verify the property owner's signature.

(c) When the Owner-Builder Declaration required under subdivision (a) is executed, a Notice to Property Owner also shall be executed by the property owner in substantially the same form set forth under this section. The Notice to Property Owner shall appear on the official

letterhead of the issuer and shall be provided to the applicant by one of the following methods chosen by the permitting authority: regular mail, electronic format, or given directly to the applicant at the time the application for the permit is made. Except as otherwise provided, the Notice to Property Owner pursuant to this section shall be completed and signed by the property owner and returned prior to issuance of the permit. An agent of the owner shall not execute this notice unless the property owner obtains the prior approval of the permitting authority. A permit shall not be issued unless the property owner complies with this section.

NOTICE TO PROPERTY OWNER

Dear Property Owner:

An application for a building permit has been submitted in your name listing yourself as the builder of the property improvements specified at _____.

We are providing you with an Owner-Builder Acknowledgment and Information Verification Form to make you aware of your responsibilities and possible risk you may incur by having this permit issued in your name as the Owner-Builder.

We will not issue a building permit until you have read, initialed your understanding of each provision, signed, and returned this form to us at our official address indicated. An agent of the owner cannot execute this notice unless you, the property owner, obtain the prior approval of the permitting authority.

OWNER'S ACKNOWLEDGMENT AND VERIFICATION OF INFORMATION

DIRECTIONS: Read and initial each statement below to signify you understand or verify this information.

____1. I understand a frequent practice of unlicensed persons is to have the property owner obtain an "Owner-Builder" building permit that erroneously implies that the property owner is providing his or her own labor and material personally. I, as an Owner-Builder, may be held liable and subject to serious financial risk for any injuries sustained by an unlicensed person and his or her employees while working on my property. My homeowner's insurance may not provide coverage for those injuries. I am willfully acting as an Owner-Builder and am aware of the limits of my insurance coverage for injuries to workers on my property.

____2. I understand building permits are not required to be signed by property owners unless they are *responsible* for the construction and are not hiring a licensed Contractor to assume this responsibility.

____3. I understand as an "Owner-Builder" I am the responsible party of record on the permit. I understand that I may protect myself from potential financial risk by hiring a licensed Contractor and having the permit filed in his or her name instead of my own.

____4. I understand Contractors are required by law to be licensed and bonded in California and to list their license numbers on permits and contracts.

____5. I understand if I employ or otherwise engage any persons, other than California licensed Contractors, and the total value of my construction is at least five hundred dollars ($500), including labor and materials, I may be considered an "employer" under state and federal law.

____6. I understand if I am considered an "employer" under state and federal law, I must register with the state and federal government, withhold payroll taxes, provide workers' compensation disability insurance, and contribute to unemployment compensation for each "employee." I also understand my failure to abide by these laws may subject me to serious financial risk.

____7. I understand under California Contractors' State License Law, an Owner-Builder who builds single-family residential structures cannot legally build them with the intent to offer them for sale, unless *all* work is performed by licensed subcontractors and the number of structures does not exceed four within any calendar year, or all of the work is performed under contract with a licensed general building Contractor.

____8. I understand as an Owner-Builder if I sell the property for which this permit is issued, I may be held liable for any financial or personal injuries sustained by any subsequent owner(s) that result from any latent construction defects in the workmanship or materials.

____9. I understand I may obtain more information regarding my obligations as an "employer" from the Internal Revenue Service, the United States Small Business Administration, the California Department of Benefit Payments, and the California Division of Industrial Accidents. I also understand I may contact the California Contractors' State License Board (CSLB) at 1-800-321-CSLB (2752) or www.cslb.ca.gov for more information about licensed contractors.

____10. I am aware of and consent to an Owner-Builder building permit applied for in my name, and understand that I am the party legally and financially responsible for proposed construction activity at the following address:

_____

____11. I agree that, as the party legally and financially responsible for this proposed construction activity, I will abide by all applicable laws and requirements that govern Owner-Builders as well as employers.

____ 12. I agree to notify the issuer of this form immediately of any additions, deletions, or changes to any of the information I have provided on this form.

Licensed contractors are regulated by laws designed to protect the public. If you contract with someone who does not have a license, the Contractors' State License Board may be unable to assist you with any financial loss you may sustain as a result of a complaint. Your only remedy against unlicensed Contractors may be in civil court. It is also important for you to understand that if an unlicensed Contractor or employee of that individual or firm is injured while working on your property, you may be held liable for damages. If you obtain a permit as Owner-Builder and wish to hire Contractors, you will be responsible for verifying whether or not those Contractors are properly licensed and the status of their workers' compensation insurance coverage.

Before a building permit can be issued, this form must be completed and signed by the property owner and returned to the agency responsible for issuing the permit.
Note: A copy of the property owner's driver's license, form notarization, or other verification acceptable to the agency is required to be presented when the permit is issued to verify the property owner's signature.

Signature of property owner _____ Date: _____

SEC. 3. Section 19830 of the Health and Safety Code is repealed.
SEC. 4. Section 19831 of the Health and Safety Code is repealed.
SEC. 5. Section 19832 of the Health and Safety Code is repealed.

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## CHAPTER 67

An act to amend Sections 1185 and 1196 of the Civil Code, and to amend Section 8206 of the Government Code, relating to notaries public.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 1185 of the Civil Code is amended to read:

1185. (a) The acknowledgment of an instrument shall not be taken unless the officer taking it has satisfactory evidence that the person making the acknowledgment is the individual who is described in and who executed the instrument.

(b) For the purposes of this section "satisfactory evidence" means the absence of any information, evidence, or other circumstances that would lead a reasonable person to believe that the person making the acknowledgment is not the individual he or she claims to be and any one of the following:

(1) (A) The oath or affirmation of a credible witness personally known to the officer, whose identity is proven to the officer upon presentation of any document satisfying the requirements of paragraph (3) or (4), that the person making the acknowledgment is personally known to the witness and that each of the following are true:

(i) The person making the acknowledgment is the person named in the document.

(ii) The person making the acknowledgment is personally known to the witness.

(iii) That it is the reasonable belief of the witness that the circumstances of the person making the acknowledgment are such that it would be very difficult or impossible for that person to obtain another form of identification.

(iv) The person making the acknowledgment does not possess any of the identification documents named in paragraphs (3) and (4).

(v) The witness does not have a financial interest in the document being acknowledged and is not named in the document.

(B) A notary public who violates this section by failing to obtain the satisfactory evidence required by subparagraph (A) shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). An action to impose this civil penalty may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this subparagraph.

(2) The oath or affirmation under penalty of perjury of two credible witnesses, whose identities are proven to the officer upon the presentation

of any document satisfying the requirements of paragraph (3) or (4), that each statement in paragraph (1) of this subdivision is true.

(3) Reasonable reliance on the presentation to the officer of any one of the following, if the document is current or has been issued within five years:

(A) An identification card or driver's license issued by the California Department of Motor Vehicles.

(B) A passport issued by the Department of State of the United States.

(4) Reasonable reliance on the presentation of any one of the following, provided that a document specified in subparagraphs (A) to (F), inclusive, shall either be current or have been issued within five years and shall contain a photograph and description of the person named on it, shall be signed by the person, shall bear a serial or other identifying number, and, in the event that the document is a passport, shall have been stamped by the United States Immigration and Naturalization Service:

(A) A passport issued by a foreign government.

(B) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(C) An identification card issued by a state other than California.

(D) An identification card issued by any branch of the Armed Forces of the United States.

(E) An inmate identification card issued on or after January 1, 1988, by the Department of Corrections and Rehabilitation, if the inmate is in custody.

(F) An employee identification card issued by an agency or office of the State of California, or by an agency or office of a city, county, or city and county in this state.

(G) An inmate identification card issued prior to January 1, 1988, by the Department of Corrections and Rehabilitation, if the inmate is in custody.

(c) An officer who has taken an acknowledgment pursuant to this section shall be presumed to have operated in accordance with the provisions of law.

(d) Any party who files an action for damages based on the failure of the officer to establish the proper identity of the person making the acknowledgment shall have the burden of proof in establishing the negligence or misconduct of the officer.

(e) Any person convicted of perjury under this section shall forfeit any financial interest in the document.

SEC. 2. Section 1196 of the Civil Code is amended to read:

1196. A witness shall be proved to be a subscribing witness by the oath of a credible witness who provides the officer with any document

satisfying the requirements of paragraph (3) or (4) of subdivision (b) of Section 1185.

SEC. 3. Section 8206 of the Government Code is amended to read:

8206. (a) (1) A notary public shall keep one active sequential journal at a time, of all official acts performed as a notary public. The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary. Failure to secure the journal shall be cause for the Secretary of State to take administrative action against the commission held by the notary public pursuant to Section 8214.1.

(2) The journal shall be in addition to, and apart from, any copies of notarized documents that may be in the possession of the notary public and shall include all of the following:

(A) Date, time, and type of each official act.

(B) Character of every instrument sworn to, affirmed, acknowledged, or proved before the notary.

(C) The signature of each person whose signature is being notarized.

(D) A statement as to whether the identity of a person making an acknowledgment or taking an oath or affirmation was based on satisfactory evidence. If identity was established by satisfactory evidence pursuant to Section 1185 of the Civil Code, then the journal shall contain the signature of the credible witness swearing or affirming to the identity of the individual or the type of identifying document, the governmental agency issuing the document, the serial or identifying number of the document, and the date of issue or expiration of the document.

(E) If the identity of the person making the acknowledgment or taking the oath or affirmation was established by the oaths or affirmations of two credible witnesses whose identities are proven to the notary public by presentation of any document satisfying the requirements of paragraph (3) or (4) of subdivision (b) of Section 1185 of the Civil Code, the notary public shall record in the journal the type of documents identifying the witnesses, the identifying numbers on the documents identifying the witnesses, and the dates of issuance or expiration of the documents identifying the witnesses.

(F) The fee charged for the notarial service.

(G) If the document to be notarized is a deed, quitclaim deed, deed of trust affecting real property, or a power of attorney document, the notary public shall require the party signing the document to place his or her right thumbprint in the journal. If the right thumbprint is not available, then the notary shall have the party use his or her left thumb, or any available finger and shall so indicate in the journal. If the party signing the document is physically unable to provide a thumbprint or fingerprint, the notary shall so indicate in the journal and shall also provide an explanation of that physical condition. This paragraph shall

not apply to a trustee's deed resulting from a decree of foreclosure or a nonjudicial foreclosure pursuant to Section 2924 of the Civil Code, nor to a deed of reconveyance.

(b) If a sequential journal of official acts performed by a notary public is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable as a record of notarial acts and information, the notary public shall immediately notify the Secretary of State by certified or registered mail. The notification shall include the period of the journal entries, the notary public commission number, and the expiration date of the commission, and when applicable, a photocopy of any police report that specifies the theft of the sequential journal of official acts.

(c) Upon written request of any member of the public, which request shall include the name of the parties, the type of document, and the month and year in which notarized, the notary shall supply a photostatic copy of the line item representing the requested transaction at a cost of not more than thirty cents ($0.30) per page.

(d) The journal of notarial acts of a notary public is the exclusive property of that notary public, and shall not be surrendered to an employer upon termination of employment, whether or not the employer paid for the journal, or at any other time. The notary public shall not surrender the journal to any other person, except the county clerk, pursuant to Section 8209, or immediately, or if the journal is not present then as soon as possible, upon request to a peace officer investigating a criminal offense who has reasonable suspicion to believe the journal contains evidence of a criminal offense, as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code, acting in his or her official capacity and within his or her authority. If the peace officer seizes the notary journal, he or she must have probable cause as required by the laws of this state and the United States. A peace officer or law enforcement agency that seizes a notary journal shall notify the Secretary of State by facsimile within 24 hours, or as soon possible thereafter, of the name of the notary public whose journal has been seized. The notary public shall obtain a receipt for the journal, and shall notify the Secretary of State by certified mail within 10 days that the journal was relinquished to a peace officer. The notification shall include the period of the journal entries, the commission number of the notary public, the expiration date of the commission, and a photocopy of the receipt. The notary public shall obtain a new sequential journal. If the journal relinquished to a peace officer is returned to the notary public and a new journal has been obtained, the notary public shall make no new entries in the returned journal. A notary public who is an employee shall permit inspection and copying of journal transactions by a duly designated auditor or agent of the notary public's employer, provided that the inspection and copying

is done in the presence of the notary public and the transactions are directly associated with the business purposes of the employer. The notary public, upon the request of the employer, shall regularly provide copies of all transactions that are directly associated with the business purposes of the employer, but shall not be required to provide copies of any transaction that is unrelated to the employer's business. Confidentiality and safekeeping of any copies of the journal provided to the employer shall be the responsibility of that employer.

(e) The notary public shall provide the journal for examination and copying in the presence of the notary public upon receipt of a subpoena duces tecum or a court order, and shall certify those copies if requested.

(f) Any applicable requirements of, or exceptions to, state and federal law shall apply to a peace officer engaged in the search or seizure of a sequential journal.

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## CHAPTER 68

An act to amend Sections 56106, 56157, 56332, 56375.3, 56425.5, 56654, 56706, and 57080 of, to amend the heading of Chapter 7 (commencing with Section 57176) of Part 4 of Division 3 of Title 5 of, and to repeal Sections 56650.5 and 56758 of, the Government Code, relating to local agencies.

[Approved by Governor July 3, 2008. Filed with Secretary of State July 3, 2008.]

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

SECTION 1. Section 56106 of the Government Code is amended to read:

56106. Any provisions in this division governing the time within which an official or the commission is to act shall in all instances, except for notice requirements and the requirements of subdivision (i) of Section 56658 and subdivision (b) of Section 56895, be deemed directory, rather than mandatory.

SEC. 2. Section 56157 of the Government Code is amended to read:

56157. When mailed notice is required to be given to:

(a) A county, city, or district, it shall be addressed to the clerk of the county, city, or district.

(b) A commission, it shall be addressed to the executive officer.

(c) Proponents, it shall be addressed to the persons so designated in the petition at the address specified in the petition.

(d) Landowners, it shall be addressed to each person to whom land is assessed, as shown upon the most recent assessment roll being prepared by the county at the time the proponent adopts a resolution of application pursuant to Section 56654 or files a notice of intention to circulate a petition with the executive officer pursuant to subdivision (a) of Section 56700.4, at the address shown upon the assessment roll and to all landowners within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 21 days prior to the hearing. This requirement may be waived if proof satisfactory to the commission is presented that shows that individual notices to landowners have already been provided by the initiating agency. Notice also shall be either posted or published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the affected territory 21 days prior to the hearing.

(e) Persons requesting special notice, it shall be addressed to each person who has filed a written request for special notice with the executive officer or clerk at the mailing address specified in the request.

(f) To all registered voters within the affected territory, to the address as shown on the most recent index of affidavits prepared by the county elections official at the time the proponent adopts a resolution of application pursuant to Section 56654 or files a notice of intention to circulate a petition with the executive officer pursuant to subdivision (a) of Section 56700.4 and to all registered voters within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 21 days prior to the hearing. This requirement may be waived if proof satisfactory to the commission is presented that shows that individual notices to registered voters have already been provided by the initiating agency. Notice shall also either be posted or published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the affected territory 21 days prior to the hearing.

(g) Pursuant to subdivisions (d) and (f), if a landowner or landowners and registered voter or voters are the same individual or individuals, only one notice is required to be mailed.

(h) If the total number of notices required to be mailed in accordance with subdivisions (d) and (f) exceeds 1,000, then notice may instead be provided by publishing a display advertisement of at least one-eighth page in a newspaper, as specified in Section 56153, at least 21 days prior to the hearing.

SEC. 3. Section 56332 of the Government Code is amended to read:

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special

district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(c) (1) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. If only one candidate is nominated for a vacant seat, that candidate shall be deemed selected, with no further proceedings.

(2) As an alternative to the delivery by certified mail, the executive officer, with the prior concurrence of the district, may transmit the ballot and voting instructions by electronic mail, provided that the executive officer shall retain written evidence of the receipt of that material.

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts.

(4) If the executive officer has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the executive officer by electronic mail, provided that the executive officer retains written evidence of the receipt of the ballot.

(5) Any ballot received by the executive officer after the specified date is invalid. The executive officer shall announce the results of the election within seven days of the specified date.

(d) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(e) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

SEC. 4. Section 56375.3 of the Government Code is amended to read:

56375.3. (a) In addition to those powers enumerated in Section 56375, a commission shall do either of the following:

(1) Approve, after notice and hearing, the change of organization or reorganization of a city, and waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely, if all of the following are true:

(A) The change of organization or reorganization is initiated on or after January 1, 2000, and before January 1, 2014.

(B) The change of organization or reorganization is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the change of organization or reorganization proposal meets all of the requirements set forth in subdivision (b).

(2) Approve, after notice and hearing, the change of organization or reorganization of a city, subject to subdivision (a) of Section 57080, if all of the following are true:

(A) The change of organization or reorganization is initiated on or after January 1, 2014.

(B) The change of organization or reorganization is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the change of organization or reorganization proposal meets all of the requirements set forth in subdivision (b).

(b) Subdivision (a) applies to territory that meets all of the following requirements:

(1) It does not exceed 150 acres in area, and that area constitutes the entire island.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this paragraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.

(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the change of organization or reorganization or is receiving benefits from the annexing city.

(c) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

SEC. 5. Section 56425.5 of the Government Code is amended to read:

56425.5. (a) A determination of a city's sphere of influence, in any case where that sphere of influence includes any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, shall not preclude any other local agency, as defined in Section 54951, including the redevelopment agency referenced in Section 33492.41 of the Health and Safety Code, in addition to that city, from providing facilities or services related to development, to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by other local agencies to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Subdivision (a) shall apply regardless of whether the determination of the sphere of influence is made before or after January 1, 2000.

SEC. 6. Section 56650.5 of the Government Code is repealed.

SEC. 7. Section 56654 of the Government Code is amended to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency.

(b) At least 21 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(c) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 7.5. Section 56654 of the Government Code is amended to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application

by the legislative body of an affected local agency, except as provided in subdivision (b).

(b) Notwithstanding Section 56700, a proposal for a change of organization that involves the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, shall only be initiated by the legislative body of that special district in accordance with Sections 56824.10, 56824.12, and 56824.14.

(c) At least 21 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(d) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 8. Section 56706 of the Government Code is amended to read:

56706. (a) Within 30 days, excluding Saturdays, Sundays, and holidays, after the date of receiving a petition, the executive officer shall cause the petition to be examined by, in the case of a registered voter petition, the county elections official, in accordance with Sections 9113 to 9115, inclusive, of the Elections Code, or in the case of a landowner petition, the county assessor, and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

(b) (1) Except as provided in paragraph (2), if the certificate of the executive officer shows the petition to be insufficient, the executive officer shall immediately give notice by certified mail of the insufficiency to the proponents, if any. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

(2) Notwithstanding paragraph (1), the proponents of the petition may, at their option, collect signatures for an additional 15 days immediately following the statutory period allowed for collecting signatures without waiting for notice of insufficiency. Any proponent choosing to exercise this option may not file a supplemental petition as provided in paragraph (1).

(c) Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his or her examination.

(d) A certificate of sufficiency shall be signed by the executive officer and dated. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination. The executive officer shall mail a copy of the certificate of sufficiency to the proponents, if any.

SEC. 9. Section 56758 of the Government Code is repealed.

SEC. 10. Section 57080 of the Government Code is amended to read:

57080. (a) With respect to a proceeding initiated on or after January 1, 2014, when approved and authorized by the commission pursuant to Section 56375.3, Sections 57050, 57051, 57052, and 57078, shall apply and Section 57075 shall not apply.

(b) The commission, not more than 30 days after conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and shall do either of the following:

(1) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(2) Order the territory annexed without an election.

SEC. 11. The heading of Chapter 7 (commencing with Section 57176) of Part 4 of Division 3 of Title 5 of the Government Code is amended to read:

CHAPTER 7. CONFIRMATION OF ELECTION RESULTS

SEC. 12. Section 7.5 of this bill incorporates amendments to Section 56654 of the Government Code proposed by both this bill and AB 2484. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 56654 of the Government Code, and (3) this bill is enacted after AB 2484, in which case Section 7 of this bill shall not become operative.

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## CHAPTER 69

An act to add and repeal Sections 2923.5, 2923.6, 2924.8, and 2929.3 of the Civil Code, and to add and repeal Section 1161b of the Code of Civil Procedure, relating to mortgages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

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

(a) California is facing an unprecedented threat to its state economy and local economies because of skyrocketing residential property foreclosure rates in California. Residential property foreclosures increased sevenfold from 2006 to 2007. In 2007, more than 84,375 properties were lost to foreclosure in California, and 254,824 loans went into default, the first step in the foreclosure process.

(b) High foreclosure rates have adversely affected property values in California, and will have even greater adverse consequences as foreclosure rates continue to rise. According to statistics released by the HOPE NOW Alliance, the number of completed California foreclosure sales in 2007 increased almost threefold from 1,902 in the first quarter to 5,574 in the fourth quarter of that year. Those same statistics report that 10,556 foreclosure sales, almost double the number for the prior quarter, were completed just in the month of January 2008. More foreclosures means less money for schools, public safety, and other key services.

(c) Under specified circumstances, mortgage lenders and servicers are authorized under their pooling and servicing agreements to modify mortgage loans when the modification is in the best interest of investors. Generally, that modification may be deemed to be in the best interest of investors when the net present value of the income stream of the modified loan is greater than the amount that would be recovered through the disposition of the real property security through a foreclosure sale.

(d) It is essential to the economic health of California for the state to ameliorate the deleterious effects on the state economy and local economies and the California housing market that will result from the continued foreclosures of residential properties in unprecedented numbers by modifying the foreclosure process to require mortgagees, beneficiaries, or authorized agents to contact borrowers and explore options that could avoid foreclosure. These changes in accessing the state's foreclosure process are essential to ensure that the process does not exacerbate the current crisis by adding more foreclosures to the glut of foreclosed properties already on the market when a foreclosure could have been avoided. Those additional foreclosures will further destabilize the housing market with significant, corresponding deleterious effects on the local and state economy.

(e) According to a survey released by the Federal Home Loan Mortgage Corporation (Freddie Mac) on January 31, 2008, 57 percent of the nation's late-paying borrowers do not know their lenders may offer alternatives to help them avoid foreclosure.

(f) As reflected in recent government and industry-led efforts to help troubled borrowers, the mortgage foreclosure crisis impacts borrowers not only in nontraditional loans, but also many borrowers in conventional loans.

(g) This act is necessary to avoid unnecessary foreclosures of residential properties and thereby provide stability to California's statewide and regional economies and housing market by requiring early contact and communications between mortgagees, beneficiaries, or authorized agents and specified borrowers to explore options that could avoid foreclosure and by facilitating the modification or restructuring of loans in appropriate circumstances.

SEC. 2. Section 2923.5 is added to the Civil Code, to read:

2923.5. (a) (1) A mortgagee, trustee, beneficiary, or authorized agent may not file a notice of default pursuant to Section 2924 until 30 days after contact is made as required by paragraph (2) or 30 days after satisfying the due diligence requirements as described in subdivision (g).

(2) A mortgagee, beneficiary, or authorized agent shall contact the borrower in person or by telephone in order to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure. During the initial contact, the mortgagee, beneficiary, or authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the mortgagee, beneficiary, or authorized agent shall schedule the meeting to occur within 14 days. The assessment of the borrower's financial situation and discussion of options may occur during the first contact, or at the subsequent meeting scheduled for that purpose. In either case, the borrower shall be provided the toll-free telephone number made available by the United States Department of Housing and Urban Development (HUD) to find a HUD-certified housing counseling agency. Any meeting may occur telephonically.

(b) A notice of default filed pursuant to Section 2924 shall include a declaration from the mortgagee, beneficiary, or authorized agent that it has contacted the borrower, tried with due diligence to contact the borrower as required by this section, or the borrower has surrendered the property to the mortgagee, trustee, beneficiary, or authorized agent.

(c) If a mortgagee, trustee, beneficiary, or authorized agent had already filed the notice of default prior to the enactment of this section and did not subsequently file a notice of rescission, then the mortgagee, trustee, beneficiary, or authorized agent shall, as part of the notice of sale filed pursuant to Section 2924f, include a declaration that either:

(1) States that the borrower was contacted to assess the borrower's financial situation and to explore options for the borrower to avoid foreclosure.

(2) Lists the efforts made, if any, to contact the borrower in the event no contact was made.

(d) A mortgagee's, beneficiary's, or authorized agent's loss mitigation personnel may participate by telephone during any contact required by this section.

(e) For purposes of this section, a "borrower" shall include a mortgagor or trustor.

(f) A borrower may designate a HUD-certified housing counseling agency, attorney, or other advisor to discuss with the mortgagee, beneficiary, or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure. That contact made at the direction of the borrower shall satisfy the contact requirements of paragraph (2) of subdivision (a). Any loan modification or workout plan offered at the meeting by the mortgagee, beneficiary, or authorized agent is subject to approval by the borrower.

(g) A notice of default may be filed pursuant to Section 2924 when a mortgagee, beneficiary, or authorized agent has not contacted a borrower as required by paragraph (2) of subdivision (a) provided that the failure to contact the borrower occurred despite the due diligence of the mortgagee, beneficiary, or authorized agent. For purposes of this section, "due diligence" shall require and mean all of the following:

(1) A mortgagee, beneficiary, or authorized agent shall first attempt to contact a borrower by sending a first-class letter that includes the toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.

(2) (A) After the letter has been sent, the mortgagee, beneficiary, or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls shall be made to the primary telephone number on file.

(B) A mortgagee, beneficiary, or authorized agent may attempt to contact a borrower using an automated system to dial borrowers, provided that, if the telephone call is answered, the call is connected to a live representative of the mortgagee, beneficiary, or authorized agent.

(C) A mortgagee, beneficiary, or authorized agent satisfies the telephone contact requirements of this paragraph if it determines, after attempting contact pursuant to this paragraph, that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected.

(3) If the borrower does not respond within two weeks after the telephone call requirements of paragraph (2) have been satisfied, the

mortgagee, beneficiary, or authorized agent shall then send a certified letter, with return receipt requested.

(4) The mortgagee, beneficiary, or authorized agent shall provide a means for the borrower to contact it in a timely manner, including a toll-free telephone number that will provide access to a live representative during business hours.

(5) The mortgagee, beneficiary, or authorized agent has posted a prominent link on the homepage of its Internet Web site, if any, to the following information:

(A) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options.

(B) A list of financial documents borrowers should collect and be prepared to present to the mortgagee, beneficiary, or authorized agent when discussing options for avoiding foreclosure.

(C) A toll-free telephone number for borrowers who wish to discuss options for avoiding foreclosure with their mortgagee, beneficiary, or authorized agent.

(D) The toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.

(h) Subdivisions (a), (c), and (g) shall not apply if any of the following occurs:

(1) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the mortgagee, trustee, beneficiary, or authorized agent.

(2) The borrower has contracted with an organization, person, or entity whose primary business is advising people who have decided to leave their homes on how to extend the foreclosure process and avoid their contractual obligations to mortgagees or beneficiaries.

(3) The borrower has filed for bankruptcy, and the proceedings have not been finalized.

(i) This section shall apply only to loans made from January 1, 2003, to December 31, 2007, inclusive, that are secured by residential real property and are for owner-occupied residences. For purposes of this subdivision, "owner-occupied" means that the residence is the principal residence of the borrower.

(j) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 3. Section 2923.6 is added to the Civil Code, to read:

2923.6. (a) The Legislature finds and declares that any duty servicers may have to maximize net present value under their pooling and servicing

agreements is owed to all parties in a loan pool, not to any particular parties, and that a servicer acts in the best interests of all parties if it agrees to or implements a loan modification or workout plan for which both of the following apply:

(1) The loan is in payment default, or payment default is reasonably foreseeable.

(2) Anticipated recovery under the loan modification or workout plan exceeds the anticipated recovery through foreclosure on a net present value basis.

(b) It is the intent of the Legislature that the mortgagee, beneficiary, or authorized agent offer the borrower a loan modification or workout plan if such a modification or plan is consistent with its contractual or other authority.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 4. Section 2924.8 is added to the Civil Code, to read:

2924.8. (a) Upon posting a notice of sale pursuant to Section 2924f, a trustee or authorized agent shall also post the following notice, in the manner required for posting the notice of sale on the property to be sold, and a mortgagee, trustee, beneficiary, or authorized agent shall mail, at the same time in an envelope addressed to the "Resident of property subject to foreclosure sale" the following notice in English and the languages described in Section 1632: "Foreclosure process has begun on this property, which may affect your right to continue to live in this property. Twenty days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new lease or rental agreement or provide you with a 60-day eviction notice. However, other laws may prohibit an eviction in this circumstance or provide you with a longer notice before eviction. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights you may have."

(b) It shall be an infraction to tear down the notice described in subdivision (a) within 72 hours of posting. Violators shall be subject to a fine of one hundred dollars ($100).

(c) A state government entity shall make available translations of the notice described in subdivision (a) which may be used by a mortgagee, trustee, beneficiary, or authorized agent to satisfy the requirements of this section.

(d) This section shall only apply to loans secured by residential real property, and if the billing address for the mortgage note is different than the property address.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 5. Section 2929.3 is added to the Civil Code, to read:

2929.3. (a) (1) A legal owner shall maintain vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. A governmental entity may impose a civil fine of up to one thousand dollars ($1,000) per day for a violation. If the governmental entity chooses to impose a fine pursuant to this section, it shall give notice of the alleged violation, including a description of the conditions that gave rise to the allegation, and notice of the entity's intent to assess a civil fine if action to correct the violation is not commenced within a period of not less than 14 days and completed within a period of not less than 30 days. The notice shall be mailed to the address provided in the deed or other instrument as specified in subdivision (a) of Section 27321.5 of the Government Code, or, if none, to the return address provided on the deed or other instrument.

(2) The governmental entity shall provide a period of not less than 30 days for the legal owner to remedy the violation prior to imposing a civil fine and shall allow for a hearing and opportunity to contest any fine imposed. In determining the amount of the fine, the governmental entity shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation. The maximum civil fine authorized by this section is one thousand dollars ($1,000) for each day that the owner fails to maintain the property, commencing on the day following the expiration of the period to remedy the violation established by the governmental entity.

(3) Subject to the provisions of this section, a governmental entity may establish different compliance periods for different conditions on the same property in the notice of alleged violation mailed to the legal owner.

(b) For purposes of this section, "failure to maintain" means failure to care for the exterior of the property, including, but not limited to, permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water or other conditions that create a public nuisance.

(c) Notwithstanding subdivisions (a) and (b), a governmental entity may provide less than 30 days' notice to remedy a condition before imposing a civil fine if the entity determines that a specific condition of

the property threatens public health or safety and provided that notice of that determination and time for compliance is given.

(d) Fines and penalties collected pursuant to this section shall be directed to local nuisance abatement programs.

(e) A governmental entity may not impose fines on a legal owner under both this section and a local ordinance.

(f) These provisions shall not preempt any local ordinance.

(g) This section shall only apply to residential real property.

(h) The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

(i) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 6. Section 1161b is added to the Code of Civil Procedure, to read:

1161b. (a) Notwithstanding Section 1161a, a tenant or subtenant in possession of a rental housing unit at the time the property is sold in foreclosure shall be given 60 days' written notice to quit pursuant to Section 1162 before the tenant or subtenant may be removed from the property as prescribed in this chapter.

(b) This section shall not apply if any party to the note remains in the property as a tenant, subtenant, or occupant.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 7. Nothing in this act is intended to affect any local just-cause eviction ordinance. This act does not, and shall not be construed to, affect the authority of a public entity that otherwise exists to regulate or monitor the basis for eviction.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 10. (a) This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 stabilize and protect the state and local economies and housing market at the earliest possible time, it is necessary for this act to take effect immediately.

(b) However, the provisions of Section 2 of this act, which adds Section 2923.5 to the Civil Code, and Section 4 of this act, which adds Section 2924.8 to the Civil Code, shall become operative 60 days after the effective date of this act.

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## CHAPTER 70

An act to amend Sections 61100 and 61105 of the Government Code, relating to local government.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 61100 of the Government Code is amended to read:

61100. Within its boundaries, a district may do any of the following:

(a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail.

(b) Collect, treat, or dispose of sewage, wastewater, recycled water, and storm water, in the same manner as a sanitary district, formed pursuant to the Sanitary District Act of 1923, Division 6 (commencing with Section 6400) of the Health and Safety Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail.

(c) Collect, transfer, and dispose of solid waste, and provide solid waste handling services, including, but not limited to, source reduction, recycling, and composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.

(d) Provide fire protection services, rescue services, hazardous material emergency response services, and ambulance services in the same manner as a fire protection district, formed pursuant to the Fire Protection District

Law, Part 2.7 (commencing with Section 13800) of Division 12 of the Health and Safety Code.

(e) Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(f) Organize, promote, conduct, and advertise programs of community recreation, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(g) Acquire, construct, improve, maintain, and operate street lighting and landscaping on public property, public rights-of-way, and public easements.

(h) Provide for the surveillance, prevention, abatement, and control of vectors and vectorborne diseases in the same manner as a mosquito abatement and vector control district formed pursuant to the Mosquito Abatement and Vector Control District Law, Chapter 1 (commencing with Section 2000) of Division 3 of the Health and Safety Code.

(i) Provide police protection and law enforcement services by establishing and operating a police department that employs peace officers pursuant to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(j) Provide security services, including, but not limited to, burglar and fire alarm services, to protect lives and property.

(k) Provide library services, in the same manner as a library district formed pursuant to either Chapter 8 (commencing with Section 19400) or Chapter 9 (commencing with Section 19600) of Part 11 of the Education Code.

(*l*) Acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works. A district shall not acquire, construct, improve, or maintain any work owned by another public agency unless that other public agency gives its written consent.

(m) Convert existing overhead electric and communications facilities, with the consent of the public agency or public utility that owns the facilities, to underground locations pursuant to Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code.

(n) Provide emergency medical services pursuant to the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(o) Provide and maintain public airports and landing places for aerial traffic, in the same manner as an airport district formed pursuant to the California Airport District Act, Part 2 (commencing with Section 22001) of Division 9 of the Public Utilities Code.

(p) Provide transportation services.

(q) Abate graffiti.

(r) Plan, design, construct, improve, maintain, and operate flood protection facilities. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities within the boundaries of another special district that provides those facilities unless the other special district gives its written consent. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities in unincorporated territory unless the board of supervisors gives its written consent. A district shall not plan, design, construct, improve, maintain, or operate flood protection facilities within a city unless the city council gives its written consent.

(s) Acquire, construct, improve, maintain, and operate community facilities, including, but not limited to, community centers, libraries, theaters, museums, cultural facilities, and child care facilities.

(t) Abate weeds and rubbish pursuant to Part 5 (commencing Section 14875) of the Health and Safety Code. For that purpose, the board of directors shall be deemed to be a "board of supervisors" and district employees shall be deemed to be the "persons" designated by Section 14890 of the Health and Safety Code.

(u) Acquire, construct, improve, maintain, and operate hydroelectric power generating facilities and transmission lines, consistent with the district's water supply and wastewater operations. The power generated shall be used for district purposes, or sold to a public utility or another public agency that generates, uses, or sells electrical power. A district shall not acquire hydroelectric power generating facilities unless the facilities' owner agrees.

(v) Acquire, construct, improve, maintain, and operate television translator facilities.

(w) Remove snow from public streets, roads, easements, and rights-of-way. A district may remove snow from public streets, roads, easements, and rights-of-way owned by another public agency, only with the written consent of that other public agency.

(x) Provide animal control services pursuant to Section 30501 of the Food and Agricultural Code. Whenever the term "board of supervisors," "county," "county clerk," or "animal control officer" is used in Division 14 (commencing with Section 30501) of the Food and Agricultural Code, those terms shall also be deemed to include the board of directors of a district, a district, the general manager of the district, or the animal

control officer of a district, respectively. A district shall not provide animal control services in unincorporated territory unless the county board of supervisors gives its written consent. A district shall not provide animal control services within a city unless the city council gives its written consent.

(y) Control, abate, and eradicate pests, in the same manner as a pest abatement district, formed pursuant to Chapter 8 (commencing with Section 2800) of Division 3 of the Health and Safety Code. A district's program to control, abate, or eradicate local pine bark beetle infestations shall be consistent with any required plan or program approved by the Department of Forestry and Fire Protection.

(z) Construct, maintain, and operate mailboxes on a district's property or rights-of-way.

(aa) Provide mail delivery service under contract to the United States Postal Service.

(ab) Own, operate, improve, and maintain cemeteries and provide interment services, in the same manner as a public cemetery district, formed pursuant to the Public Cemetery District Law, Part 4 (commencing with Section 9000) of Division 8 of the Health and Safety Code.

(ac) Finance the operations of area planning commissions formed pursuant to Section 65101.

(ad) Finance the operations of municipal advisory councils formed pursuant to Section 31010.

(ae) Acquire, own, improve, maintain, and operate land within or without the district for habitat mitigation or other environmental protection purposes to mitigate the effects of projects undertaken by the district.

(af) If a private person or entity is unable or unwilling to deploy broadband service, construct, own, improve, maintain, and operate broadband facilities and to provide broadband services. For purposes of this section, broadband has the same meaning as in subdivision (a) of Section 5830 of the Public Utilities Code. The district shall first make a reasonable effort to identify a private person or entity willing to deploy service. The authority granted by this subdivision shall expire when a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate broadband facilities and to provide broadband services, and to sell those services at a comparable cost and quality of service as provided by the district. At that time, the district shall do one of the following:

(1) Diligently transfer its title, ownership, maintenance, control, and operation of those broadband facilities and services at a fair market value to that private person or entity.

(2) Lease the operation of those broadband facilities at a fair market value to that private person or entity.

SEC. 2. Section 61105 of the Government Code is amended to read:

61105. (a) The Legislature finds and declares that the unique circumstances that exist in certain communities justify the enactment of special statutes for specific districts. In enacting this section, the Legislature intends to provide specific districts with special statutory powers to provide special services and facilities that are not available to other districts.

(b) (1) The Los Osos Community Services District may borrow money from public or private lenders and loan those funds to property owners within the district to pay for the costs of decommissioning septic systems and constructing lateral connections on private property to facilitate the connection of those properties to the district's wastewater treatment system. The district shall lend money for this purpose at rates not to exceed its cost of borrowing and the district's cost of making the loans. The district may require that the borrower pay the district's reasonable attorney's fees and administrative costs in the event that the district is required to take legal action to enforce the provisions of the contract or note securing the loan. The district may elect to have the debt payments or any delinquency collected on the tax roll pursuant to Section 61116. To secure the loan as a lien on real property, the district shall follow the procedures for the creation of special tax liens in Section 53328.3 of this code and Section 3114.5 of the Streets and Highways Code.

(2) (A) Except as otherwise provided in this paragraph, on and after January 1, 2007, the Los Osos Community Services District shall not undertake any efforts to design, construct, and operate a community wastewater collection and treatment system within, or for the benefit of, the district. The district shall resume those powers on the date specified in any resolution adopted pursuant to subdivision (j) of Section 25825.5.

(B) Nothing in this paragraph shall affect the district's power to do any of the following:

(i) Operate wastewater collection and treatment facilities within the district that the district was operating on January 1, 2006.

(ii) Provide facilities and services in the territory that is within the district, but outside the prohibition zone.

(iii) Provide facilities and services, other than wastewater collection and treatment, within the prohibition zone.

(C) Promptly upon the adoption of a resolution by the Board of Supervisors of the County of San Luis Obispo requesting this action pursuant to subdivision (h) of Section 25825.5, the district shall convey to the County of San Luis Obispo all retained rights-of-way, licenses,

other interests in real property, funds, and other personal property previously acquired by the district in connection with construction projects for which the district awarded contracts in 2005.

(c) The Heritage Ranch Community Services District may acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities for its own use, and sell those petroleum products to the district's property owners, residents, and visitors. The authority granted by this subdivision shall expire when a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities, and sell those petroleum products to the district and its property owners, residents, and visitors. At that time, the district shall either (1) diligently transfer its title, ownership, maintenance, control, and operation of those petroleum tanks and related facilities at a fair market value to that private person or entity, or (2) lease the operation of those petroleum tanks and related facilities at a fair market value to that private person or entity.

(d) The Wallace Community Services District may acquire, own, maintain, control, or operate the underground gas distribution pipeline system located and to be located within Wallace Lake Estates for the purpose of allowing a privately owned provider of liquefied petroleum gas to use the underground gas distribution system pursuant to a mutual agreement between the private provider and the district or the district's predecessor in interest. The district shall require and receive payment from the private provider for the use of that system. The authority granted by this subdivision shall expire when the Pacific Gas and Electric Company is ready, willing, and able to provide natural gas service to the residents of Wallace Lake Estates. At that time, the district shall diligently transfer its title, ownership, maintenance, control, and operation of the system to the Pacific Gas and Electric Company.

(e) The Cameron Park Community Services District, the El Dorado Hills Community Services District, the Golden Hills Community Services District, the Mountain House Community Services District, the Rancho Murieta Community Services District, the Salton Community Services District, the Stallion Springs Community Services District, and the Tenaja Meadows Community Services District, which enforced covenants, conditions, and restrictions prior to January 1, 2006, pursuant to the former Section 61601.7 and former Section 61601.10, may continue to exercise the powers set forth in the former Section 61601.7 and the former Section 61601.10.

(f) The Bear Valley Community Services District, the Bell Canyon Community Services District, the Cameron Estates Community Services District, the Lake Sherwood Community Services District, the Saddle Creek Community Services District, and the Wallace Community

Services District may, for roads owned by the district and that are not formally dedicated to or kept open for use by the public for the purpose of vehicular travel, by ordinance, limit access to and the use of those roads to the landowners and residents of that district.

(g) Notwithstanding any other provision of law, the transfer of the assets of the Stonehouse Mutual Water Company, including its lands, easements, rights, and obligations to act as sole agent of the stockholders in exercising the riparian rights of the stockholders, and rights relating to the ownership, operation, and maintenance of those facilities serving the customers of the company, to the Hidden Valley Community Services District is not a transfer subject to taxes imposed by Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(h) The El Dorado Hills Community Services District and the Rancho Murieta Community Services District may each acquire, construct, improve, maintain, and operate television receiving, translating, or distribution facilities, provide television and television-related services to the district and its residents, or authorize the construction and operation of a cable television system to serve the district and its residents by franchise or license. In authorizing the construction and operation of a cable television system by franchise or license, the district shall have the same powers as a city or a county under Section 53066.

(i) The Mountain House Community Services District may provide facilities for television and telecommunications systems, including the installation of wires, cables, conduits, fiber optic lines, terminal panels, service space, and appurtenances required to provide television, telecommunication, and data transfer services to the district and its residents, and provide facilities for a cable television system, including the installation of wires, cables, conduits, and appurtenances to service the district and its residents by franchise or license, except that the district may not provide or install any facilities pursuant to this subdivision unless one or more cable franchises or licenses have been awarded under Section 53066 and the franchised or licensed cable television and telecommunications services providers are permitted equal access to the utility trenches, conduits, service spaces, easements, utility poles, and rights-of-way in the district necessary to construct their facilities concurrently with the construction of the district's facilities. The district shall not have the authority to operate television, cable, or telecommunications systems, except as provided in Section 61100. The district shall have the same powers as a city or county under Section 53066 in granting a franchise or license for the operation of a cable television system.

## CHAPTER 71

An act to amend Sections 24045.4 and 24045.6 of, and to add Section 25607.5 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 24045.4 of the Business and Professions Code is amended to read:

24045.4. (a) The department may issue a special temporary off-sale general license to any nonprofit corporation which is exempt from payment of income taxes under the provisions of Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of 1954 of the United States. An applicant for this license shall accompany the application with a fee of one hundred dollars ($100).

(b) This license shall only entitle the licensee to sell at auction alcoholic beverages donated to it. Notwithstanding any other provision of this division, a licensee may donate alcoholic beverages to a corporation licensed under this section, provided that donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding 30 days. Only three licenses authorized by this section shall be issued to any corporation in a calendar year.

SEC. 2. Section 24045.6 of the Business and Professions Code is amended to read:

24045.6. (a) The department may issue a special temporary on-sale or off-sale wine license to any nonprofit corporation that is exempt from payment of income taxes under Section 23701d or 23701e of the Revenue and Taxation Code and Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code of 1986. An applicant for this license shall accompany the application with a fee of one hundred dollars ($100).

(b) This special license shall only entitle the licensee to sell wine bought by, or donated to, the licensee to a consumer and to any person holding a license authorizing the sale of wine. Notwithstanding any other provision of this division, a licensee may donate or sell wine to a nonprofit corporation that obtains a special temporary on-sale or off-sale license under this section, provided the donation is not made in connection with a sale of an alcoholic beverage.

(c) This special license shall be for a period not exceeding 15 days. In the event the license under this section is issued for a period exceeding two days, it shall be used solely for retail sales in conjunction with an identifiable fundraising event sponsored or conducted by the licensee and all bottles of wine sold under this license shall bear a label prominently identifying the event. Only three special licenses authorized by this section shall be issued to any corporation in a calendar year.

SEC. 3. Section 25607.5 is added to the Business and Professions Code, to read:

25607.5. A nonprofit corporation that is required to obtain a license to sell wine under Section 23300 may receive and possess wine donated to it if, at the time of receipt of the wine, the nonprofit corporation has submitted an application with the department for a license to sell the donated wine. Nothing in this section is intended to affect or otherwise limit the application of Section 25503.9.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 72

An act to add Sections 31486.36 and 31490.7 to the Government Code, relating to county employees' retirement.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 31486.36 is added to the Government Code, to read:

31486.36. Upon the death of an active or former member of the plan established by this article, an amount equal to the accumulated contributions made by the member pursuant to this article, with interest on that amount, shall be paid to the member's beneficiaries.

SEC. 2. Section 31490.7 is added to the Government Code, to read:

31490.7. Upon the death of an active or former member of the plan established by this article, an amount equal to the accumulated contributions made by the member pursuant to this article, with interest on that amount, shall be paid to the member's beneficiaries.

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## CHAPTER 73

An act to amend Section 112910 of, to add Section 110673 to, and to repeal Sections 112885 and 112890 of, the Health and Safety Code, relating to food.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 110673 is added to the Health and Safety Code, to read:

110673. Any food is misbranded if its labeling does not conform with the requirements for food allergen labeling as set forth in Section 403(w) of the federal act (21 U.S.C. Sec. 343(w)) and the regulations adopted pursuant thereto. Any food exempted from those requirements under the federal act, shall also be exempt under this section.

SEC. 2. Section 112885 of the Health and Safety Code is repealed.

SEC. 3. Section 112890 of the Health and Safety Code is repealed.

SEC. 4. Section 112910 of the Health and Safety Code is amended to read:

112910. All records of those operating under the provisions of this chapter that concern the amounts of olive oil produced, purchased, or produced and purchased, or the sale, distribution, or sale and distribution of any olive oil, shall be open to inspection upon demand of any agent of the department.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 74

An act to amend Section 21537 of the Government Code, relating to public employee benefits.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 21537 of the Government Code is amended to read:

21537. (a) The special death benefit is payable if the deceased was a patrol, state peace officer/firefighter, state safety, state industrial, or local safety member, if his or her death was industrial and if there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of a member was industrial.

(b) The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section does not apply to state safety members described in Section 20401.5 or local safety members described in Section 20423.6.

(d) (1) For purposes of this section, the special death benefit is payable as of the effective date of the industrial disability retirement of the member if the death of the member occurred from a single event injury arising out of and in the course of his or her official duties which, based on competent medical opinion, rendered the member into a persistent vegetative state devoid of cognitive function at the time of injury until the time of death.

(2) This subdivision applies only to a member who retired and then died on or after July 3, 2006.

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## CHAPTER 75

An act to add Section 25245 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

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

(a) That wine produced in Lodi from grapes grown in the Lodi region has national and international recognition.

(b) The likely proliferation of smaller, separate viticultural area designations, while highly desirable within the developing Lodi region, has the potential of diminishing the historical, agricultural, and economic importance of the Lodi winegrowing area and confusing consumers.

(c) Thus, it is necessary to require wines produced within the boundaries of the existing Lodi appellation to be labeled as being derived from that region, if the wine label indicates that they are produced within a separate viticultural area within Lodi wine country, to preserve consumer identification and understanding of the name "Lodi" and to protect this important state agricultural resource and wine products derived from that area.

SEC. 2. Section 25245 is added to the Business and Professions Code, to read:

25245. (a) Any wine labeled with a viticultural area appellation of origin established pursuant to Part 9 (commencing with Section 9.1) of Title 27 of the Code of Federal Regulations that is located entirely within the "Lodi" viticultural area shall bear the designation "Lodi" on the label in direct conjunction therewith in a type size not smaller than 1mm less than that of said viticultural area designation, provided neither designation is smaller than 2mm on containers of more than 187ml or smaller than 1mm on containers of 187ml or less.

(b) The department may suspend or revoke the license of any person who violates this section.

(c) This section shall not apply to any wine labeled with a viticultural area appellation of origin established pursuant to Part 9 (commencing with Section 9.1) of Title 27 of the Code of Federal Regulations when the name of the appellation includes the term "Lodi."

(d) This section applies only to wine that is bottled on or after January 1, 2009.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 76

An act to add Section 3524.5 to the Business and Professions Code, relating to physician assistants.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 3524.5 is added to the Business and Professions Code, to read:

3524.5. The committee may require a licensee to complete continuing education as a condition of license renewal under Section 3523 or 3524. The committee shall not require more than 50 hours of continuing education every two years. The committee shall, as it deems appropriate, accept certification by the National Commission on Certification of Physician Assistants (NCCPA), or another qualified certifying body, as determined by the committee, as evidence of compliance with continuing education requirements.

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## CHAPTER 77

An act to add Section 1042 to the Government Code, relating to gambling.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 1042 is added to the Government Code, to read:

1042. (a) (1) The California Gambling Control Commission may require fingerprint images and associated information from a prospective employee if the employee's duties include, or would include, access to any of the following:

(A) Information that is required to be kept confidential under the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) or any tribal-state gaming compact, including, but not limited to, applications for licenses or findings of suitability, and information provided by or received from a tribe in connection with a tribal-state gaming compact.

(B) Access to state summary criminal history information, as defined in Section 11105 of the Penal Code, whether in full or in summary.

(C) Access to cash, checks, or other accountable items.

(2) The commission shall require that any services contract that is entered into, renewed, or amended on or after January 1, 2009, include a provision requiring the contractor to agree to permit the commission to require fingerprint images and associated information from the contractor's employees, contractors, agents, or subcontractors, whose duties include, or would include, access to information and accountable items under paragraph (1) as part of a contract with the commission, in order for the commission to request criminal background checks on those individuals.

(b) The fingerprint images and associated information of a prospective employee, contractor, agent, subcontractor, or employee of a contractor of the California Gambling Control Commission whose duties include, or would include, access to the information or accountable items specified under paragraph (1) of subdivision (a), or any person who assumes duties that include access to that information or those accountable items, may be furnished to the Department of Justice for the purpose of obtaining information as to the existence and nature of a record of state or federal level convictions and state or federal level arrests for which the Department of Justice establishes that the applicant was released on bail or on his or her own recognizance pending trial. Requests for federal level criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the Department of Justice.

(c) The Department of Justice shall respond to the California Gambling Control Commission with information as provided under subdivision (p) of Section 11105 of the Penal Code.

(d) The California Gambling Control Commission shall request subsequent arrest notification from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for individuals described in subdivision (a) hired on or after January 1, 2009.

(e) The Department of Justice may assess a fee sufficient to cover the processing costs required under this section, as authorized pursuant to subdivision (e) of Section 11105 of the Penal Code.

(f) This section does not apply to an employee of the California Gambling Control Commission whose appointment occurred prior to January 1, 2009.

(g) The executive director of the California Gambling Control Commission may investigate the criminal history of persons applying for employment and prospective service contractors and their agents, subcontractors, or employees, in order to make a final determination of a person's fitness to perform duties that would include access to any information or accountable items specified under paragraph (1) of subdivision (a). Under no circumstances shall a person who would be disqualified from holding a state gambling license pursuant to subdivisions (c) to (f), inclusive, of Section 19859 of the Business and Professions Code be selected, appointed, or hired in a position that would include any duties involving access to information or accountable items specified under paragraph (1) of subdivision (a).

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## CHAPTER 78

An act to amend Section 1104.9 of the Insurance Code, relating to insurance.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 1104.9 of the Insurance Code is amended to read:

1104.9. (a) (1) As used in this section, "qualified custodian" means: (A) commercial banks (as defined in Section 105 of the Financial Code), savings and loan associations (as defined in Section 5102 of the Financial Code), and trust companies (other than trust departments of title insurance companies), or any entity approved by the commissioner as a qualified custodian; (B) that is either (i) domiciled and has a principal place of business in this state or (ii) a national banking association with a trust office located in this state; and (C) that either has a net worth of at least one hundred million dollars ($100,000,000) or is able to demonstrate to the satisfaction of the commissioner that it is financially secure. The commissioner may consider, among other factors, evidence of the following in order to determine whether a custodian is financially secure for the purpose of this subdivision: (i) its obligations under an agreement approved by the commissioner pursuant to subdivision (c) are guaranteed

by its parent holding company, (ii) its parent holding company has a net worth of at least one hundred million dollars ($100,000,000), or (iii) it is a member of a holding company system with a net worth of at least one hundred million dollars ($100,000,000).

(2) As used in this section, "qualified depository" means an entity that is located in this state or a reciprocal state and is (A) a depository that provides for the long-term immobilization of securities or a clearing corporation that is also a depository, and that in either case has been approved by or registered with the Securities and Exchange Commission, (B) a Federal Reserve bank, or (C) an entity approved by the commissioner as a qualified depository.

A "qualified depository" may also include an entity that is located outside the United States, if it is a securities depository and clearing agency, incorporated or organized under the laws of a country other than the United States, (i) that operates a transnational system for securities or equivalent book entries (specifically Euroclear and Cedel, or successors to all or substantially all of their operations), or (ii) that operates a central system for securities or equivalent book entries, but solely for securities issued by, or by entities within, the country in which the securities depository and clearing agency is incorporated or organized. The depository shall meet all qualifying requirements imposed by this section upon Euroclear or Cedel.

(3) As used in this section, "qualified subcustodian" means an entity located in this state or a reciprocal state (A) that holds securities of the domestic insurer, and maintains an account through which the securities are held, in this state or a reciprocal state and (B) that has shareholder equity of at least one hundred million dollars ($100,000,000) or is able to demonstrate to the satisfaction of the commissioner that it is financially secure. The qualified subcustodian shall be: (A) a commercial bank, a savings and loan association, or a trust company (other than trust departments of title insurance companies); (B) a subsidiary of a qualified custodian; or (C) any entity approved by the commissioner as a qualified subcustodian. The commissioner may consider, among other factors, evidence of the following in order to determine whether a subcustodian is financially secure for the purpose of this subdivision: (i) its obligations are guaranteed by its parent company, (ii) its parent holding company has shareholder equity of at least one hundred million dollars ($100,000,000), or (iii) it is a member of a holding company system with shareholder equity of at least one hundred million dollars ($100,000,000). A "qualified subcustodian" may also include an entity that is located outside the United States, that is used by the domestic insurer for the purpose of obtaining access to a qualified depository located outside the United States. The qualified foreign subcustodian shall be a banking

institution or trust company, incorporated or organized under the laws of a country other than the United States, that is regulated by that country's government or an agency thereof, and that has shareholders' equity in excess of two hundred million dollars ($200,000,000), whether in United States dollars or the equivalent of United States dollars, as of the close of its most recently completed fiscal year; or a majority-owned direct or indirect subsidiary of a qualified United States bank or bank holding company, if the subsidiary is incorporated or organized under the laws of a country other than the United States and has shareholders' equity in excess of one hundred million dollars ($100,000,000), whether in United States dollars or the equivalent of United States dollars, as of the close of its most recently completed fiscal year; or is able to demonstrate to the satisfaction of the commissioner that it is financially secure. The commissioner may consider, among other factors, evidence of the following in order to determine whether a qualified foreign subcustodian is financially secure for purposes of this subdivision: (i) its obligations are guaranteed by its parent company, (ii) its parent holding company has shareholder equity of at least two hundred million dollars ($200,000,000), or (iii) it is a member of a holding company system with shareholder equity of at least two hundred million dollars ($200,000,000).

(4) As used in this section, "subsidiary" means: (A) an entity all of whose voting securities (other than director qualifying shares, if any) are owned, directly or indirectly, by a qualified custodian; or (B) any affiliated entity approved by the commissioner as a subsidiary of a qualified custodian. For the purpose of this section, an affiliated entity means an entity that (A) controls or is controlled, either directly or indirectly or through one or more intermediaries by a qualified custodian or (B) is under the common control, directly or indirectly, as or with a qualified custodian.

(5) As used in this section, "entity approved by the commissioner as a qualified custodian," "entity approved by the commissioner as a qualified depository," "entity approved by the commissioner as a qualified subcustodian," and "entity approved by the commissioner as a subsidiary of a qualified custodian" mean those entities that meet the conditions or standards established by the commissioner. The commissioner shall charge and collect in advance a one-time fee of one thousand five hundred dollars ($1,500) to review an application for approval of any entity pursuant to this section.

(6) As used in this section, "reciprocal state" has the same meaning as in subdivision (f) of Section 1064.1.

(7) As used in this section, "moneys" means cash held incidental to securities transactions occurring in the ordinary course of business with

respect to securities held pursuant to the custodial agreements under this section.

(8) (A) Except as provided in subparagraph (B), as used in this section, "insurer," "domestic insurer," and "domestic admitted insurer" mean any insurer, other than a domestic life insurer that is incorporated or that has its principal place of business in this state. Except as provided in subparagraph (B), no portion of this section applies to domestic life insurers nor shall this section affect the interpretation of any other portion of this code with respect to domestic life insurers nor is it intended to create a precedent for the application of its provisions to those insurers. However, the exclusion of domestic life insurers from this section shall not be construed to diminish the commissioner's existing authority over those insurers under any other provision of this code.

(B) Domestic life insurers that are wholly owned by any insurer other than a domestic life insurer or are part of an insurance holding company system whose other insurer affiliates are not domestic life insurers may elect to be subject to this section by affirmatively stating that election in the statement otherwise required to be filed by that system pursuant to Section 1215.4.

(b) Notwithstanding Section 1104.1, a domestic admitted insurer may maintain its securities and moneys in a reciprocal state, subject to the requirements of this section, through a custodian account located in California in or with a qualified custodian, and that qualified custodian may maintain those securities or moneys in a qualified depository or qualified subcustodian, either or both of which may be located in a reciprocal state. In addition, a domestic insurer that has foreign investments or any other investments that require delivery outside of the United States upon sale or maturity that qualify under Section 1240, 1241, or 10506, or any other provision of this code, may maintain those securities or moneys in or with a qualified depository located in a jurisdiction outside the United States. However, the aggregate amount of general account investments so deposited shall not exceed the lesser of 5 percent of the total admitted assets of the insurer or 25 percent of the excess of admitted assets over the sum of paid-up capital, liabilities, and surplus required by Section 700.02. However, unless exempted by the commissioner, not more than 50 percent of that amount of assets that an insurer is authorized to invest pursuant to Section 1241 or 1241.1 may be maintained in any single country in a qualified depository as defined in clause (ii) of paragraph (2) of subdivision (a) and as to life companies not more than 12.5 percent of that amount of assets that an insurer is authorized to invest pursuant to Section 1241 or 1241.1 may be maintained in any single country in a qualified depository as defined in clause (ii) of paragraph (2) of subdivision (a). The percentage or dollar

value of admitted assets and paid-up capital and liabilities shall be determined by the insurer's last preceding annual statement of conditions and affairs made as of the preceding December 31 that has been filed with the commissioner pursuant to law. No broker or agent, as defined in the Federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78c et seq.), may serve as a qualified custodian, qualified subcustodian, or qualified depository under this section. However, no otherwise qualified custodian or subcustodian shall be disqualified on account of its activities as a broker or dealer, as so defined, when the activities are incidental to its custodial or other business.

(c) No securities shall be deposited in or with a qualified custodian, qualified depository, or qualified subcustodian except as authorized by an agreement between the insurer and the qualified custodian, if the agreement is satisfactory to and has been approved by the commissioner. The agreement shall require that the securities be held by the qualified custodian for the benefit of the insurer and that the books and records of the qualified custodian shall so designate. The agreement shall further require that beneficial title to the securities remain in the insurer and shall require that the qualified subcustodian and qualified depository be the agents of the qualified custodian. The agreement shall also specifically require that the qualified custodian shall exercise the standard of care of a professional custodian engaged in the banking or trust company industry and having professional expertise in financial and securities processing transactions and custody would observe in these affairs. This section does not affect the burden of proof under applicable law with respect to the assertion of liability in any claim, action, or dispute alleging any breach of, or failure to observe, that standard of care.

(d) No agreement between the qualified custodian and the insurer shall be approved by the commissioner unless the qualified custodian agrees therein to comply with this section. Except when the agreement is submitted in conjunction with an application for an original certificate of authority or variable contract qualification, a fee of five hundred dollars ($500) shall be paid to the commissioner at the time of filing the agreement for approval. However, no fee shall be required if the form of the agreement has been previously submitted for approval and approved by the commissioner as certified by the insurer and qualified custodian submitting the agreement to the commissioner. The agreement shall be deemed approved unless, within 60 days after receipt by the commissioner of that agreement and any required filing fee, the commissioner has disapproved the agreement in writing citing specific reasons for disapproval.

(e) Notwithstanding the maintenance of securities with an out-of-state qualified depository or qualified subcustodian pursuant to agreement, if the commissioner has reasonable cause to believe that the domestic insurer (1) is conducting its business and affairs in a manner as to threaten to render it insolvent, or (2) is in a hazardous condition or is conducting its business and affairs in a manner that is hazardous to its policyholders, creditors, or the public, or (3) has committed or is committing or has engaged or is engaging in any act that would constitute grounds for rendering it subject to conservation or liquidation proceedings, or if the commissioner determines that irreparable loss and injury to the property and business of the domestic insurer has occurred or may occur unless the commissioner acts immediately, then the commissioner may, without hearing, order the insurer and the qualified custodian promptly to effect the transfer of the securities back to a qualified custodian, qualified subcustodian, or qualified depository located in this state from any qualified depository or qualified subcustodian located outside of this state (the transfer order). Upon receipt of the transfer order, the qualified custodian shall promptly effect the return of the securities. Notwithstanding the pendency of any hearing or action provided for in subdivision (f), the transfer order shall be complied with by those persons subject to that order. Any challenge to the validity of the transfer order shall be made in accordance with subdivision (f). It is the responsibility of both the insurer and the qualified custodian to oversee that compliance with the transfer order is completed as expeditiously as possible. Upon receipt of a transfer order, there shall be no trading of the securities without specific instructions from the commissioner until the securities are received in this state, except to the extent trading transactions are in process on the day the transfer order is received by the insurer and the failure to complete the trade may result in loss to the insurer's account. Issuance of a transfer order does not affect the qualified custodian's liabilities with regard to the securities that are the subject of the order.

(f) At the same time the transfer order is served, the commissioner shall issue and also serve upon the insurer a notice of hearing to be held at a time and place fixed therein which shall not be less than 20 nor more than 45 days after the service thereof. Upon request of the insurer and agreement of the department, the hearing may be held within a shorter time but in no event less than 10 days after the service of the notice of hearing. The transfer order and notice of hearing may be served by certified mail, express mail, messenger, telegram, or any other means calculated to give prompt actual notice to (1) the California office of the insurer designated in the agreement, its home office as shown on its most recently filed annual or quarterly statement, or its California agent for service of process; and (2) the California office of the qualified custodian

designated in the agreement. If, as a result of the hearing, any of the statements as to conduct, conditions, or grounds for the transfer order are found to be true, or if other conditions or grounds are discovered or become known at the hearing and are found to be true, the commissioner shall affirm the transfer order and may make additional order or orders, pertaining to the transfer order, as may be reasonably necessary.

The insurer subject to the transfer order is entitled to judicial review in the state of the commissioner's order issued as a result of the hearing.

Alternatively, at any time prior to the commencement of the hearing on the transfer order, the insurer may waive the hearing and have judicial review in this state of the transfer order by petition for writ of mandate and declaratory relief without first exhausting administrative remedies or procedures. In that event the insurer is not entitled to any extraordinary remedies prior to trial.

No person other than the insurer has standing at the hearing by the commissioner or for any judicial review of the transfer order.

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## CHAPTER 79

An act to amend Section 7103 of the Public Contract Code, relating to payment bonds.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 7103 of the Public Contract Code is amended to read:

7103. (a) (1) Every original contractor to who is awarded a contract by a state entity, as defined in subdivision (d), involving an expenditure in excess of twenty-five thousand dollars ($25,000) for any public work shall, before entering upon the performance of the work, file a payment bond with and approved by the officer or state entity by who the contract was awarded. The bond shall be in a sum not less than one hundred percent of the total amount payable by the terms of the contract.

(2) The state entity shall state in its call for bids for any contract that a payment bond is required in the case of such an expenditure.

(b) A payment bond filed and approved in accordance with this section shall be sufficient to enter upon the performance of work under a duly authorized contract that supplements the contract for which the payment

bond was filed if the requirement of a new bond is waived by the state entity.

(c) For purposes of this section, providers of architectural, engineering, and land surveying services pursuant to a contract with a state entity for a public work shall not be deemed an original contractor and shall not be required to post or file the payment bond required in subdivisions (a) and (b).

(d) For purposes of this section, "state entity" means every state office department, division, bureau, board, or commission, but does not include the Legislature, the courts, any agency in the judicial branch of government, or the University of California. All other public entities shall be governed by Section 3247 of the Civil Code.

(e) For purposes of this section, "public work" includes the erection, construction, alteration, repair, or improvement of any state structure, building, road, or other state improvement of any kind.

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## CHAPTER 80

An act to amend Sections 1063.1, 1063.2, and 1063.75 of the Insurance Code, relating to insurance.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

*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 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 an insurer that was a member insurer of the association, consistent with paragraph (11) of subdivision (c), either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation or receivership with a finding of insolvency has been entered by a court of competent jurisdiction, or, in the case of the State Compensation Insurance Fund, if a finding of insolvency is made by a duly enacted legislative measure.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (A) imposed

by law and within the coverage of an insurance policy of the insolvent insurer; (B) which were unpaid by the insolvent insurer; (C) 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; (D) 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; (E) for which the assets of the insolvent insurer are insufficient to discharge in full; (F) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the workers' compensation law of this state; and (G) 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" also include the obligations assumed by an assuming insurer from a ceding insurer where the assuming insurer subsequently becomes an insolvent insurer if, at the time of the insolvency of the assuming insurer, the ceding insurer is no longer admitted to transact business in this state. Both the assuming insurer and the ceding insurer shall have been member insurers at the time the assumption was made. "Covered claims" under this paragraph shall be required to satisfy the requirements of subparagraphs (A) to (G), inclusive, of paragraph (1), except for the requirement that the claims be against policies of the insolvent insurer. The association shall have a right to recover any deposit, bond, or other assets that may have been required to be posted by the ceding company to the extent of covered claim payments and shall be subrogated to any rights the policyholders may have against the ceding insurer.

(3) "Covered claims" does not include obligations arising from the following:

(A) Life, annuity, health, or disability insurance.

(B) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

(C) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.

(D) Credit insurance.

(E) Title insurance.

(F) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage.

(G) 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 subdivision (c) of Section 3702.8 of the Labor Code that covers all or any part of workers' compensation liabilities of an employer that is issued, or was previously issued, a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(4) "Covered claims" does 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 liquidator, nor any obligations to any state or to the federal government.

(5) "Covered claims" does 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.

An insurer, insurance pool, or underwriting association may not 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 is entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer's policy, or in the amount of the limits remaining, where those limits have been diminished by the payment of other claims.

(6) "Covered claims," except in cases involving a claim for workers' compensation benefits or for unearned premiums, does not include any claim in an amount of one hundred dollars ($100) or less, nor that portion of any claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(7) "Covered claims" does not include that portion of any claim, other than a claim for workers' compensation benefits, that is in excess of five hundred thousand dollars ($500,000).

(8) "Covered claims" does not include any amount awarded as punitive or exemplary damages, nor any amount awarded by the Workers' Compensation Appeals Board pursuant to Section 5814 or 5814.5 because payment of compensation was unreasonably delayed or refused by the insolvent insurer.

(9) "Covered claims" does not include (A) any claim to the extent it is covered by any other insurance of a class covered by this article available to the claimant or insured nor (B) 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 does 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" does 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 Sections 11802 and 11803.

(11) "Covered claims" does 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" does not include surplus deposits of subscribers as defined in Section 1374.1.

(13) "Covered claims" shall also include obligations arising under an insurance policy written to indemnify a permissibly self-insured employer pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code for its liability to pay workers' compensation benefits in excess of a specific or aggregate retention, provided, however, that for purposes of this article, those claims shall not be considered workers' compensation claims and therefore are subject to the per claim limit in paragraph (7) and any payments and expenses related thereto shall be allocated to category (c) for claims other than workers' compensation, homeowners, and automobile, as provided in Section 1063.5.

These provisions shall apply to obligations arising under any policy as described herein issued to a permissibly self-insured employer or group of self-insured employers pursuant to Section 3700 of the Labor Code and notwithstanding any other provision of the Insurance Code, those obligations shall be governed by this provision in the event that the Self-Insurers' Security Fund is ordered to assume the liabilities of a permissibly self-insured employer or group of self-insured employers pursuant to Section 3701.5 of the Labor Code. The provisions of this paragraph apply only to insurance policies written to indemnify a permissibly self-insured employer or group of self-insured employers under subdivision (b) or (c) of Section 3700, for its liability to pay workers' compensation benefits in excess of a specific or aggregate retention, and this paragraph does not apply to special excess workers' compensation insurance policies unless issued pursuant to authority granted in subdivision (c) of Section 3702.8 of the Labor Code, and as provided for in subparagraph (G) of paragraph (3) of subdivision (c). In addition, this paragraph does not apply to any claims servicing agreement

or insurance policy providing retroactive insurance of a known loss or losses as are excluded in subparagraph (G) of paragraph (3) of subdivision (c).

Each permissibility self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall, to the extent required by the Labor Code, be responsible for paying, adjusting, and defending each claim arising under policies of insurance covered under this section, unless the benefits paid on a claim exceed the specific or aggregate retention, in which case:

(A) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy requires the insurer to defend and adjust the claim, the California Insurance Guarantee Association (CIGA) shall be solely responsible for adjusting and defending the claim, and shall make all payments due under the claim, subject to the limitations and exclusions of this article with regards to covered claims. As to each claim subject to this paragraph, notwithstanding any other provisions of the Insurance Code or the Labor Code, and regardless of whether the amount paid by CIGA is adequate to discharge a claim obligation, neither the self-insured employer, group of employers, nor the Self-Insurers' Security Fund, shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in subdivision (c).

(B) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy does not require the insurer to defend and adjust the claim, the permissibility self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall not have any further payment obligations with respect to the claim, but shall continue defending and adjusting the claim, and shall have the right, but not the obligation, in any proceeding to assert all applicable statutory limitations and exclusions as contained in this article with regard to the covered claim. CIGA shall have the right, but not the obligation, to intervene in any proceeding where the self-insured employer, group of self-insured employers, or the Self-Insurers' Security Fund is defending any such claim and shall be permitted to raise the appropriate statutory limitations and exclusions as contained in this article with respect to covered claims. Regardless of whether the self-insured employer or group of employers, or the Self-Insurers' Security Fund, asserts the applicable statutory limitations and exclusions, or whether CIGA intervenes in any such proceeding, CIGA shall be solely responsible for paying all benefits due on the claim, subject to the exclusions and limitations of this article with respect to covered claims. As to each claim subject to this paragraph, notwithstanding any other provision of the Insurance Code or the Labor Code and regardless of whether the amount paid by CIGA is adequate to discharge a claim obligation, neither the

self-insured employer, group of employers, nor the Self-Insurers' Security Fund, shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in this subdivision.

(C) In the event that the benefits paid on the covered claim exceed the per claim limit in paragraph (7) of subdivision (c), the responsibility for paying, adjusting, and defending the claim shall be returned to the permissibly self-insured employer or group of employers, or the Self-Insurers' Security Fund.

These provisions shall apply to all pending and future insolvencies. For purposes of this paragraph, a pending insolvency is one involving a company that is currently receiving benefits from the guaranty association.

(d) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the department.

(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 is 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.

(h) "Ocean marine insurance" includes marine insurance as defined in Section 103, except for inland marine insurance, as well as any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance such as hull and machinery, marine builders' risks, and marine protection and indemnity. Those perils and risks insured against include, without limitation, loss, damage, or expense or legal liability of the insured arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability

of the insured for personal injury, illness, or death for loss or damage to the property of the insured or another person.

(i) "Unearned premium" means that portion of a premium as calculated by the liquidator that had not been earned because of the cancellation of the insolvent insurer's policy and is that premium remaining for the unexpired term of the insolvent insurer's policy. "Unearned premium" does not include any amount sought as return of a premium under any policy providing retroactive insurance of a known loss or return of a premium under any retrospectively rated policy or a policy subject to a contingent surcharge or any policy in which the final determination of the premium cost is computed after expiration of the policy and is calculated on the basis of actual loss experience during the policy period.

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 that 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 permanent 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 tort-feasor 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 tort-feasor. Any amount paid a claimant in excess of the amount authorized by this section may be recovered by action, or other proceeding, 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) "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.

(g) "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.

(h) "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.

SEC. 3. Section 1063.75 of the Insurance Code is amended to read:

1063.75. Any bonds issued to provide funds for covered claim obligations for workers' compensation claims shall be issued prior to January 1, 2011, in an aggregate principal amount outstanding at any one time not to exceed $1.5 billion, and any bonds issued or issued to refund bonds shall not have a final maturity exceeding 20 years from the date of issuance. The bonds shall be issued at the request of CIGA, shall be in the form, shall bear the date or dates, and shall mature at the time or times as the indenture authorized by the request may provide. The bonds may be issued in one or more series, as serial bonds or as term bonds, or as a combination thereof, and, notwithstanding any other provision of law, the amount of principal of, or interest on, bonds maturing at each date of maturity need not be equal. The bonds shall bear interest at the rate or rates, variable or fixed or a combination thereof, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place or places within or without the state, be subject to the terms of redemption, contain the terms and conditions, and be secured by the covenants as the indenture may provide. The indenture may provide for the proceeds of the bonds and funds securing the bonds to be invested in any securities and investments, including investment agreements, as specified therein. CIGA may enter into or authorize any ancillary obligations or derivative agreements as it determines necessary or desirable to manage interest rate risk or security features related to the bonds. The bonds shall be sold at public or private sale by the Treasurer at, above, or below the principal amount thereof, on the terms and conditions and for the consideration in the medium of payment that the Treasurer shall determine prior to the sale.

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## CHAPTER 81

An act to amend Section 830.13 of the Penal Code, relating to investigators.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 830.13 of the Penal Code is amended to read:

830.13. (a) The following persons are not peace officers but 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 that power pursuant to Section 832. The authority and power of the persons designated under this section shall extend to any place in the state:

(1) Persons employed as investigators of an auditor-controller or director of finance of any county or persons employed by a city and county who conduct investigations under the supervision of the controller of the city and county, who are regularly employed and paid in that capacity, provided that the primary duty of these persons shall be to engage in investigations related to the theft of funds or the misappropriation of funds or resources, or investigations related to the duties of the auditor-controller or finance director as set forth in Chapter 3.5 (commencing with Section 26880), Chapter 4 (commencing with Section 26900), Chapter 4.5 (commencing with Section 26970), and Chapter 4.6 (commencing with Section 26980) of Part 3 of Division 2 of Title 3 of the Government Code.

(2) Persons employed by the Department of Justice as investigative auditors, provided that the primary duty of these persons shall be to investigate financial crimes. Investigative auditors shall only serve warrants for the production of documentary evidence held by financial institutions, Internet service providers, telecommunications companies, and third parties who are not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which the warrant is requested.

(b) Notwithstanding any other provision of law, persons designated pursuant to this section shall not carry firearms.

(c) Persons designated pursuant to this section shall be included as "peace officers of the state" under paragraph (2) of subdivision (c) of Section 11105 for the purpose of receiving state summary criminal history information and shall be furnished that information on the same basis as peace officers of the state designated in paragraph (2) of subdivision (c) of Section 11105.

(d) Unless otherwise specifically provided, this section confers to persons designated in this section the same authority and power to serve warrants as conferred by Section 830.11.

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## CHAPTER 82

An act to amend Section 2087 of the Fish and Game Code, relating to protected species.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

SECTION 1. Section 2087 of the Fish and Game Code is amended to read:

2087. (a) Accidental take of candidate, threatened, or endangered species resulting from acts that occur on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by this chapter.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

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## CHAPTER 83

An act to amend Sections 132304, 132320, 132322, 132324, 132328, 132330, 132332, and 132334 of, to amend the heading of Article 6 (commencing with Section 132320) of Chapter 2 of Division 12.7 of, and to add Sections 132321 and 132360.6 to, the Public Utilities Code, relating to planning.

[Approved by Governor July 8, 2008. Filed with Secretary of State July 8, 2008.]

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

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

(a) The regional comprehensive plan proposed by the consolidated agency pursuant to the San Diego Regional Transportation Consolidation Act is intended to preserve and improve the quality of life in the San Diego region, to maximize mobility and transportation choices, and to conserve and protect natural resources.

(b) Alternative methods of funding and financing proposed infrastructure areas identified in the regional comprehensive plan prepared pursuant to Article 6.5 (commencing with Section 132360) of Chapter 3 of Division 12.7 of the Public Utilities Code are necessary in order to implement the plan, and to increase economic opportunities, contribute to economic development, conserve and protect the environment, and promote social equity within the San Diego region.

(c) Any extension, expansion, or increase of the transactions and use tax as a result of the amendments to Section 132320 of the Public Utilities Code made pursuant to this act shall apply prospectively to transactions and use taxes approved by the voters on or after January 1, 2009.

SEC. 2. Section 132304 of the Public Utilities Code is amended to read:

132304. (a) Any transactions and use tax ordinance adopted pursuant to this article shall be operative on the first day of the first calendar quarter commencing more than 110 days after adoption of the ordinance.

(b) Prior to the operative date of the ordinance, the commission shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

SEC. 3. The heading of Article 6 (commencing with Section 132320) of Chapter 2 of Division 12.7 of the Public Utilities Code is amended to read:

Article 6. Extension, Expansion, or Increase of Transactions and Use Tax

SEC. 4. Section 132320 of the Public Utilities Code is amended to read:

132320. For the purposes of this article, the following terms have the following meanings:

(a) To "expand" the transactions and use tax means to expand the purposes for which the revenue derived from the tax may be expended to include covering the costs of implementation of the regional comprehensive plan as referenced in Article 6.5 (commencing with Section 132360). These projects shall be limited to mitigation of impacts related to growth, maximizing the efficiency of regional transportation and transit systems, and funding of regional projects that integrate land uses, transportation systems, infrastructure needs, and public investment strategies, within a regional framework. Projects shall be limited to any or all of the following:

(1) Acquisition, management, maintenance, and monitoring of natural habitat and open space, and other projects that implement protection and preservation programs consistent with adopted natural community conservation plans and habitat conservation plans.

(2) Development and implementation of watershed management.

(3) Construction, repair, replacement, and maintenance of stormwater management and conveyance systems, and water quality improvement programs or projects.

(4) Construction, acquisition, maintenance, monitoring, and operation of beach sand replenishment projects.

(5) Funding of operations and maintenance costs for public transit projects that maximize mobility and transportation choices.

(b) To "extend" the transactions and use tax means to extend the imposition of the tax beyond any term stated in the tax ordinance originally imposing the tax.

(c) To "increase" the transactions and use tax means to increase the tax rate or the maximum tax rate authorized in the tax ordinance originally imposing the tax to an amount that does not exceed the maximum tax rate authorized under Section 132307.

(d) The term "property" with regard to real property may include severable appurtenant real property rights such as easements, permits, and leases.

(e) The "purposes" for which revenue derived from the transactions and use tax may be expended, in addition to the other purposes listed in this article and in Article 5 (commencing with Section 132300), include funding one or more grants to provide funding mechanisms for purchases of property or long-term management and monitoring of projects authorized by this section. Recipients of those grants shall be required to meet the applicable conditions of Section 132321.

SEC. 5. Section 132321 is added to the Public Utilities Code, to read:

132321. (a) The commission may, upon terms, standards, and conditions approved by the commission, transfer environmental mitigation or conservation property to a public agency or to a nonprofit corporation that is qualified pursuant to Section 501(c)(3) of the Internal Revenue Code.

(1) As a condition to the transfer of property pursuant to this subdivision, the commission may enter into an agreement with the transferee to provide funding for the future maintenance and monitoring of the property consistent with any permit conditions and mitigation requirements imposed by state or federal law or conditions imposed by a state or federal agency. In determining the amount of the funding provided, the commission shall consider the costs of maintaining and monitoring the property and shall offset from the amount of those costs any benefit or value received by the transferee or the commission as a result of the transfer.

(2) The transferee to which the commission transfers the property shall assume the long-term responsibility for the future maintenance and monitoring of the property.

(3) (A) If the transferee fails to maintain and monitor the property in the manner required by law, by a permit, or as described in paragraph (1), or if the transferee is a nonprofit corporation that ceases to exist, the property shall automatically revert to the commission.

(B) If the property reverts to the commission pursuant to this paragraph, any remaining funds from the original transfer pursuant to paragraph (1) shall also revert to the commission.

(C) Any costs, including legal costs, associated with reversion of the property and funds pursuant to this paragraph shall be the responsibility of the transferee.

(4) Any documents conveying property in accordance with this section shall include a restriction limiting the use of the property solely for conservation purposes or environmental mitigation purposes in accordance with the conditions specified in paragraph (1).

(5) Documents conveying property in accordance with this section and documents related to a transfer or assignment of property under this section shall be filed with the county recorder's office in the county in which the property is located.

(6) The transferee shall not do any of the following:

(A) Transfer or assign the property to another entity without approval from the commission and compliance with this section.

(B) Transfer or use the property for any purpose other than as required by the agreement described in paragraph (1), and any relevant permit conditions and mitigation requirements.

(C) Subdivide the property.

(D) Secure loans or liens against the property.

(7) The commission shall conduct, or cause to be conducted, an audit of the performance of the transferee at least once every five years to ensure that the transferee is meeting its obligations pursuant to the terms of the agreement described in paragraph (1).

(b) The commission may, upon terms, standards, and conditions approved by the commission, award one or more grants to provide a funding mechanism for long-term management and monitoring of projects authorized by Section 132320 to a public agency or to a nonprofit corporation that is qualified pursuant to Section 501(c)(3) of the Internal Revenue Code. As a condition to the award of a grant pursuant to this subdivision, the commission may enter into an agreement with the grantee that contains the following terms:

(1) The grantee shall maintain accurate books, records, and accounts of all of its dealings, which shall be subject to an annual financial audit by an independent auditing firm approved by the commission. The grantee shall pay for the annual audit and provide a copy of the audit results to the commission. The commission shall determine whether the grant fund expenditures are consistent with the terms of the agreement described in this subdivision. In addition, the commission may conduct or cause to be conducted a fiscal and compliance audit of the grantee.

(2) The commission shall conduct, or cause to be conducted, an audit of the performance of the grantee at least once every five years to ensure that the grantee is meeting its obligations pursuant to the terms of the agreement described in this subdivision.

(3) (A) If the grantee fails to perform its management or monitoring responsibilities in the manner required by law and in the manner required by the agreement described in this subdivision, or if a grantee that is a nonprofit corporation ceases to exist, any remaining funds derived from the grant pursuant to this subdivision shall revert to the commission.

(B) Any costs, including legal costs, associated with reversion of funds to the commission pursuant to this paragraph shall be the responsibility of the grantee.

SEC. 6. Section 132322 of the Public Utilities Code is amended to read:

132322. (a) An ordinance expanding, extending, or increasing the retail transactions and use tax imposed under this chapter shall be imposed by the commission and shall be applicable in the incorporated and unincorporated territory of the county, if the constitutionally required percentage of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the commission. The ordinance shall take effect on the day immediately following the day of the election at which the proposition is adopted.

(b) If at any time the voters do not approve the imposition of the expansion, extension, or increase of the transactions and use tax, the commission may, at any time thereafter, submit the same, or a different, measure to the voters in accordance with this article.

SEC. 7. Section 132324 of the Public Utilities Code is amended to read:

132324. (a) In the ordinance, the commission shall state the nature of the tax to be imposed, the tax rate or the maximum tax rate, and the purposes for which the revenue derived from the tax will be used. In connection with the extension or expansion of the tax, the tax rate or the maximum tax rate may be increased from the tax rate or the maximum tax rate in effect at that time.

(b) If the tax is extended, the ordinance shall set forth the new term during which the tax will be imposed.

(c) If the tax is expanded, the ordinance shall contain an expenditure plan that includes the allocation of revenues for the expanded purposes.

SEC. 8. Section 132328 of the Public Utilities Code is amended to read:

132328. (a) Any ordinance extending or expanding, or both, the transactions and use tax shall be operative on the day immediately following the day of the election at which the proposition is adopted. Any increase in the tax rate or the maximum tax rate authorized by the ordinance shall be operative in accordance with Section 132304.

(b) If the ordinance expands, extends, or increases the transactions and use tax, the commission shall contract with the State Board of

Equalization to perform all functions incident to the administration and operation of the ordinance.

SEC. 9. Section 132330 of the Public Utilities Code is amended to read:

132330. Any action or proceeding wherein the validity of the adoption of the extension, expansion, or increase of the retail transactions and use tax, or the issuance of any bonds thereunder, or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within 60 days from the date of the election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the levy and collection of the retail transactions and use tax, shall be held to be valid and in every respect legal and incontestable.

SEC. 10. Section 132332 of the Public Utilities Code is amended to read:

132332. The commission has no power to extend, expand, or increase any tax other than the transactions and use tax extended, expanded, or increased upon approval of the voters in accordance with this chapter.

SEC. 11. Section 132334 of the Public Utilities Code is amended to read:

132334. All provisions of Article 5 (commencing with Section 132300) relating to allocation of revenues, tax rates, and bonds apply to the expanded, extended, or increased transactions and use tax, except that the revenues derived from the expanded or increased tax may be used for the additional purposes described in subdivision (a) of Section 132320.

SEC. 12. Section 132360.6 is added to the Public Utilities Code, to read:

132360.6. The consolidated agency may use the authority for the retail transactions and use tax provided under Sections 132301 and 132302 to fund and finance infrastructure needs identified in the regional comprehensive plan developed in accordance with this article. Development of the proposal and expenditure plan shall be conducted using a public collaborative planning process that is consistent with Section 132360.1.

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## CHAPTER 84

An act to amend Section 87482.5 of the Education Code, relating to community colleges.

[Approved by Governor July 10, 2008. Filed with
Secretary of State July 10, 2008.]

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

SECTION 1. Section 87482.5 of the Education Code is amended to read:

87482.5. (a) Notwithstanding any other law, a person who is employed to teach adult or community college classes for not more than 67 percent of the hours per week considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee under Section 87604. If the provisions of this section are in conflict with the terms of a collective bargaining agreement in effect on or before January 1, 2009, the provisions of this section shall govern the employees subject to that agreement upon the expiration of the agreement.

(b) Service as a substitute on a day-to-day basis by persons employed under this section shall not be used for purposes of calculating eligibility for contract or regular status.

(c) (1) Service in professional ancillary activities by persons employed under this section, including, but not necessarily limited to, governance, staff development, grant writing, and advising student organizations, shall not be used for purposes of calculating eligibility for contract or regular status unless otherwise provided for in a collective bargaining agreement applicable to a person employed under this section.

(2) This subdivision may not be construed to affect the requirements of subdivision (d) of Section 84362.

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## CHAPTER 85

An act to amend Section 557.5 of the Insurance Code, and to amend Section 16051 of the Vehicle Code, relating to peace officers.

[Approved by Governor July 10, 2008. Filed with
Secretary of State July 10, 2008.]

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

SECTION 1. Section 557.5 of the Insurance Code is amended to read:

557.5. No peace officer, member of the Department of the California Highway Patrol, or firefighter shall be required to report any accident

in which he or she is involved while operating an authorized emergency vehicle, as defined in subdivision (a), (b), or (f) of Section 165 of the Vehicle Code, or any employer-leased or employer-rented vehicle in the performance of his or her duty during the hours of his or her employment, to any person who has issued that peace officer, member of the Department of the California Highway Patrol, or firefighter a private automobile insurance policy.

As used in this section:

(a) "Peace officer" means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(b) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

SEC. 2. Section 16051 of the Vehicle Code is amended to read:

16051. Evidence may be established by filing a report indicating that the motor vehicle involved in the accident was owned, rented, or leased by or under the direction of the United States, this state, or any political subdivision of this state or municipality thereof.

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## CHAPTER 86

An act to amend Sections 136.2 and 273.75 of the Penal Code, relating to domestic violence.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 136.2 of the Penal Code is amended to read:

136.2. (a) Except as provided in subdivision (c), upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, any court with jurisdiction over a criminal matter may issue orders including, but not limited to, the following:

(1) Any order issued pursuant to Section 6320 of the Family Code.

(2) An order that a defendant shall not violate any provision of Section 136.1.

(3) An order that a person before the court other than a defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of the court, shall not violate any provisions of Section 136.1.

(4) An order that any person described in this section shall have no communication whatsoever with any specified witness or any victim, except through an attorney under any reasonable restrictions that the court may impose.

(5) An order calling for a hearing to determine if an order as described in paragraphs (1) to (4), inclusive, should be issued.

(6) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim or a witness, or both, or for immediate family members of a victim or a witness who reside in the same household as the victim or witness or within reasonable proximity of the victim's or witness' household, as determined by the court. The order shall not be made without the consent of the law enforcement agency except for limited and specified periods of time and upon an express finding by the court of a clear and present danger of harm to the victim or witness or immediate family members of the victim or witness.

For purposes of this paragraph, "immediate family members" include the spouse, children, or parents of the victim or witness.

(7) (A) Any order protecting victims of violent crime from all contact by the defendant, or contact, with the intent to annoy, harass, threaten, or commit acts of violence, by the defendant. The court or its designee shall transmit orders made under this paragraph to law enforcement personnel within one business day of the issuance, modification, extension, or termination of the order, pursuant to subdivision (a) of Section 6380 of the Family Code. It is the responsibility of the court to transmit the modification, extension, or termination orders made under this paragraph to the same agency that entered the original protective order into the Domestic Violence Restraining Order System.

(B) (i) If a court does not issue an order pursuant to subparagraph (A) in a case in which the defendant is charged with a crime of domestic violence as defined in Section 13700, the court on its own motion shall consider issuing a protective order upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, that provides as follows:

(I) The defendant shall not own, possess, purchase, receive, or attempt to purchase or receive, a firearm while the protective order is in effect.

(II) The defendant shall relinquish any firearms that he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(ii) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm while this protective order is in effect is punishable pursuant to subdivision (g) of Section 12021.

(C) Any order issued, modified, extended, or terminated by a court pursuant to this paragraph shall be issued on forms adopted by the

Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(b) Any person violating any order made pursuant to paragraphs (1) to (7), inclusive, of subdivision (a) may be punished for any substantive offense described in Section 136.1, or for a contempt of the court making the order. A finding of contempt shall not be a bar to prosecution for a violation of Section 136.1. However, any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed upon conviction of an offense described in Section 136.1. Any conviction or acquittal for any substantive offense under Section 136.1 shall be a bar to a subsequent punishment for contempt arising out of the same act.

(c) (1) Notwithstanding subdivisions (a) and (e), an emergency protective order issued pursuant to Chapter 2 (commencing with Section 6250) of Part 3 of Division 10 of the Family Code or Section 646.91 of the Penal Code shall have precedence in enforcement over any other restraining or protective order, provided the emergency protective order meets all of the following requirements:

(A) The emergency protective order is issued to protect one or more individuals who are already protected persons under another restraining or protective order.

(B) The emergency protective order restrains the individual who is the restrained person in the other restraining or protective order specified in subparagraph (A).

(C) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in subparagraph (A).

(2) An emergency protective order that meets the requirements of paragraph (1) shall have precedence in enforcement over the provisions of any other restraining or protective order only with respect to those provisions of the emergency protective order that are more restrictive in relation to the restrained person.

(d) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(e) (1) In all cases where the defendant is charged with a crime of domestic violence, as defined in Section 13700, the court shall consider issuing the above-described orders on its own motion. All interested parties shall receive a copy of those orders. In order to facilitate this, the court's records of all criminal cases involving domestic violence shall be marked to clearly alert the court to this issue.

(2) In those cases in which a complaint, information, or indictment charging a crime of domestic violence, as defined in Section 13700, has been issued, a restraining order or protective order against the defendant issued by the criminal court in that case has precedence in enforcement over any civil court order against the defendant, unless a court issues an emergency protective order pursuant to Chapter 2 (commencing with Section 6250) of Part 3 of Division 10 of the Family Code or Section 646.91 of the Penal Code, in which case the emergency protective order shall have precedence in enforcement over any other restraining or protective order, provided the emergency protective order meets the following requirements:

(A) The emergency protective order is issued to protect one or more individuals who are already protected persons under another restraining or protective order.

(B) The emergency protective order restrains the individual who is the restrained person in the other restraining or protective order specified in subparagraph (A).

(C) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in subparagraph (A).

(3) Custody and visitation with respect to the defendant and his or her minor children may be ordered by a family or juvenile court consistent with the protocol established pursuant to subdivision (f), but if ordered after a criminal protective order has been issued pursuant to this section, the custody and visitation order shall make reference to, and acknowledge the precedence of enforcement of, any appropriate criminal protective order. On or before July 1, 2006, the Judicial Council shall modify the criminal and civil court forms consistent with this subdivision.

(f) On or before January 1, 2003, the Judicial Council shall promulgate a protocol, for adoption by each local court in substantially similar terms, to provide for the timely coordination of all orders against the same defendant and in favor of the same named victim or victims. The protocol

shall include, but shall not be limited to, mechanisms for assuring appropriate communication and information sharing between criminal, family, and juvenile courts concerning orders and cases that involve the same parties, and shall permit a family or juvenile court order to coexist with a criminal court protective order subject to the following conditions:

(1) Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a "no contact order" issued by a criminal court.

(2) Safety of all parties shall be the courts' paramount concern. The family or juvenile court shall specify the time, day, place, and manner of transfer of the child, as provided in Section 3100 of the Family Code.

(g) On or before January 1, 2003, the Judicial Council shall modify the criminal and civil court protective order forms consistent with this section.

(h) In any case in which a complaint, information, or indictment charging a crime of domestic violence, as defined in Section 13700, has been filed, the court may consider, in determining whether good cause exists to issue an order under paragraph (1) of subdivision (a), the underlying nature of the offense charged, and the information provided to the court pursuant to Section 273.75.

SEC. 2. Section 273.75 of the Penal Code is amended to read:

273.75. (a) On any charge involving acts of domestic violence as defined in subdivisions (a) and (b) of Section 13700 of the Penal Code or Sections 6203 and 6211 of the Family Code, the district attorney or prosecuting city attorney shall perform or cause to be performed, by accessing the electronic databases enumerated in subdivision (b), a thorough investigation of the defendant's history, including, but not limited to, prior convictions for domestic violence, other forms of violence or weapons offenses and any current protective or restraining order issued by any civil or criminal court. This information shall be presented for consideration by the court (1) when setting bond or when releasing a defendant on his or her own recognizance at the arraignment, if the defendant is in custody, (2) upon consideration of any plea agreement, and (3) when issuing a protective order pursuant to Section 136.2 of the Penal Code, in accordance with subdivision (h) of that section. In determining bail or release upon a plea agreement, the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released.

(b) For purposes of this section, the district attorney or prosecuting city attorney shall search or cause to be searched the following databases, when readily available and reasonably accessible:

(1) The Violent Crime Information Network (VCIN).

(2) The Supervised Release File.

(3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.

(4) The Federal Bureau of Investigation's nationwide database.

(5) Locally maintained criminal history records or databases.

However, a record or database need not be searched if the information available in that record or database can be obtained as a result of a search conducted in another record or database.

(c) If the investigation required by this section reveals a current civil protective or restraining order or a protective or restraining order issued by another criminal court and involving the same or related parties, and if a protective or restraining order is issued in the current criminal proceeding, the district attorney or prosecuting city attorney shall send relevant information regarding the contents of the order issued in the current criminal proceeding, and any information regarding a conviction of the defendant, to the other court immediately after the order has been issued. When requested, the information described in this subdivision may be sent to the appropriate family, juvenile, or civil court. When requested, and upon a showing of a compelling need, the information described in this section may be sent to a court in another state.

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## CHAPTER 87

An act to amend Sections 24001 and 24013.5 of the Food and Agricultural Code, relating to horses.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 24001 of the Food and Agricultural Code is amended to read:

24001. For the purposes of this chapter:

(a) "Event" means any public horse show, competition (including cutting horse competitions, endurance riding competitions, competitive trail competitions, gymkhanas, and any other competition as determined by the secretary by regulation), or sale, in which money, goods, or services are exchanged for the right to compete for a single set of placings leading to points or awards at the show or competition, or to permit a horse to be consigned for sale. "Event" does not include any of the following:

(1) Those competitions subject to the jurisdiction of the California Horse Racing Board.

(2) Sales consisting solely of racing stock.

(3) A rodeo-related competition including both rough stock and timed performance competitions when held apart from a horse show.

(4) Roping club events when held apart from a horse show.

(5) Cattle team pennings when held apart from a horse show.

(6) Barrel racing when held apart from a horse show.

(7) Parade horse competitions.

(8) Public horse shows and public horse competitions that do not last longer than one day and whose total cumulative fees to enter into any one or all classes do not exceed four dollars and ninety-nine cents ($4.99), unless otherwise prescribed by the secretary by regulation. "Grounds fees," "stall fees," or any other fee composed of money, goods, or services, which is assessed to permit competitors or consignors to enter into an event are considered a part of this total cumulative fee.

(b) "Event manager" means the person in charge of an event, including the entity or individual financially responsible for the event that is responsible for registering the event with the department, and who is responsible for the assessment, collection, and remittance of fees. "Event manager" includes horse show secretaries and managers, competitive event managers, and horse sale managers and sale owners.

(c) "Horse" means and includes all horses, mules, and asses.

(d) "Licensed veterinarian" means any person licensed as a veterinarian by the State of California.

(e) "Prohibited substance" is any stimulant, depressant, tranquilizer, anesthetic, including any local anesthetic, sedative analgesic, corticosteroid, anabolic steroid, or agent that would sore a horse, which could affect the performance, soundness, or disposition of a horse, or any drug regardless of how harmless or innocuous it might otherwise be that could interfere with the detection of any prohibited substance. It also includes any metabolite or derivative of any prohibited substance.

(f) "NSAIDs" are nonsteroidal anti-inflammatory drugs.

(g) "Therapeutic administration" means the administration of a drug or medicine that is necessary for the treatment of an illness or injury diagnosed by a licensed veterinarian. The administration of a prescription drug or medicine shall only be as given or prescribed by the licensed veterinarian. The administration of a nonprescription drug or medicine shall be in accordance with the directions on the manufacturer's label.

(h) "Exempt medications" are oral or topical medications containing prohibited substances determined by the secretary to be exempt from this chapter when administered therapeutically.

(i) "Public" horse shows, competitions, or sales are those events that permit a person to enter or consign a horse for sale in exchange for money, goods, or services. Any club or group that permits people to join, enter into competition, or consign a horse for sale in exchange for money, goods, or services, is "public" for the purposes of this chapter.

(j) "Stimulant or depressant" means any medication that stimulates or depresses the circulatory, respiratory, or central or peripheral nervous system.

(k) To "sore" means to apply an irritating or blistering agent internally or externally for the purpose of affecting the performance, soundness, or disposition of a horse.

(*l*) "Trainer" means any person who has the responsibility for the care, training, custody, or performance of a horse, including, but not limited to, any person who signs any entry blank of any public horse show, competition, or sale, whether that person is an owner, rider, agent, coach, adult, or minor.

SEC. 2. Section 24013.5 of the Food and Agricultural Code is amended to read:

24013.5. The secretary shall appoint an advisory committee to serve without compensation. The committee shall meet at least once a year, however, the chairperson may call for additional meetings as he or she determines are necessary. The committee shall elect a chairperson at its first meeting after appointment. Thereafter selection of the chairperson shall take place as deemed appropriate by, and at the pleasure of, the committee. Members of the committee and their alternates may include, but not be limited to, representation from the California State Horsemen's Association, the Equestrian Trails, Inc., the California Professional Horsemen's Association, the Los Angeles County Horse Show Exhibitors Association, the California Dressage Society, the Pacific Coast Quarter Horse Association, the Central California Quarter Horse Association, the Division of Fairs and Expositions, the North American Trail Ride Conference, the American Horse Shows Association, the University of California School of Veterinary Medicine, the Appaloosa Club, the International Arabian Horse Association, the Pinto Horse Association of America, the California Veterinary Medical Association, the NorCal Hunter Jumper Association, the California Farm Bureau Federation, the California Gymkhana Association, the American Morgan Horse Association, the Pacific Coast Cutting Horse Association, the Pacific Coast Horse Shows Association, and any other organization the secretary deems appropriate. These advisory committee members and their alternates shall be representative of the industry that this chapter regulates. The members of the committee may also include, but are not limited to, representatives of breed associations represented within the

state and other organizations with an interest in the deterrence of drug abuse in the industry that this chapter regulates. In addition, the secretary may appoint one public member to the committee.

Upon the secretary's request, the committee shall submit to the secretary the names of three or more natural persons, each of whom shall be a citizen and resident of this state for appointment by the secretary as a public member and an alternate public member of the committee. The secretary may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the secretary, the committee shall continue to submit lists of nominees until the secretary has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the secretary from the nominee or nominees similarly qualified and submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters considered by the committee and shall have the same voting and other rights and immunities as other members of the committee.

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## CHAPTER 88

An act to amend Section 1016 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 1016 of the Welfare and Institutions Code is amended to read:

1016. (a) Whenever a person confined in a state institution subject to the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, escapes, or is discharged or paroled from the institution, and any personal funds or property of that person remains in the hands of the Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation, and no demand is made upon the chief deputy secretary by the owner of the funds or property or his or her legally appointed representative, all money and other intangible personal property of that person, other than deeds, contracts, or assignments, remaining in the custody or possession of the chief deputy secretary 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 the

person or his or her successors in interest. However, unclaimed personal funds or property of paroled minors may be exempted from the provisions of this section during the period of their minority and for a period of one year thereafter, at the discretion of the chief deputy secretary.

(b) Upon the expiration of this 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 chief deputy secretary shall be subject to the provisions of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure.

(c) Upon the expiration of one year from the date of the escape, discharge, or parole:

(1) All deeds, contracts, or assignments shall be filed by the chief deputy secretary with the public administrator of the county of commitment of that person.

(2) All tangible personal property other than money, remaining unclaimed in his or her custody or possession, shall be sold by the chief deputy secretary at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him or her subject to the provisions of Section 1752.8 of this code, and subject to the provisions 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 chief deputy secretary 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.

(d) 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 chief deputy secretary to be offered for sale at public auction or upon a sealed-bid basis at a later date, the chief deputy secretary may order it destroyed.

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## CHAPTER 89

An act to amend Section 653y of the Penal Code, relating to crimes.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 653y of the Penal Code is amended to read:

653y. (a) Any person who knowingly allows the use or who uses the 911 telephone system for any reason other than because of an emergency is guilty of an infraction, punishable as follows:

(1) For a first violation, a written warning shall be issued to the violator by the public safety entity originally receiving the call describing the punishment for subsequent violations. The written warning shall inform the recipient to notify the issuing agency that the warning was issued inappropriately if the recipient did not make, or knowingly allow the use of the 911 telephone system for, the nonemergency 911 call. The law enforcement agency may provide educational materials regarding the appropriate use of the 911 telephone system.

(2) For a second or subsequent violation, a citation may be issued by the public safety entity originally receiving the call pursuant to which the violator shall be subject to the following penalties that may be reduced by a court upon consideration of the violator's ability to pay:

(A) For a second violation, a fine of fifty dollars ($50).

(B) For a third violation, a fine of one hundred dollars ($100).

(C) For a fourth or subsequent violation, a fine of two hundred and fifty dollars ($250).

(b) The parent or legal guardian having custody and control of an unemancipated minor who violates this section shall be jointly and severally liable with the minor for the fine imposed pursuant to this section.

(c) For purposes of this section, "emergency" means any condition in which emergency services will result in the saving of a life, a reduction in the destruction of property, quicker apprehension of criminals, or assistance with potentially life-threatening medical problems, a fire, a need for rescue, an imminent potential crime, or a similar situation in which immediate assistance is required.

(d) Notwithstanding subdivision (a), this section shall not apply to a telephone corporation or any other entity for acts or omissions relating to the routine maintenance, repair, or operation of the 911 or 311 telephone system.

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## CHAPTER 90

An act to amend Section 1219 of the Health and Safety Code, relating to clinics.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 1219 of the Health and Safety Code is amended to read:

1219. (a) Except for affiliate clinics, as defined in Section 1218.1, if a clinic or an applicant for a license has not been previously licensed, the department may only issue a provisional license to the clinic as provided in this section.

(b) A provisional license to operate a clinic shall terminate six months from the date of issuance.

(c) Within 30 days prior to the termination of a provisional license, the department shall give the clinic a full and complete inspection, and, if the clinic meets all applicable requirements for licensure, a regular license shall be issued. If the clinic does not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the department, the initial provisional license shall be renewed for six months.

(d) If the department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is a lack of full compliance with such requirements, no further license shall be issued.

(e) If an applicant for a provisional license to operate a clinic has been denied by the department, the applicant may contest the denial by filing a statement of issues, as provided in Section 11504 of the Government Code. The proceedings to review the denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

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## CHAPTER 91

An act to amend Section 1808.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) For all of the following persons, his or her home address that appears in a record of the department, is confidential if the person requests the confidentiality of that information:

(1) Attorney General.

(2) State public defender.

(3) A Member of the Legislature.

(4) A judge or court commissioner.

(5) A district attorney.

(6) A public defender.

(7) An 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.

(8) A city attorney and an attorney who submits verification from his or her public employer that the attorney represents the city in matters that routinely place the attorney in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if that attorney is employed by a city attorney.

(9) A nonsworn police dispatcher.

(10) A child abuse investigator or social worker, working in child protective services within a social services department.

(11) An active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(12) An employee of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or the Prison Industry Authority specified in Sections 20403 and 20405 of the Government Code.

(13) A nonsworn employee of a city police department, a county sheriff's office, the Department of the California Highway Patrol, a federal, state, or local detention facility, or a local juvenile hall, camp, ranch, or home, who submits agency verification that, in the normal course of his or her employment, he or she controls or supervises inmates or is required to have a prisoner in his or her care or custody.

(14) A county counsel assigned to child abuse cases.

(15) An investigator employed by the Department of Justice, a county district attorney, or a county public defender.

(16) A member of a city council.

(17) A member of a board of supervisors.

(18) A federal prosecutor, criminal investigator, or National Park Service Ranger working in this state.

(19) An active or retired city enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.

(20) An employee of a trial court.

(21) A psychiatric social worker employed by a county.

(22) A police or sheriff department employee designated by the Chief of Police of the department or the sheriff of the county as being in a sensitive position. A designation pursuant to this paragraph shall, for purposes of this section, remain in effect for three years subject to additional designations that, for purposes of this section, shall remain in effect for additional three-year periods.

(23) A state employee in one of the following classifications:

(A) Licensing Registration Examiner, Department of Motor Vehicles.

(B) Motor Carrier Specialist 1, California Highway Patrol.

(C) Museum Security Officer and Supervising Museum Security Officer.

(24) (A) The spouse or child of a person listed in paragraphs (1) to (23), inclusive, regardless of the spouse's or child's place of residence.

(B) The surviving spouse or child of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, if the peace officer died in the line of duty.

(b) The confidential home address of a person listed in subdivision (a) shall not be disclosed, except to any of the following:

(1) A court.

(2) A law enforcement agency.

(3) The State Board of Equalization.

(4) An attorney in a civil or criminal action that demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena.

(5) A governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) (1) A 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.

(2) Following termination of office or employment, a confidential home address shall be withheld from public inspection for three years, unless the termination is the result of conviction of a criminal offense. If the termination or separation is the result of the filing of a criminal complaint, a confidential home address shall be withheld from public inspection during the time in which the terminated individual may file an appeal from termination, while an appeal from termination is ongoing, and until the appeal process is exhausted, after which confidentiality shall be at the discretion of the employing agency if the termination or separation is upheld. Upon reinstatement to an office or employment, the protections of this section are available.

(3) With respect to a retired peace officer, his or her home address shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The home address of the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a) shall be withheld from public inspection for three years following the death of the peace officer.

(4) The department shall inform a 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.

(d) A violation of subdivision (a) by the disclosure of the confidential home address of a peace officer, as specified in paragraph (11) of subdivision (a), a nonsworn employee of the city police department or county sheriff's office, or the spouses or children of these persons, including, but not limited to, the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a), that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or the spouses or children of these persons is a felony.

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## CHAPTER 92

An act to add Section 9104.2 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 9104.2 is added to the Vehicle Code, to read:

9104.2. The fees specified in this code, except fees for duplicate plates, certificates, or cards need not be paid for a vehicle of a type subject to registration under this code owned by a federally recognized Indian tribe that has entered into a mutual aid agreement with a state, county, city, or other governmental municipality for fire protection and emergency response, and the equipment is used exclusively for firefighting or rescue purposes or exclusively as an ambulance.

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## CHAPTER 93

An act to amend Sections 24081 and 24082 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 24081 of the Business and Professions Code is amended to read:

24081. (a) Notwithstanding any other provision of law in this division including, but not limited to, requirements relating to the issuance or transfer of a license, any licensee whose premises, for which a license, other than an off-sale license, has been issued, have been destroyed as a result of fire or any act of God or other force beyond the control of the licensee may carry on his or her business for a period of not more than 180 days at a location within 500 feet of the premises for which the license was issued and while the premises are being repaired or rebuilt and he or she shall be entitled to carry on his or her business under his or her existing license upon the former premises when they have been repaired or rebuilt.

(b) Notwithstanding any other provision of law in this division, including, but not limited to, requirements relating to the issuance or transfer of a license, any licensee whose premises, for which an off-sale license has been issued, have been destroyed as a result of fire or any act of God or other force beyond the control of the licensee, may carry on his or her business for a period of not more than six months at a location within 500 feet of the premises for which the license was issued and while the premises are being repaired or rebuilt and he or she shall be entitled to carry on his or her business under his or her existing license upon the former premises when they have been repaired or rebuilt.

SEC. 2. Section 24082 of the Business and Professions Code is amended to read:

24082. The license of a licensee whose licensed premises have been destroyed as a result of fire or act of God or have been taken under the power of eminent domain, may be transferred to another location within the same county without payment of the fee for transfer of a license from one premises to another premises. Within 18 months of the fire or act of God, if the destroyed premises have been reconstructed and the license has not been transferred to another person, the license may be transferred

back to the location of the destroyed premises without payment of the fee for transfer of a license from one premises to another premises.

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## CHAPTER 94

An act to amend Section 1203.4 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public

office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Section 12021.

Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred twenty dollars ($120), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

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## CHAPTER 95

An act to amend and repeal Sections 50832 and 50833 of the Health and Safety Code, relating to community development.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 50832 of the Health and Safety Code, as amended by Section 3 of Chapter 197 of the Statutes of 2005, is amended to read:

50832. (a) In order to ensure that a city or county may apply for both economic development and general program grants pursuant to this chapter in the same year, each applicant shall have a maximum grant request limitation as determined by the department and announced in the applicable NOFA, excluding general allocation planning and technical assistance grants and economic development allocation planning and technical assistance grants made available under Section 50833, of which a maximum amount as determined by the department and announced in the applicable NOFA, per year may be used for either general program or economic development applications. These limitations may be waived for the economic development allocation based upon available economic development funds after September 1 of each year. The department shall

aggressively inform eligible cities and counties of the eligibility criteria and requirements under this section and in Section 50833.

(b) Except for applications specified in Section 50832.1, applications for all activities or set-asides under this section and Section 50833 shall be evaluated on a first-in, first-served basis.

(c) For all economic development applications under this section or Section 50833, including economic development assistance grants, the department shall develop project standards and rating factors which meet the minimum requirements of federal statutes, including a jobs-for-dollars test of thirty-five thousand dollars ($35,000) per job created or retained. In addition to the low- and moderate-income persons or families criteria established in subdivision (b) of Section 50826 and Sections 50827 and 50828, the department shall also utilize as criteria for the economic development allocation the federal standards of "blight" and "urgent need" under this section, Section 50832.1, and Section 50833.

(d) A jurisdiction may submit multiyear proposals for a period not exceeding three years in duration.

SEC. 2. Section 50832 of the Health and Safety Code, as added by Section 4 of Chapter 197 of the Statutes of 2005, is repealed.

SEC. 3. Section 50833 of the Health and Safety Code, as amended by Section 5 of Chapter 197 of the Statutes of 2005, is amended to read:

50833. (a) The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds set aside for economic development that shall be allocated to make economic development planning and technical assistance grants to eligible small cities or counties for business attraction, retention, and expansion programs for the development of local economic development strategies, predevelopment grant feasibility studies, and downtown revitalization programs. Eligible small cities or counties may contract with public agencies or nonprofit economic development corporations and other eligible subgrantees or for-profit corporations or entities to provide these services. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling, under Section 50832, or its ability to apply under the economic development or general program set-asides. The department shall determine and announce in the applicable NOFA the maximum per year grant amount. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year. Funds not applied for or allocated under this section

may be used for other economic development purposes under Sections 50832 and 50832.1.

(b) The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds not used for economic development that shall be set aside to make technical assistance grants to eligible small cities or counties for purposes including, but not limited to: inventory of housing needing rehabilitation in the district, income surveys of area residents, and any general studies of housing needs in the district. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling or its ability to apply under the economic development or general program set-asides. Unexpended funds allocated under this section shall revert to the general program, but not to the economic development set-aside. The department shall determine and announce in the applicable NOFA the maximum grant amount per application. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year.

(c) If, under federal law, the economic development planning and technical assistance grants and the general allocation planning and assistance grants are considered to be administrative expenditures, the department may reduce the percentages of the set-asides by up to the amount necessary to remain within the allowable limits for administrative expenditures.

(d) Two or more jurisdictions may pool their funds and make a joint application for the same project.

(e) General administrative activity planning studies shall not be counted against allocations under this section.

SEC. 4. Section 50833 of the Health and Safety Code, as added by Section 6 of Chapter 197 of the Statutes of 2005, is repealed.

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## CHAPTER 96

An act to amend Section 12002 of the Penal Code, relating to enforcement officers.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 12002 of the Penal Code is amended to read:

12002. (a) Nothing in this chapter prohibits police officers, special police officers, peace officers, or law enforcement officers from carrying any wooden club, baton, or any equipment authorized for the enforcement of law or ordinance in any city or county.

(b) Nothing in this chapter prohibits a uniformed security guard, regularly employed and compensated by a person engaged in any lawful business, while actually employed and engaged in protecting and preserving property or life within the scope of his or her employment, from carrying any wooden club or baton if the uniformed security guard has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

(c) The Department of Consumer Affairs, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the carrying and use of the club or baton.

(d) Any uniformed security guard who successfully completes a course of instruction under this section is entitled to receive a permit to carry and use a club or baton within the scope of his or her employment, issued by the Department of Consumer Affairs. The department may authorize certified training institutions to issue permits to carry and use a club or baton. A fee in the amount provided by law shall be charged by the Department of Consumer Affairs to offset the costs incurred by the department in course certification, quality control activities associated with the course, and issuance of the permit.

(e) Any person who has received a permit or certificate which indicates satisfactory completion of a club or baton training course approved by the Commission on Peace Officer Standards and Training prior to January 1, 1983, shall not be required to obtain a baton or club permit or complete a course certified by the Department of Consumer Affairs.

(f) Any person employed as a county sheriff's or police security officer, as defined in Section 831.4, shall not be required to obtain a club or baton permit or to complete a course certified by the Department of Consumer Affairs in the carrying and use of a club or baton, provided that the person completes a course approved by the Commission on Peace Officer Standards and Training in the carrying and use of the club or baton, within 90 days of employment.

(g) Nothing in this chapter prohibits an animal control officer, as described in Section 830.9, or an illegal dumping enforcement officer,

as described in Section 830.7, from carrying any wooden club or baton if the animal control officer or illegal dumping enforcement officer has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

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## CHAPTER 97

An act to amend Section 11515.2 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 11515.2 of the Vehicle Code is amended to read:

11515.2. (a) (1) If an insurance company makes a total loss settlement on a nonrepairable vehicle and takes possession of that vehicle, either itself or through an agent, the insurance company, an occupational licensee of the department authorized by the insurance company, or a salvage pool authorized by the insurance company, shall, within 10 days after receipt of title by the insurer, free and clear of all liens, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars ($15) to the department. An occupational licensee of the department may submit a certificate of license plate destruction in lieu of the actual license plate. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the fee, shall issue a nonrepairable vehicle certificate for the vehicle.

(2) If an insurance company, an occupational licensee of the department authorized by the insurance company, or a salvage pool authorized by the insurance company is unable to obtain the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department within 30 days following oral or written acceptance by the owner of an offer of an amount in settlement of a total loss, that insurance company, licensee, or salvage pool, on a form provided by the department and signed under penalty of perjury, may

request the department to issue a nonrepairable vehicle certificate for the vehicle. The request shall include and document that the requester has made at least two written attempts to obtain the certificate of ownership or other acceptable evidence of title, and shall include the license plates and fee described in paragraph (1).

(3) The department, upon receipt of the certificate of ownership, other evidence of title, or properly executed request described in paragraph (2), the license plates, and the fee, shall issue a nonrepairable vehicle certificate for the vehicle.

(b) If the owner of a nonrepairable vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars ($15) to the department. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the fee, shall issue a nonrepairable vehicle certificate for the vehicle.

(c) If a nonrepairable vehicle is not the subject of an insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars ($15) to the department.

(d) If a nonrepairable vehicle is not the subject of an insurance settlement, a self-insurer, as defined in Section 16052, shall, within 10 days of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars ($15) to the department.

(e) Prior to sale or disposal of a nonrepairable vehicle, the owner, owner's agent, or salvage pool shall obtain a properly endorsed nonrepairable vehicle certificate and deliver it to the purchaser within 10 days after payment in full for the nonrepairable vehicle and shall also comply with Section 5900. The department shall accept the endorsed nonrepairable vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees, including, but not limited to, the fees required by Section 9265, as may be required by the department.

(f) This section does not apply to a vehicle that has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a nonrepairable vehicle.

(g) A nonrepairable vehicle certificate shall be conspicuously labeled with the words "NONREPAIRABLE VEHICLE" across the front of the certificate.

(h) A violation of subdivision (a), (b), (d), or (e) is a misdemeanor, pursuant to Section 40000.11. Notwithstanding Section 40000.11, a violation of subdivision (c) is an infraction, except that, if committed with intent to defraud, a violation of subdivision (c) is a misdemeanor.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 98

An act to amend Section 3031 of, and to add Section 1050.3 to, the Fish and Game Code, relating to wildlife.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 1050.3 is added to the Fish and Game Code, to read:

1050.3. Notwithstanding any other provision of this code, the department may issue a temporary document that allows the holder of a license, permit, license tag, license stamp, application, reservation, or other entitlement purchased through the Internet to enjoy the privileges of the entitlement for a period not to exceed 30 calendar days from the date of purchase.

SEC. 2. Section 3031 of the Fish and Game Code is amended to read:

3031. (a) A hunting license, granting the privilege to take birds and mammals, shall be issued to any of the following:

(1) A resident of this state, 16 years of age or older, upon the payment of a base fee of thirty-one dollars and twenty-five cents ($31.25).

(2) A resident or nonresident, who is under 16 years of age on July 1 of the licensing year, upon the payment of a base fee of eight dollars

and twenty-five cents ($8.25), regardless of whether that person applies before or after July 1 of that year.

(3) A nonresident, 16 years of age or older, upon the payment of a base fee of one hundred eight dollars and fifty cents ($108.50).

(4) A nonresident, 16 years of age or older, valid only for two consecutive days upon payment of the fee set forth in paragraph (1). A license issued pursuant to this paragraph is valid only for taking resident and migratory game birds, resident small game mammals, fur-bearing mammals, and nongame mammals, as defined in this code or in regulations adopted by the commission.

(5) A nonresident, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed game bird club, or for the taking of domesticated migratory game birds in areas licensed for shooting those birds, upon the payment of a base fee of fifteen dollars ($15).

(b) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

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## CHAPTER 99

An act to amend Sections 73502, 73504, 73510, 73512, and 73514 of the Water Code, relating to regional water systems.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 73502 of the Water Code is amended to read:

73502. (a) The city, on or before February 1, 2003, shall adopt the program of capital improvement projects designed to restore and improve the bay area regional water system that are described in the capital improvement program report prepared by the San Francisco Public Utilities Commission dated February 25, 2002. A copy of the program shall be submitted, on or before March 1, 2003, to the State Department of Health Services. The program shall include a schedule for the completion of design and award of contract, and commencement and completion of construction of each described project. The schedule shall require that projects representing 50 percent of the total program cost be completed on or before 2010 and that projects representing 100 percent of the total program cost be completed on or before 2015. The program

shall also contain a financing plan. The city shall review and update the program, as necessary, based on changes in the schedule set forth in the plan adopted pursuant to subdivision (d).

(b) The plan shall require completion of the following projects:

| Project | Location | Project Identification Number |
|---|---|---|
| 1. Irvington Tunnel Alternative | Alameda/Santa Clara Counties | 9970 |
| 2. Crystal Springs Pump Station & Pipeline | San Mateo County | 201671 |
| 3. BDPL 1 & 2-Repair of Caissons/Pipe Bridge | Alameda/San Mateo Counties | 99 |
| 4. BDPL Pipeline Upgrades at Hayward Fault | Alameda County | 128 |
| 5. Calaveras Fault Crossing Upgrade | Alameda County | 9897 |
| 6. Crystal Springs Bypass Pipeline | San Mateo County | 9891 |
| 7. BDPL Cross Connections 3 &4 | Alameda/Santa Clara Counties | 202339 |
| 8. Conveyance Capacity West of Irvington Tunnel | Alameda/Santa Clara/San Mateo Counties | 201441 |
| 9. Calaveras Dam Seismic Improvements | Alameda County | 202135 |

(c) The city shall submit a report to the Joint Legislative Audit Committee, the Seismic Safety Commission, and the State Department of Public Health, on or before September 1 of each year, describing the progress made on the implementation of the capital improvement program for the bay area regional water system during the previous fiscal year. The city shall identify in the report any project that is behind schedule, and, for each project so identified, shall describe the city's plan and timeline for either making up the delay or adopting a revised schedule pursuant to subdivision (d).

(d) (1) The city may determine that completion dates for projects contained in the capital improvement program adopted pursuant to subdivision (a), including those projects described in subdivision (b), should be delayed or that different projects should be constructed.

(2) The city shall provide written notice, not less than 30 days prior to the date of a meeting of the city agency responsible for management of the bay area regional water system, that a change in the program is to be considered. The notice shall include information about the reason for the proposed change and the availability of materials related to the proposed change. All bay area wholesale customers shall be permitted to testify or otherwise submit comments at the meeting.

(3) If the city adopts a change in the program that deletes one or more projects from the program, or postpones the scheduled completion dates, the city shall promptly furnish a copy of that change and the reasons for that change to the State Department of Public Health and the Seismic Safety Commission. The State Department of Public Health and the Seismic Safety Commission shall each submit written comments with regard to the significance of that change with respect to public health and safety to the city and the Joint Legislative Audit Committee not later than 90 days after the date on which those entities received notice of that change.

SEC. 2. Section 73504 of the Water Code is amended to read:

73504. (a) Commencing in 2003, a regional wholesale water supplier shall submit a report to the Legislature and the State Department of Public Health, on or before February 1 of each year, describing the progress made during the previous calendar year on securing supplemental sources of water to augment existing supplies during dry years.

(b) In order to supply adequately, dependably, and safely the requirements of all users of water, the city shall continue its practice of operating the reservoirs in the Counties of Tuolumne and Stanislaus in a manner that ensures that the generation of hydroelectric power will not cause any reasonably anticipated adverse impact on water service. The city shall assign higher priority to delivery of water to the bay area than to the generation of electric power, unless the Secretary of the Interior, in writing, notifies the city that doing so would violate the Raker Act (63 P.L. 41). The city shall make available to the public, on request, its plans of operations (rule curves) for these reservoirs.

(c) The city shall be deemed to be a local public agency for the purposes of Article 4 (commencing with Section 1810) of Chapter 11 of Part 2 of Division 2.

SEC. 3. Section 73510 of the Water Code is amended to read:

73510. Notwithstanding Section 116500 of the Health and Safety Code, the State Department of Public Health shall ensure that the bay area regional water system is operated in compliance with the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code) and the

guidelines established by the United States Environmental Protection Agency for the purposes of administering the comparable provisions of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.).

SEC. 4. Section 73512 of the Water Code is amended to read:

73512. A regional wholesale water supplier shall reimburse the state for all costs incurred by the State Department of Public Health or the Seismic Safety Commission in carrying out the duties imposed by this division. The bay area wholesale customers shall reimburse the city for their share of those costs as provided in the master water sales contract. The wholesale customers of regional wholesale water suppliers other than the city are responsible for reimbursing the regional wholesale water supplier for their proportionate share of those costs, through the imposition of water charges.

SEC. 5. Section 73514 of the Water Code is amended to read:

73514. This division shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

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## CHAPTER 100

An act to amend Section 29735 of, and to add Section 29735.1 to, the Public Resources Code, relating to the Delta Protection Act.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 29735 of the Public Resources Code is amended to read:

29735. There is hereby created the Delta Protection Commission consisting of 23 members as follows:

(a) One member of the board of supervisors, or his or her designee, of each of the five counties within the delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of the county.

(b) (1) Three elected city council members shall be selected and appointed by city selection committees, from regional and area councils of government, one in each of the following areas:

(A) One from the north delta, consisting of the Counties of Yolo and Sacramento.

(B) One from the south delta, consisting of the County of San Joaquin.

(C) One from the west delta, consisting of the Counties of Contra Costa and Solano.

(2) A city council member may select a designee for purposes of paragraph (1).

(c) (1) One member each from the board of directors of five different reclamation districts that are located within the primary zone who are residents of the delta, and who are elected by the trustees of reclamations districts within the following areas:

(A) Two members from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.

(B) One member from the west delta consisting of the area of Contra Costa County within the delta.

(C) One member from the area of the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).

(D) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).

(2) Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. The member may select a designee for this purpose. For purposes of this section, each reclamation district shall have one vote. The north delta area shall conduct separate votes to select each of its two members.

(d) The Director of Parks and Recreation, or the director's sole designee.

(e) The Director of Fish and Game, or the director's sole designee.

(f) The Secretary of Food and Agriculture, or the secretary's sole designee.

(g) The executive officer of the State Lands Commission, or the executive officer's sole designee.

(h) The Director of Boating and Waterways, or the director's sole designee.

(i) The Director of Water Resources, or the director's sole designee.

(j) The public member of the California Bay-Delta Authority who represents the delta region or his or her designee.

(k) (1) The Governor shall appoint three members and three alternates from the general public who are delta residents or delta landowners, as follows:

(A) One member and one alternate shall represent the interests of production agriculture with a background in promoting the agricultural viability of delta farming.

(B) One member and one alternate shall represent the interests of conservation of wildlife and habitat resources of the delta region and ecosystem.

(C) One member and one alternate shall represent the interests of outdoor recreational opportunities, including, but not limited to, hunting and fishing.

(2) An alternate may serve in the absence of a member.

SEC. 2. Section 29735.1 is added to the Public Resources Code, to read:

29735.1. (a) A member of the commission described in subdivision (a), (b), (c), or (j) of Section 29735 may, subject to the confirmation of his or her appointing power, appoint an alternate to represent him or her at a commission meeting. An alternate may serve prior to confirmation for a period not to exceed 90 days from the date of appointment, unless and until confirmation is denied.

(b) The alternate shall serve at the pleasure of the member who appoints him or her and shall have all of the powers and duties of a member of the commission, except that the alternate shall only participate and vote in a meeting in the absence of the member who appoints him or her. All provisions of law relating to conflicts of interest that are applicable to a member shall apply to an alternate. Whenever a member has, or is known to have, a conflict of interest on any matter, the member's alternate is ineligible to vote on that matter.

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## CHAPTER 101

An act to amend Section 5080.18 of the Public Resources Code, relating to state parks.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 5080.18 of the Public Resources Code is amended to read:

5080.18. All concession contracts entered into pursuant to this article shall contain, but are not limited to, all of the following provisions:

(a) (1) The maximum term shall be 10 years, except that a term of more than 10 years may be provided if the director determines that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire, to facilitate the full utilization of a structure that is scheduled by the department for replacement or redevelopment, or to serve the best interests of the state. The term shall not exceed 20 years without specific authorization by statute.

(2) The maximum term shall be 50 years if the concession contract is for the construction, development, and operation of multiple-unit lodging facilities equipped with full amenities, including plumbing and electrical, that is anticipated to exceed an initial cost of one million five hundred thousand dollars ($1,500,000) in capital improvements in order to begin operation. The term for a concession contract described in this paragraph shall not exceed 50 years without specific authorization by statute.

(b) Every concessionaire shall submit to the department all sales and use tax returns.

(c) Every concession shall be subject to audit by the department.

(d) A performance bond shall be obtained and maintained by the concessionaire. In lieu of a bond, the concessionaire may substitute a deposit of funds acceptable to the department. Interest on the deposit shall accrue to the concessionaire.

(e) The concessionaire shall obtain and maintain in force at all times a policy of liability insurance in an amount adequate for the nature and extent of public usage of the concession and naming the state as an additional insured.

(f) Any discrimination by the concessionaire or his or her agents or employees against any person because of the marital status or ancestry of that person or any characteristic listed or defined in Section 11135 of the Government Code is prohibited.

(g) To be effective, any modification of the concession contract shall be evidenced in writing.

(h) Whenever a concession contract is terminated for substantial breach, there shall be no obligation on the part of the state to purchase any improvements made by the concessionaire.

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# CHAPTER 102

An act to amend Section 14837 of the Government Code, relating to public contracts.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 14837 of the Government Code is amended to read:

14837. As used in this chapter:

(a) "Department" means the Department of General Services.

(b) "Director" means the Director of General Services.

(c) "Manufacturer" means a business that meets both of the following requirements:

(1) It is primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products.

(2) It is classified between Codes 31 to 33, inclusive, of the North American Industry Classification System.

(d) (1) "Small business" means an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and that, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars ($10,000,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 100 or fewer employees.

(2) "Microbusiness" is a small business that, together with affiliates, has average annual gross receipts of two million five hundred thousand dollars ($2,500,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 25 or fewer employees.

(3) The director shall conduct a biennial review of the average annual gross receipt levels specified in this subdivision and may adjust that level to reflect changes in the California Consumer Price Index for all items. To reflect unique variations or characteristics of different industries, the director may establish, to the extent necessary, either higher or lower qualifying standards than those specified in this subdivision, or alternative standards based on other applicable criteria.

(4) Standards applied under this subdivision shall be established by regulation, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, and shall preclude the

qualification of businesses that are dominant in their industry. In addition, the standards shall provide that the certified small business or microbusiness shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a commercially useful function, as defined below:

(A) A certified small business or microbusiness is deemed to perform a commercially useful function if the business does all of the following:

(i) (I) Is responsible for the execution of a distinct element of the work of the contract.

(II) Carries out its obligation by actually performing, managing, or supervising the work involved.

(III) Performs work that is normal for its business services and functions.

(ii) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

(B) A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of small business or microbusiness participation.

(e) "Disabled veteran business enterprise" means an enterprise that has been certified as meeting the qualifications established by subdivision (g) of Section 999 of the Military and Veterans Code.

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## CHAPTER 103

An act to amend Section 11836 of the Health and Safety Code, and to amend Section 23103.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 11836 of the Health and Safety Code is amended to read:

11836. (a) The department shall have the sole authority to issue, deny, suspend, or revoke the license of a driving-under-the-influence program. As used in this chapter, "program" means any firm, partnership, association, corporation, local governmental entity, agency, or place that has been initially recommended by the county board of supervisors,

subject to any limitation imposed pursuant to subdivisions (c) and (d), and that is subsequently licensed by the department to provide alcohol or drug recovery services in that county to any of the following:

(1) A person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a violation of Section 23152 or 23153 of the Vehicle Code, and admitted to a program pursuant to Section 13352, 13352.1, 23538, 23542, 23548, 23552, 23556, 23562, or 23568 of the Vehicle Code.

(2) A person who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code, or of Section 655.4 of that code, and admitted to the program pursuant to Section 668 of that code.

(3) A person who has pled guilty or nolo contendere to a charge of a violation of Section 23103 of the Vehicle Code, under the conditions set forth in subdivision (c) of Section 23103.5 of the Vehicle Code, and who has been admitted to the program under subdivision (e) or (f) of Section 23103.5 of the Vehicle Code.

(4) A person whose license has been suspended, revoked, or delayed due to a violation of Section 23140, and who has been admitted to a program under Article 2 (commencing with Section 23502) of Chapter 1 of Division 11.5 of the Vehicle Code.

(b) If a firm, partnership, corporation, association, local government entity, agency, or place has, or is applying for, more than one license, the department shall treat each licensed program, or each program seeking licensure, as belonging to a separate firm, partnership, corporation, association, local government entity, agency, or place for the purposes of this chapter.

(c) For purposes of providing recommendations to the department pursuant to subdivision (a), a county board of supervisors may limit its recommendations to those programs that provide services for persons convicted of a first driving-under-the-influence offense, or services to those persons convicted of a second or subsequent driving-under-the-influence offense, or both services. If a county board of supervisors fails to provide recommendations, the department shall determine the program or programs to be licensed in that county.

(d) After determining a need, a county board of supervisors may also place one or more limitations on the services to be provided by a driving-under-the-influence program or the area the program may operate within the county, when it initially recommends a program to the department pursuant to subdivision (a).

(1) For purposes of this subdivision, a board of supervisors may restrict a program for those convicted of a first driving-under-the-influence offense to providing only a three-month

program, or may restrict a program to those convicted of a second or subsequent driving-under-the-influence offense to providing only an 18-month program, as a condition of its recommendation.

(2) A board of supervisors may not place restrictions on a program that would violate a statute or regulation.

(3) When recommending a program, if a board of supervisors fails to place any limitation on a program pursuant to this subdivision, the department may license that program to provide any driving-under-the-influence program services that are allowed by law within that county.

(4) This subdivision is intended to apply only to the initial recommendation to the department for licensure of a program by the county. It is not intended to affect a license that has been previously issued by the department or the renewal of a license for a driving-under-the-influence program. In counties where a contract or other written agreement is currently in effect between the county and a licensed driving-under-the-influence program operating in that county, this subdivision is not intended to alter the terms of that relationship or the renewal of that relationship.

SEC. 2. Section 23103.5 of the Vehicle Code is amended to read:

23103.5. (a) If the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of Section 23103 in satisfaction of, or as a substitute for, an original charge of a violation of Section 23152, the prosecution shall state for the record a factual basis for the satisfaction or substitution, including whether or not there had been consumption of an alcoholic beverage or ingestion or administration of a drug, or both, by the defendant in connection with the offense. The statement shall set forth the facts that show whether or not there was a consumption of an alcoholic beverage or the ingestion or administration of a drug by the defendant in connection with the offense.

(b) The court shall advise the defendant, prior to the acceptance of the plea offered pursuant to a factual statement pursuant to subdivision (a), of the consequences of a conviction of a violation of Section 23103 as set forth in subdivision (c).

(c) If the court accepts the defendant's plea of guilty or nolo contendere to a charge of a violation of Section 23103 and the prosecutor's statement under subdivision (a) states that there was consumption of an alcoholic beverage or the ingestion or administration of a drug by the defendant in connection with the offense, the resulting conviction shall be a prior offense for the purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622, as specified in those sections.

(d) The court shall notify the Department of Motor Vehicles of each conviction of Section 23103 that is required under this section to be a

prior offense for purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622.

(e) Except as provided in paragraph (1) of subdivision (f), if the court places the defendant on probation for a conviction of Section 23103 that is required under this section to be a prior offense for purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622, the court shall order the defendant to enroll in an alcohol and drug education program licensed under Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code and complete, at a minimum, the educational component of that program, as a condition of probation. If compelling circumstances exist that mitigate against including the education component in the order, the court may make an affirmative finding to that effect. The court shall state the compelling circumstances and the affirmative finding on the record, and may, in these cases, exclude the educational component from the order.

(f) (1) If the court places on probation a defendant convicted of a violation of Section 23103 that is required under this section to be a prior offense for purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622, and that offense occurred within 10 years of a separate conviction of a violation of Section 23103, as specified in this section, or within 10 years of a conviction of a violation of Section 23152 or 23153, the court shall order the defendant to participate for nine months or longer, as ordered by the court, in a program licensed under Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code that consists of at least 60 hours of program activities, including education, group counseling, and individual interview sessions.

(2) The court shall revoke the person's probation, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in paragraph (1).

(g) The Department of Motor Vehicles shall include in its annual report to the Legislature under Section 1821 an evaluation of the effectiveness of the programs described in subdivisions (e) and (f) as to treating persons convicted of violating Section 23103.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

# CHAPTER 104

An act to amend Section 6159 of the Government Code, relating to payments to public agencies.

[Approved by Governor July 10, 2008. Filed with
Secretary of State July 10, 2008.]

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

SECTION. 1. Section 6159 of the Government Code is amended to read:

6159. (a) The following definitions apply for purposes of 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, or his or her agent, who issues a credit card and purchases credit card drafts.

(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) "Debit card" means a card or other means of access to a debit cardholder's account that may be used to initiate electronic funds transfers from that account.

(5) "Draft purchaser" means any person who purchases credit card drafts.

(6) "Electronic funds transfer" means any method by which a person permits electronic access to, and transfer of, money held in an account by that person.

(b) Subject to subdivisions (c) and (d), a court, city, county, city and county, or other public agency may authorize the acceptance of a credit card, debit card, or electronic funds transfer for any of the following:

(1) The payment for the deposit of bail for any offense not declared to be a felony or for any court-ordered fee, fine, forfeiture, penalty, assessment, or restitution. Use of a card or electronic funds transfer pursuant to this paragraph may include a requirement that the defendant be charged any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction.

(2) The payment of a filing fee or other court fee.

(3) The payment of any towage or storage costs for a vehicle that has been removed from a highway, or from public or private property, as a result of parking violations.

(4) The payment of child, family, or spousal support, including reimbursement of public assistance, related fees, costs, or penalties, with the authorization of the cardholder or accountholder.

(5) The payment for services rendered by any city, county, city and county, or other public agency.

(6) The payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(7) The payment of any moneys payable to the sheriff pursuant to a levy under a writ of attachment or writ of execution. If the use of a card or electronic funds transfer pursuant to this paragraph includes any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction, that fee shall be paid by the person who pays the money to the sheriff pursuant to the levy.

(c) A court desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the Judicial Council. A city desiring to authorize the use of a credit card, debit card, or electronic funds transfer 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, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the governing body that has fiscal responsibility for that agency.

(d) After approval is obtained, a contract may be executed with one or more credit card issuers, debit card issuers, electronic funds transfer processors, or draft purchasers. The contract shall provide for the following matters:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer, funds processor, or draft purchaser regarding the presentment, acceptability, and payment of credit and debit card drafts and electronic funds transfer requests.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer, funds processor, or draft purchaser of a reasonable fee or discount.

(4) Any other matters appropriately included in contracts with respect to the purchase of credit and debit card drafts and processing of electronic funds transfer requests as may be agreed upon by the parties to the contract.

(e) The honoring of a credit card, debit card, or electronic funds transfer 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 or debit card is honored or the electronic funds transfer is processed, provided the credit or debit card draft is paid

following its due presentment to a card issuer or draft purchaser or the electronic funds transfer is completed with transfer to the agency requesting the transfer.

(f) If any credit or debit 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 or debit card shall be void. If any electronic funds transfer request is not completed with transfer to the agency requesting the transfer or is charged back to the agency for any reason, any record of payment made by the agency processing the electronic funds transfer shall be void. Any receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder or accountholder shall continue as an outstanding obligation as if no payment had been attempted.

(g) 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 or debit card or electronic funds transfer, not to exceed the costs incurred by the agency in providing for payment by credit or debit card or electronic funds transfer. These costs may include, but shall not be limited to, the payment of fees or discounts as specified in paragraph (3) of subdivision (d). Any fee imposed by a court pursuant to this subdivision shall be approved by the Judicial Council. Any fee imposed by any other public agency pursuant to this subdivision for the use of a credit or debit card or electronic funds transfer shall be approved by the governing body responsible for the fiscal decisions of the public agency.

(h) Fees or discounts provided for under paragraph (3) of subdivision (d) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer, funds processor, or draft purchaser to the extent not recovered from the cardholder or accountholder pursuant to subdivision (g).

(i) The Judicial Council may enter into a master agreement with one or more credit or debit card issuers, funds processors, or draft purchasers for the acceptance and payment of credit or debit card drafts and electronic funds transfer requests received by the courts. Any court may join in any of these master agreements or may enter into a separate agreement with a credit or debit card issuer, funds processor, or draft purchaser.

## CHAPTER 105

An act to add Section 487i to the Penal Code, relating to property crimes.

[Approved by Governor July 10, 2008. Filed with
Secretary of State July 10, 2008.]

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

SECTION 1. Section 487i is added to the Penal Code, to read:

487i. Any person who defrauds a housing program of a public housing authority of more than four hundred dollars ($400) is guilty of grand theft.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 106

An act to repeal and add Section 10106 of the Public Contract Code, relating to public contracts.

[Approved by Governor July 10, 2008. Filed with
Secretary of State July 10, 2008.]

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

SECTION 1. Section 10106 of the Public Contract Code is repealed.

SEC. 2. Section 10106 is added to the Public Contract Code, to read:

10106. For purposes of this part:

(a) "Department" means any of the following:

(1) The Department of Water Resources as to any project under the jurisdiction of that department.

(2) The Department of General Services as to any project under the jurisdiction of that department.

(3) The Department of Boating and Waterways as to any project under the jurisdiction of that department pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code.

(4) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(5) The Military Department as to any project under the jurisdiction of that department.

(6) The Department of Transportation as to all other projects.

(b) "Director" means the director of each department as defined herein respectively.

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## CHAPTER 107

An act to amend Sections 651 and 11622 of the Insurance Code, relating to insurance.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 651 of the Insurance Code is amended to read:

651. Whenever an insurer gives notice of rescission of an automobile liability policy, upon request of the driver, the insurer, within 15 days of receipt of the request, shall furnish to the insured a statement setting forth the ground or grounds upon which the notice of rescission is based. There shall be no liability on the part of, and no cause of action shall arise against, any insurer or authorized representative, or its licensed investigative sources, for any statements made by them in a written notice required to be given pursuant to this section. If the insurer fails to comply with the provisions of this section, the insured may apply to the commissioner for a certificate of the facts or information desired. Any such request shall be made in accordance with Article 3 (commencing with Section 12950) of Chapter 2 of Division 3, and the commissioner shall exercise any power conferred upon him by that article as may be necessary to ensure compliance with this section.

SEC. 2. Section 11622 of the Insurance Code is amended to read:

11622. Such plan shall require the issuance of a policy affording coverage in the amount of fifteen thousand dollars ($15,000) for bodily injury to or death of each person as a result of any one accident and,

subject to said limit as to one person, the amount of thirty thousand dollars ($30,000) for bodily injury to or death of all persons as a result of any one accident, and the amount of five thousand dollars ($5,000) for damage to property of others as a result of any one accident, or in such minimum amounts as are necessary to provide exemption from the security requirements of Section 16021 of the Vehicle Code or for which proof of ability to respond in damages or adequate protection against liability is otherwise required by law, but shall not require the issuance of a policy affording coverage in excess of said amounts.

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## CHAPTER 108

An act to amend Section 10704 of the Elections Code, relating to elections.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 10704 of the Elections Code is amended to read:

10704. (a) Except as provided in subdivision (b), a special primary election shall be held in the district in which the vacancy occurred on the eighth Tuesday or, if the eighth Tuesday is the day of or the day following a state holiday, the ninth Tuesday preceding the day of the special general election at which the vacancy is to be filled. Candidates at the primary election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 63 days before the primary election, shall be left with the county elections official for examination not less than 43 days before the primary election, and shall be filed with the Secretary of State not less than 39 days before the primary election.

(b) A special primary election shall be held in the district in which the vacancy occurred on the ninth Tuesday preceding the day of the special general election at which the vacancy is to be filled if both of the following conditions apply:

(1) The ninth Tuesday preceding the day of the special general election is an established election date pursuant to Section 1000.

(2) A statewide or local election occurring wholly or partially within the same territory in which the vacancy exists is scheduled for the ninth Tuesday preceding the day of the special general election.

(c) Notwithstanding Section 3001, applications for absent voter ballots may be submitted not more than 25 days before the primary election, except that Section 3001 shall apply if the special election or special primary election is consolidated with a statewide election. Applications received by the elections official prior to the 25th day shall not be returned to the sender, but shall be held by the elections official and processed by him or her following the 25th day prior to the election in the same manner as if received at that time.

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## CHAPTER 109

An act to amend Section 653m of the Penal Code, relating to criminal communications.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 653m of the Penal Code is amended to read:

653m. (a) Every person who, with intent to annoy, telephones or makes contact by means of an electronic communication device with another and addresses to or about the other person any obscene language or addresses to the other person any threat to inflict injury to the person or property of the person addressed or any member of his or her family, is guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith.

(b) Every person who, with intent to annoy or harass, makes repeated telephone calls or makes repeated contact by means of an electronic communication device, or makes any combination of calls or contact, to another person is, whether or not conversation ensues from making the telephone call or contact by means of an electronic communication device, guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith or during the ordinary course and scope of business.

(c) Any offense committed by use of a telephone may be deemed to have been committed when and where the telephone call or calls were made or received. Any offense committed by use of an electronic communication device or medium, including the Internet, may be deemed

to have been committed when and where the electronic communication or communications were originally sent or first viewed by the recipient.

(d) Subdivision (a) or (b) is violated when the person acting with intent to annoy makes a telephone call or contact by means of an electronic communication device requesting a return call and performs the acts prohibited under subdivision (a) or (b) upon receiving the return call.

(e) Subdivision (a) or (b) is violated when a person knowingly permits any telephone or electronic communication under the person's control to be used for the purposes prohibited by those subdivisions.

(f) If probation is granted, or the execution or imposition of sentence is suspended, for any person convicted under this section, the court may order as a condition of probation that the person participate in counseling.

(g) For purposes of this section, the term "electronic communication device" includes, but is not limited to, telephones, cellular phones, computers, video recorders, facsimile machines, pagers, personal digital assistants, smartphones, and any other device that transfers signs, signals, writing, images, sounds, or data. "Electronic communication device" also includes, but is not limited to, videophones, TTY/TDD devices, and all other devices used to aid or assist communication to or from deaf or disabled persons. "Electronic communication" has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 110

An act to amend Section 804 of the Penal Code, relating to criminal proceedings.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 804 of the Penal Code is amended to read:

804. Except as otherwise provided in this chapter, for the purpose of this chapter, prosecution for an offense is commenced when any of the following occurs:

(a) An indictment or information is filed.

(b) A complaint is filed charging a misdemeanor or infraction.

(c) The defendant is arraigned on a complaint that charges the defendant with a felony.

(d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or complaint.

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## CHAPTER 111

An act to amend Section 12001.1 of the Penal Code, relating to undetectable knives, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 12001.1 of the Penal Code is amended to read:

12001.1. (a) Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, or who knowingly exports out of this state for commercial, dealer, wholesaler, or distributor sale, or who keeps for commercial sale, or offers or exposes for commercial, dealer, wholesaler, or distributor sale, any undetectable knife is guilty of a misdemeanor. As used in this section, an "undetectable knife" means any knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death that is commercially manufactured to be used as a weapon and is not detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(b) Notwithstanding any other provision of law, commencing January 1, 2000, all knives or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death that are commercially manufactured in this state that

utilize materials that are not detectable by a metal detector or magnetometer, shall be manufactured to include materials that will ensure they are detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(c) This section shall not apply to the manufacture or importation of undetectable knives for sale to a law enforcement or military entity with a valid agency, department, or unit purchase order, nor shall this section apply to the subsequent sale of these knives to a law enforcement or military entity.

(d) This section shall not apply to the manufacture or importation of undetectable knives for sale to federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that the undetectable knives are properly housed and secured from unauthorized handling, nor shall this section apply to the subsequent sale of the knives to these societies, museums, and collections.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B 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 protect the citizens of this state at the earliest possible time, it is necessary for this act to take effect immediately.

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## CHAPTER 112

An act to amend Section 13848.6 and repeal Section 13848.8 of the Penal Code, relating to crime.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 13848.6 of the Penal Code is amended to read:

13848.6. (a) The High Technology Crime Advisory Committee is hereby established for the purpose of formulating a comprehensive written strategy for addressing high technology crime throughout the state, with the exception of crimes that occur on state property or are committed against state employees, and to advise the Office of Emergency Services on the appropriate disbursement of funds to regional task forces.

(b) This strategy shall be designed to be implemented through regional task forces. In formulating that strategy, the committee shall identify various priorities for law enforcement attention, including the following goals:

(1) To apprehend and prosecute criminal organizations, networks, and groups of individuals engaged in the following activities:

(A) Theft of computer components and other high technology products.

(B) Violations of Penal Code Sections 211, 350, 351a, 459, 496, 537e, 593d, 593e, 653h, 653s, and 635w.

(C) Theft of telecommunications services and other violations of Penal Code Sections 502.7 and 502.8.

(D) Counterfeiting of negotiable instruments and other valuable items through the use of computer technology.

(E) Creation and distribution of counterfeit software and other digital information, including the use of counterfeit trademarks to misrepresent the origin of that software or digital information.

(F) Creation and distribution of pirated sound recordings or audiovisual works or the failure to disclose the origin of a recording or audiovisual work.

(2) To apprehend and prosecute individuals and groups engaged in the unlawful access, destruction, or unauthorized entry into and use of private, corporate, or government computers and networks, including wireless and wire line communications networks and law enforcement dispatch systems, and the theft, interception, manipulation, destruction, and unauthorized disclosure of data stored within those computers.

(3) To apprehend and prosecute individuals and groups engaged in the theft of trade secrets.

(4) To investigate and prosecute high technology crime cases requiring coordination and cooperation between regional task forces and local, state, federal, and international law enforcement agencies.

(c) The Director of the Office of Emergency Services shall appoint the following members to the committee:

(1) A designee of the California District Attorneys Association.

(2) A designee of the California State Sheriffs Association.

(3) A designee of the California Police Chiefs Association.

(4) A designee of the Attorney General.

(5) A designee of the California Highway Patrol.

(6) A designee of the High Technology Crime Investigation Association.

(7) A designee of the agency or agencies designated by the Director of Finance pursuant to Section 13820.

(8) A designee of the American Electronic Association to represent California computer system manufacturers.

(9) A designee of the American Electronic Association to represent California computer software producers.

(10) A designee of CTIA - The Wireless Association.

(11) A representative of the California Internet industry.

(12) A designee of the Semiconductor Equipment and Materials International.

(13) A designee of the California Cable & Telecommunications Association.

(14) A designee of the Motion Picture Association of America.

(15) A designee of the California Communications Associations (CalCom).

(16) A representative of the California banking industry.

(17) A representative of the Office of Information Security and Privacy Protection.

(18) A representative of the Department of Finance.

(19) A representative of the State Chief Information Officer.

(20) A representative of the Recording Industry of America.

(21) A representative of the Consumers Union.

(d) The Director of the Office of Emergency Services shall designate the Chair of the High Technology Crime Advisory Committee from the appointed members.

(e) The advisory committee shall not be required to meet more than 12 times per year. The advisory committee may create subcommittees of its own membership, and each subcommittee shall meet as often as the subcommittee members find necessary. It is the intent of the Legislature that all advisory committee members shall actively participate in all advisory committee deliberations required by this chapter.

Any member who, without advance notice to the executive director and without designating an alternative representative, misses three scheduled meetings in any calendar year for any reason other than severe temporary illness or injury (as determined by the Director of the Office of Emergency Services) shall automatically be removed from the advisory committee. If a member wishes to send an alternative representative in his or her place, advance written notification of this substitution shall

be presented to the executive director. This notification shall be required for each meeting the appointed member elects not to attend.

Members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for travel and per diem expenses incurred as a result of attending meetings sponsored by the Office of Emergency Services.

(f) The director, in consultation with the High Technology Crime Advisory Committee, shall develop specific guidelines and administrative procedures for the selection of projects to be funded by the High Technology Theft Apprehension and Prosecution Program, which guidelines shall include the following selection criteria:

(1) Each regional task force that seeks funds shall submit a written application to the committee setting forth in detail the proposed use of the funds.

(2) In order to qualify for the receipt of funds, each proposed regional task force submitting an application shall provide written evidence that the agency meets either of the following conditions:

(A) The regional task force devoted to the investigation and prosecution of high technology-related crimes is comprised of local law enforcement and prosecutors, and has been in existence for at least one year prior to the application date.

(B) At least one member of the task force has at least three years of experience in investigating or prosecuting cases of suspected high technology crime.

(3) Each regional task force shall be identified by a name that is appropriate to the area that it serves. In order to qualify for funds, a regional task force shall be comprised of local law enforcement and prosecutors from at least two counties. At the time of funding, the proposed task force shall also have at least one investigator assigned to it from a state law enforcement agency. Each task force shall be directed by a local steering committee composed of representatives of participating agencies and members of the local high technology industry.

(4) The California High Technology Crimes Task Force shall be comprised of each regional task force developed pursuant to this subdivision.

(5) Additional criteria that shall be considered by the advisory committee in awarding grant funds shall include, but not be limited to, the following:

(A) The number of high technology crime cases filed in the prior year.

(B) The number of high technology crime cases investigated in the prior year.

(C) The number of victims involved in the cases filed.

(D) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, or corporations, as a result of the high technology crime cases filed, and those under active investigation by that task force.

(6) Each regional task force that has been awarded funds authorized under the High Technology Theft Apprehension and Prosecution Program during the previous grant-funding cycle, upon reapplication for funds to the committee in each successive year, shall be required to submit a detailed accounting of funds received and expended in the prior year in addition to any information required by this section. The accounting shall include all of the following information:

(A) The amount of funds received and expended.

(B) The use to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.

(C) The number of filed complaints, investigations, arrests, and convictions that resulted from the expenditure of the funds.

(g) The committee shall annually review the effectiveness of the California High Technology Crimes Task Force in deterring, investigating, and prosecuting high technology crimes and provide its findings in a report to the Legislature and the Governor. This report shall be based on information provided by the regional task forces in an annual report to the committee which shall detail the following:

(1) Facts based upon, but not limited to, the following:

(A) The number of high technology crime cases filed in the prior year.

(B) The number of high technology crime cases investigated in the prior year.

(C) The number of victims involved in the cases filed.

(D) The number of convictions obtained in the prior year.

(E) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, corporations, and other relevant public entities, according to the number of cases filed, investigations, prosecutions, and convictions obtained.

(2) An accounting of funds received and expended in the prior year, which shall include all of the following:

(A) The amount of funds received and expended.

(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of supplies, and other expenditures of funds.

(C) Any other relevant information requested.

SEC. 2. Section 13848.8 of the Penal Code is repealed.

## CHAPTER 113

An act to amend Section 35160.5 of the Education Code, relating to public schools.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 35160.5 of the Education Code is amended to read:

35160.5. (a) The governing board of each school district that maintains one or more schools containing any of grades 7 to 12, inclusive, as a condition for the receipt of an inflation adjustment pursuant to Section 42238.1, shall establish a school district policy regarding participation in extracurricular and cocurricular activities by pupils in grades 7 to 12, inclusive. The criteria, which shall be applied to extracurricular and cocurricular activities, shall ensure that pupil participation is conditioned upon satisfactory educational progress in the previous grading period.

(1) For purposes of this subdivision, "extracurricular activity" means a program that has all of the following characteristics:

(A) The program is supervised or financed by the school district.

(B) Pupils participating in the program represent the school district.

(C) Pupils exercise some degree of freedom in either the selection, planning, or control of the program.

(D) The program includes both preparation for performance and performance before an audience or spectators.

(2) For purposes of this subdivision, an "extracurricular activity" is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time.

(3) For purposes of this subdivision, a "cocurricular activity" is defined as a program that may be associated with the curriculum in a regular classroom.

(4) Any teacher graded or required program or activity for a course that satisfies the entrance requirements for admission to the California State University or the University of California is not an extracurricular or cocurricular activity as defined by this section.

(5) For purposes of this subdivision, "satisfactory educational progress" shall include, but not necessarily be limited to, both of the following:

(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.

(B) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board.

(6) For purposes of this subdivision, "previous grading period" does not include a grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons such as serious illness or injury, approved travel, or work. In that event, "previous grading period" is deemed to mean the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.

(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.

(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (5), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period shall not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (5), during the probationary period shall not be allowed to participate in extracurricular and cocurricular activities in the subsequent grading period.

(9) Nothing in this subdivision shall preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing board of a school district imposes a more stringent academic standard, the governing board shall establish the criteria for participation in extracurricular and cocurricular activities at a meeting open to the public pursuant to Section 35145.

(10) The governing board of each school district annually shall review the school district policies adopted pursuant to the requirements of this section.

(b) (1) On or before July 1, 1994, the governing board of each school district, as a condition for the receipt of school apportionments from the state school fund, shall adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to a school district that has only one school or a school district with schools that do not serve any of the same grade levels.

(2) The policy shall include all of the following elements:

(A) It shall provide that the parent or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for a school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether a pupil should be enrolled based upon his or her academic or athletic performance. The governing board of a school district shall calculate the capacity of the schools in the district for purposes of this subdivision in a nonarbitrary manner using pupil enrollment and available space. However, school districts may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants. This subdivision shall not be construed to prohibit school districts from using academic performance to determine eligibility for, or placement in, programs for gifted and talented pupils established pursuant to Chapter 8 (commencing with Section 52200) of Part 28 of Division 4.

(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.

(3) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that the policy include a selection policy for a school that receives requests for admission in excess of the capacity of the school that ensures that the selection is made through a random, unbiased process, the policy may include either of the following elements:

(A) (i) It may provide that special circumstances exist that might be harmful or dangerous to a particular pupil in the current attendance area of the pupil, including, but not necessarily limited to, threats of bodily harm or threats to the emotional stability of the pupil, that serve as a basis for granting a priority of attendance outside the current attendance area of the pupil. A finding of harmful or dangerous special circumstances shall be based upon either of the following:

(I) A written statement from a representative of the appropriate state or local agency, including, but not necessarily limited to, a law enforcement official or a social worker, or properly licensed or registered professionals, including, but not necessarily limited to, psychiatrists, psychologists, or marriage and family therapists.

(II) A court order, including a temporary restraining order and injunction, issued by a judge.

(ii) A finding of harmful or dangerous special circumstances pursuant to this subparagraph may be used by a school district to approve transfers within the district to schools that have been deemed by the school district to be at capacity and otherwise closed to transfers that are not based on harmful or dangerous special circumstances.

(B) It may provide that schools receiving requests for admission shall give priority for attendance to siblings of pupils already in attendance in that school and to pupils whose parent or legal guardian is assigned to that school as his or her primary place of employment.

(4) To the extent required and financed by federal law and at the request of the pupil's parent or guardian, each school district shall provide transportation assistance to the pupil.

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## CHAPTER 114

An act to add Sections 9653.5 and 9653.6 to the Business and Professions Code, and to amend Sections 7018 and 8252 of the Health and Safety Code, relating to private cemeteries.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 9653.5 is added to the Business and Professions Code, to read:

9653.5. (a) Subject to subdivision (b), a limited liability company certificated as a cemetery authority pursuant to Section 7018 of the Health and Safety Code may provide services of licensed cemetery brokers, cemetery salespersons, cemetery managers, funeral directors, embalmers, crematorium licensees, and any other person licensed under this code to provide services relating to cemeteries and funerals by employing one or more of these licensed persons.

(b) At the time of certification, and at all times during which a limited liability company transacts intrastate business as a cemetery authority, the company shall be required to provide security for claims against it based upon acts, errors, or omissions of its licensed employees as described in subdivision (a) by complying with one, or a combination, of the following:

(1) (A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims. However, the total aggregate limit of liability under the policy or policies of insurance for a limited liability company that employs five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for a limited liability company that employs more than five licensees, an additional one hundred thousand dollars ($100,000) of insurance shall be obtained for each additional licensee except that the maximum amount of insurance is not required to exceed five million dollars ($5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this paragraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover:

(i) In the case of a claims-made policy, claims initially asserted in the designated period.

(ii) In the case of an occurrence policy, occurrences during the designated period.

(B) For purposes of this paragraph, "designated period" means a policy year or any other designated period in the policy that is not greater than 12 months.

(C) The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the limited liability company to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this paragraph may be subject to a deductible or self-insured retention.

(D) Upon the dissolution and winding up of the limited liability company, the company shall, with respect to any insurance policy or policies then maintained pursuant to this paragraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum aggregate limit of liability required to comply with this paragraph for a minimum of three years if reasonably available from the insurer.

(2) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims. However, the maximum amount of security for a limited liability company that employs five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for a limited liability company that employs

more than five licensees rendering professional services on behalf of the company, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee except that the maximum amount of security is not required to exceed five million dollars ($5,000,000). The limited liability company remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the limited liability company, it shall be deemed to be in compliance with this paragraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the limited liability company has provided the required amount of security by designating and segregating funds in compliance with the requirements of this paragraph.

(3) Unless the limited liability company has satisfied paragraph (4), each member of a limited liability company certificated as a cemetery authority that provides professional services rendered by employees who are licensed professionals described in subdivision (a), by virtue of that person's status as a member, thereby automatically guarantees payment of the difference between the maximum amount of security required for the limited liability company by this subdivision and the security otherwise provided in accordance with paragraphs (1) and (2), provided that the aggregate amount paid by all members under these guarantees shall not exceed the difference. Neither withdrawal by a member nor the dissolution and winding up of the limited liability company shall affect the rights or obligations of a member arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this paragraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subdivision shall affect or impair the rights or obligations of the members among themselves, or the limited liability company, including, but not limited to, rights of contribution, subrogation, or indemnification.

(4) Confirming, pursuant to the procedure in subdivision (c) of Section 16956 of the Corporations Code, that, as of the most recently completed fiscal year of the limited liability company, it had a net worth equal to or exceeding ten million dollars ($10,000,000). The limited liability company shall transmit evidence of this paragraph to the Cemetery and Funeral Board in a form similar to the form submitted by a limited

liability partnership providing alternative security provisions pursuant to subdivision (c) of Section 16956 of the Corporations Code.

(c) (1) A limited liability company may aggregate the security required pursuant to paragraphs (1) to (4), inclusive, of subdivision (b).

(2) For purposes of compliance with this section, the provisions of subdivision (d) of Section 16956 of the Corporations Code shall apply to a limited liability company certificated as a cemetery authority.

SEC. 2. Section 9653.6 is added to the Business and Professions Code, to read:

9653.6. (a) No person licensed under this code as a cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals shall have any ownership interest as a member in a limited liability company certificated as a cemetery authority pursuant to Section 7018 of the Health and Safety Code.

(b) If a limited liability company admits, as a member with ownership interest, a licensed person described in subdivision (a), the limited liability company, by operation of law, shall be deemed in violation of Section 17375 of the Corporations Code, and the members shall be treated as partners with joint and several liability for claims made upon acts, errors, or omissions arising out of services provided by any licensed person described in subdivision (a).

(c) If the bureau determines that a licensed cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals has an ownership interest as a member in the limited liability company, the bureau shall suspend the limited liability company's certificate of authority. The bureau shall reinstate the certificate of authority only upon finding that the licensed cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals has been divested of his or her ownership interest in the limited liability company or has voluntarily surrendered his or her license.

SEC. 3. Section 7018 of the Health and Safety Code is amended to read:

7018. "Cemetery authority" includes cemetery association, corporation sole, limited liability company, or other person owning or controlling cemetery lands or property.

SEC. 4. Section 8252 of the Health and Safety Code is amended to read:

8252. It is unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses

of a cemetery within this state except by means of a corporation or limited liability company duly organized for these purposes.

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## CHAPTER 115

An act to amend Section 798.26 of the Civil Code, relating to mobilehomes.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 798.26 of the Civil Code is amended to read:

798.26. (a) Except as provided in subdivision (b), the ownership or management of a park shall have no right of entry to a mobilehome or enclosed accessory structure without the prior written consent of the resident. The consent may be revoked in writing by the resident at any time. The ownership or management shall have a right of entry upon the land upon which a mobilehome is situated for maintenance of utilities, trees, and driveways, for maintenance of the premises in accordance with the rules and regulations of the park when the homeowner or resident fails to so maintain the premises, and protection of the mobilehome park at any reasonable time, but not in a manner or at a time that would interfere with the resident's quiet enjoyment.

(b) The ownership or management of a park may enter a mobilehome or enclosed accessory structure without the prior written consent of the resident in case of an emergency or when the resident has abandoned the mobilehome or accessory structure.

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## CHAPTER 116

An act to amend Sections 2816 and 2817 of the Penal Code, to amend Section 10122.5 of the Public Contract Code, and to repeal and add Section 1760.6 of the Welfare and Institutions Code, relating to corrections.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 2816 of the Penal Code is amended to read:

2816. With the approval of the Department of Finance, there shall be transferred to, or deposited in, the Prison Industries Revolving Fund for purposes authorized by this section, money appropriated from any source including sources other than state appropriations.

Notwithstanding subdivision (i) of Section 2808, the Secretary of the Department of Corrections and Rehabilitation may order any authorized public works project involving the construction, renovation, or repair of prison facilities to be performed by inmate labor or juvenile justice facilities to be performed by ward labor, when the total expenditure does not exceed the project limit established by the first paragraph of Section 10108 of the Public Contract Code. Projects entailing expenditure of greater than the project limit established by the first paragraph of Section 10108 of the Public Contract Code shall be reviewed and approved by the chairperson, in consultation with the board.

Money so transferred or deposited shall be available for expenditure by the department for the purposes for which appropriated, contributed or made available, without regard to fiscal years and irrespective of the provisions of Sections 13340 and 16304 of the Government Code. Money transferred or deposited pursuant to this section shall be used only for purposes authorized in this section.

SEC. 2. Section 2817 of the Penal Code is amended to read:

2817. The Inmate and Ward Construction Revolving Account is hereby created in the Prison Industries Revolving Fund, established in Section 2806, to receive funds transferred or deposited for the purposes described in Section 2816.

SEC. 3. Section 10122.5 of the Public Contract Code is amended to read:

10122.5. For the purposes of Section 10122, all day labor utilized by the Department of Corrections and Rehabilitation shall be performed by individuals who are represented by a duly authorized employee representative unless individuals with that qualification are not reasonably available.

SEC. 4. Section 1760.6 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 1760.6 is added to the Welfare and Institutions Code, to read:

1760.6. The department may provide for the payment of wages to wards for work performed pursuant to Section 2816 of the Penal Code, the sums earned to be paid in reparation, or to the parents or dependents

of the ward, or to the ward, in any manner and in any proportions that the department directs.

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## CHAPTER 117

An act to add Section 27297.7 to the Government Code, relating to local governments.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 27297.7 is added to the Government Code, to read:

27297.7. (a) Following adoption of an authorizing resolution by the Board of Supervisors of the County of Riverside, the County Recorder of the County of Riverside may, within 30 days of recordation of a deed, quitclaim deed, or deed of trust, notify by mail the party or parties executing the document. The recorder may require, as a condition of recording, that a deed, quitclaim deed, or deed of trust indicate the assessor's identification number or numbers that fully contain all, or a portion of, the real property described in the legal description. If the description contains more than one assessor's parcel, all assessor's parcels shall be indicated. The form of the entry shall be substantially as follows:

Assessor's Identification Number __-__-__.

(b) This section shall not apply to the recordation of any document where the federal government, or state, county, city, or any subdivision of the state acquires title.

(c) The failure of the county recorder to provide the notice as permitted by this section shall not result in any liability against the recorder or the county. In the event that the notice is returned to the recorder by the postal service as undeliverable, the recorder is not required to retain the returned notice.

(d) Where the county recorder contracts with any party or parties for the performance of the processing or the mailing of the notice, or both, as authorized by this section, the contract shall be awarded by competitive bid. The county recorder shall solicit written bids for the contract in a newspaper of general circulation in the county, and all bids received shall be publicly opened and the contract awarded to the lowest responsible bidder. If the county recorder or his or her designee deems

the acceptance of the lowest responsible bid is not in the best interest of the county, all bids may be rejected.

SEC. 2. Due to the unique circumstances concerning recording of documents in the County of Riverside, the Legislature finds and declares that a general statute cannot be made applicable wihtin the meaning of Section 16 of Article IV of the California Constitution.

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## CHAPTER 118

An act to add Section 3003 to the Government Code, relating to local government.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 3003 is added to the Government Code, to read:

3003. An elected officer of a city, county, city and county, or district in this state forfeits his or her office upon the conviction of a crime pursuant to the federal Stolen Valor Act of 2005 (18 U.S.C. Sec. 704), that involves a false claim of receipt of any military decoration or medal described in that act. As used in this section, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

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## CHAPTER 119

An act to amend Section 466 of the Penal Code, relating to burglary tools.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 466 of the Penal Code is amended to read:

466. Every person having upon him or her in his or her possession a picklock, crow, keybit, crowbar, screwdriver, vise grip pliers,

water-pump pliers, slidehammer, slim jim, tension bar, lock pick gun, tubular lock pick, bump key, floor-safe door puller, master key, ceramic or porcelain spark plug chips or pieces, or other instrument or tool with intent feloniously to break or enter into any building, railroad car, aircraft, or vessel, trailer coach, or vehicle as defined in the Vehicle Code, or who shall knowingly make or alter, or shall attempt to make or alter, any key or other instrument named above so that the same will fit or open the lock of a building, railroad car, aircraft, vessel, trailer coach, or vehicle as defined in the Vehicle Code, without being requested to do so by some person having the right to open the same, or who shall make, alter, or repair any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony, is guilty of a misdemeanor. Any of the structures mentioned in Section 459 shall be deemed to be a building within the meaning of this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 120

An act to amend Section 2818 of the Vehicle Code, relating to highway safety.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 2818 of the Vehicle Code is amended to read:

2818. It is unlawful to traverse an electronic beacon pattern, a flare pattern, cone pattern, or combination of electronic beacon, flare, or cone patterns, provided for the regulation of traffic, or provided in a situation where public safety personnel are engaged in traffic control or emergency scene management.

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

that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 121

An act to amend Section 97 of, and to add and repeal Section 97.5 of, the Streets and Highways Code, relating to highways.

[Approved by Governor July 10, 2008. Filed with Secretary of State July 10, 2008.]

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

SECTION 1. Section 97 of the Streets and Highways Code is amended to read:

97. (a) A state highway segment shall be designated by the department as a Safety Enhancement-Double Fine Zone if all of the following conditions have been satisfied:

(1) The highway segment is eligible for designation pursuant to subdivision (b).

(2) The Director of Transportation, in consultation with the Commissioner of the California Highway Patrol, certifies that the segment identified in subdivision (b) meets all of the following criteria:

(A) The highway segment is a conventional highway or expressway and is part of the state highway system.

(B) The rate of total collisions per mile per year on the segment under consideration has been at least 1.5 times the statewide average for similar roadway types during the most recent three-year period for which data are available.

(C) The rate of head-on collisions per mile per year on the segment under consideration has been at least 1.5 times the statewide average for similar roadway types during the most recent three-year period for which data are available.

(3) The Department of the California Highway Patrol or local agency having traffic enforcement jurisdiction, as the case may be, has concurred with the designation.

(4) The governing board of each city, or county with respect to an unincorporated area, in which the segment is located has by resolution indicated that it supports the designation.

(5) An active public awareness effort to change driving behavior is ongoing either by the local agency with jurisdiction over the segment or by another state or local entity.

(6) Other traffic safety enhancements, including, but not limited to, increased enforcement and other roadway safety measures, are in place or are being implemented concurrent with the designation of the Safety Enhancement-Double Fine Zone.

(b) The following segments are eligible for designation as a Safety Enhancement-Double Fine Zone pursuant to subdivision (a):

State Highway Route 12 between the State Highway Route 80 junction in Solano County and the State Highway Route 5 junction in San Joaquin County.

(c) Designation of a segment as a Safety Enhancement-Double Fine Zone by the department pursuant to subdivision (a) shall be done in writing and a written notification shall be provided to the court with jurisdiction over the area in which the highway segment is located. The designation shall be valid for a minimum of two years from the date of submission to the court.

(d) After the two-year period, and at least every two years thereafter, the department, in consultation with the Department of the California Highway Patrol, shall evaluate whether the highway segment continues to meet the conditions set forth in subdivision (a). If the segment meets those conditions, the department shall renew the designation in which case an updated notification shall be sent to the court. If the department, in consultation with the Department of the California Highway Patrol, determines that any of those conditions no longer apply to a segment designated as a Safety Enhancement-Double Fine Zone under this section, the department shall revoke the designation and the segment shall cease to be a Safety Enhancement-Double Fine Zone.

(e) A Safety Enhancement-Double Fine Zone is subject to the rules and regulations adopted by the department prescribing uniform standards for warning signs to notify motorists that, pursuant to Section 42010 of the Vehicle Code, increased penalties apply for traffic violations that are committed within a Safety Enhancement-Double Fine Zone.

(f) (1) The department or the local authority having jurisdiction over these highway and road segments shall place and maintain the warning signs identifying these segments by stating that a “Special Safety Zone Region Begins Here” and a “Special Safety Zone Ends Here.”

(2) Increased penalties shall apply to violations under Section 42010 of the Vehicle Code only if appropriate signage is in place pursuant to this subdivision.

(3) If designation as a Safety Enhancement-Double Fine Zone is revoked pursuant to subdivision (d), the department shall be responsible for removal of all signage placed pursuant to this subdivision.

(g) Safety Enhancement-Double Fine Zones do not increase the civil liability of the state or local authority having jurisdiction over the highway segment under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code or any other provision of law relating to civil liability.

(1) Only the base fine shall be enhanced pursuant to this section.

(2) Notwithstanding any other provision of law, any additional penalty, forfeiture, or assessment imposed by any other statute shall be based on the amount of the base fine before enhancement or doubling and shall not be based on the amount of the enhanced fine imposed pursuant to this section.

(h) The projects specified as a Safety Enhancement-Double Fine Zone shall not be elevated in priority for state funding purposes.

(i) The requirements of subdivision (a) shall not apply to the Safety Enhancement-Double Fine Zone established prior to the effective date of this subdivision pursuant to Section 97.4 or to the Safety Enhancement-Double Fine Zones established pursuant to Section 97.5.

(j) The department shall conduct an evaluation of the effectiveness of all double fine zones, except those designated pursuant to Section 97.5, that will terminate the same calendar year and submit its findings in one report to the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing one year prior to the termination of the double fine zones. The report shall include a recommendation on whether the zones should be reauthorized by the Legislature.

SEC. 2. Section 97.5 is added to the Streets and Highways Code, to read:

97.5. (a) Notwithstanding subdivision (a) of Section 97, the following segments shall be designated as Safety Enhancement-Double Fine Zones:

(1) State Highway Route 1 between Junipero Serra Boulevard and Lake Street in the City and County of San Francisco.

(2) State Highway Route 101 between Golden Gate Avenue and Lyon Street in the City and County of San Francisco.

(b) The department shall conduct a Safety Enhancement-Double Fine Zone study on the segments identified in subdivision (a) that relates to pedestrian safety and that evaluates the appropriateness of adding

additional criteria to subdivision (a) of Section 97 and whether changes or additional criteria should be considered for adoption.

(1) The study shall include, but not be limited to, all of the following:

(A) A review of traffic volume, speed, the number and severity of collisions, the number and severity of pedestrian-related collisions, and contributing collision factors.

(B) A before and after study on pedestrian and roadway facilities, including, but not limited to, those facilities that have been revised or updated.

(C) A recommendation on whether the zones described in subdivision (a) should be reauthorized by the Legislature.

(2) On or before January 1, 2013, the department shall submit its findings from the study in a report to the appropriate committees of the Legislature.

(c) Subdivisions (e) to (h), inclusive, of Section 97 shall apply to the segments designated as Safety Enhancement-Double Fine Zones pursuant to subdivision (a).

(d) This section shall remain in effect until January 1, 2014, and as of that date is repealed, unless a later statute, that is enacted before January 1, 2014, deletes or extends that date.

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## CHAPTER 122

An act to add Article 5x (commencing with Section 998.400) to Chapter 6 of Division 4 of the Military and Veterans Code, relating to the financing of a program to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974, and acts amendatory thereof and supplemental thereto, 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 15, 2008. Filed with Secretary of State July 15, 2008.]

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

SECTION 1. Article 5x (commencing with Section 998.400) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

## Article 5x. Veterans' Bond Act of 2008

998.400. This article may be cited as the Veterans' Bond Act of 2008.

998.401. (a) 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), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" refer both to this article and that law.

(b) For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the board.

998.402. As used herein, the following words have the following meanings:

(a) "Board" means the Department of Veterans Affairs.

(b) "Bond" means veterans' bond, a state general obligation bond, issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(c) "Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

(d) "Committee" means the Veterans' Finance Committee of 1943, established by Section 991.

(e) "Fund" means the Veterans' Farm and Home Building Fund of 1943, established by Section 988.

998.403. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than nine hundred million dollars ($900,000,000), exclusive of refunding bonds, in the manner provided herein.

998.404. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations 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 and interest thereof.

(b) There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required

by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.

(c) On the dates on which funds are to be remitted pursuant to Section 16676 of the Government Code for the payment of debt service on the bonds in each fiscal year, there shall be transferred to the General Fund to pay the debt service all of the money in the fund, not in excess of the amount of debt service then due and payable. If the money transferred on the remittance dates is less than debt service then due and payable, the balance remaining unpaid shall be transferred to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the remittance date until paid, at the same rate of interest as borne by the bonds, compounded semiannually. Notwithstanding any other provision of law to the contrary, this subdivision shall apply to all veterans farm and home purchase bond acts pursuant to this chapter. This subdivision does not grant any lien on the fund or the moneys therein to the holders of any bonds issued under this article. For the purposes of this subdivision, "debt service" means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date with respect to any series of bonds. This subdivision shall not apply, however, in the case of any debt service that is payable from the proceeds of any refunding bonds.

998.405. There is hereby appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.

(b) That sum necessary to carry out Section 998.406, appropriated without regard to fiscal years.

998.406. For the purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All moneys made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.

998.407. 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 article. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution,

authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are 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 article.

998.408. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

998.409. As long as any bonds authorized under this article are outstanding, the Secretary of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Secretary of Veterans Affairs, the California Veterans Board, the appropriate policy committees dealing with veterans affairs in the Senate and the Assembly, and the committee.

The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money which the division may have available on deposit with the Treasurer.

998.410. The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.

Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

998.411. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

998.412. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code.

The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.

998.413. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.

998.414. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article 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 Article XIII B.

SEC. 2. Section 1 of this act shall take effect upon the approval by the people of the Veterans' Bond Act of 2008, submitted to the voters pursuant to Section 3 of this act.

SEC. 3. (a) Notwithstanding Sections 9040, 9043, 9044, 9061, 9094, and 13115 of the Elections Code or any other provision of law, a ballot measure that sets forth the Veterans' Bond Act of 2008, as set forth in Section 1 of this act, shall be submitted to the voters at the November 4, 2008, general election.

(b) The Secretary of State shall ensure the placement of the Veterans' Bond Act of 2008 ballot measure as set forth in Section 1 of this act on the November 4, 2008, general 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) Notwithstanding Section 13115 of the Elections Code, Section 1 of this act and any other measure placed on the ballot by the Legislature for the November 4, 2008, general election after the 131-day deadline set forth in Section 9040 of the Elections Code shall be placed on the ballot, following all other ballot measures, in the order in which they qualified as determined by chapter number.

(d) Notwithstanding Section 9051 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title for the bond act contained in Section 1 of this act as expeditiously as possible, but not later than two days after the effective date of this act.

(e) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of that code regarding the bond act contained in Section 1 of this act.

If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall, notwithstanding Section 9094 of that code, be mailed at least 14 days before the election.

SEC. 4. (a) Notwithstanding any other provision of law, all ballots at the election shall have printed thereon, in a square, the words: "Veterans' Bond Act of 2008" and in the same square, under the words, the following in 8-point type: "This act provides for a bond issue of nine hundred million dollars ($900,000,000) to provide farm and home aid for California veterans." Opposite the square, there shall be left spaces in which the voters may place a mark in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(c) 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 this section.

SEC. 5. Notwithstanding Section 9054 of the Elections Code or any other provision of law, the translations of the ballot title and the condensed statement of the ballot title required pursuant to Section 9054 may be made available for public examination at a later date than the start of the public examination period for the ballot pamphlet, provided that the translations of the ballot title and the condensed statement of the ballot title must remain available for public examination for 20 days.

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 that the Veterans' Bond Act of 2008 may be included on the November 4, 2008, statewide general election ballot in furtherance of an orderly program of providing farm and home purchase benefits to California veterans, it is necessary that this act take effect immediately.

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## CHAPTER 123

An act to add Article 14 (commencing with Section 69785) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, relating to public postsecondary education.

[Approved by Governor July 15, 2008. Filed with Secretary of State July 15, 2008.]

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

SECTION 1. Article 14 (commencing with Section 69785) is added to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, to read:

### Article 14. Military and Veterans Office

69785. (a) The California Community Colleges and the California State University may, and the University of California is encouraged to, coordinate services for qualified students who are veterans or members of the military by clearly designating Military and Veterans Offices and individuals to provide services, including, but not limited to, all of the following:

(1) Financial aid counseling.
(2) Academic outreach, admission, and enrollment planning.
(3) Transition concerns.
(4) Postgraduate planning.
(5) Health and mental health services.
(6) Provide tutoring and other learning support services.
(7) Provide career counseling.

(b) The purpose of these Military and Veterans Offices shall be to encourage and facilitate the use of the services listed in paragraphs (1) to (7), inclusive, of subdivision (a) and to assist a qualified student in determining that student's eligibility for state or federal educational financial aid.

(c) For purposes of this article, "qualified student" means a student who is any of the following:

(1) An active duty member of any of the following:
(A) The Armed Forces of the United States.
(B) The California National Guard.
(C) A reserve component of the Armed Forces of the United States.
(2) A veteran of the Armed Forces of the United States.
(3) A family member of a person described in paragraph (1) or (2).

For the purposes of this paragraph, "family member" means an individual who is a legal dependent under 28 years of age of a person described in paragraph (1) or (2) living in the household of that person and eligible to be claimed as a dependent on federal or state tax returns.

69786. The California Community Colleges and the California State University may, and the University of California is encouraged to, report to the Department of Veterans Affairs, on an annual basis, all of the following information:

(a) The number of qualified students assisted by a Military and Veterans Office.

(b) The number of qualified students assisted who are active duty members of the Armed Forces of the United States, the California National Guard, or a reserve component of the Armed Forces of the United States, or are veterans of the Armed Forces of the United States.

(c) The total education benefits obtained by all qualified students assisted by an office.

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## CHAPTER 124

An act to amend Sections 66452.6 and 66463.5 of, to add Section 66452.21 to, and to amend and renumber Sections 66452.11 and 66452.12 of, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 15, 2008. Filed with Secretary of State July 15, 2008.]

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

SECTION 1. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is required to expend one hundred seventy-eight thousand

dollars ($178,000) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2005, and each calendar year thereafter, the amount of one hundred seventy-eight thousand dollars ($178,000) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency which approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the

time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Prior to the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well

as other actions of public agencies which regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency which owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency which owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency which owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 2. Section 66452.11 of the Government Code, as added by Section 6 of Chapter 612 of the Statutes of 2007, is amended and renumbered to read:

66452.14 (a) Pursuant to the provisions of subparagraph (E) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice of the intent to convert 180 days prior to the

termination of tenancy in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

"To the occupant(s) of

_____:

(address)

The owner(s) of this building, at (address), plans to convert this building to a (condominium, community apartment, or stock cooperative project). This is a notice of the owner's intention to convert the building to a (condominium, community apartment, or stock cooperative project).

A tentative map to convert the building to a (condominium, community apartment, or stock cooperative project) was approved by the City on _____. If the City approves a final map, you may be required to vacate the premises, but that cannot happen for at least 180 days from the date this notice was served upon you.

Any future notice given to you to terminate your tenancy because of the conversion cannot be effective for at least 180 days from the date this notice was served upon you. This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises.

_____

(signature of owner or owner's agent)

_____

(date)"

The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

SEC. 3. Section 66452.12 of the Government Code, as added by Section 7 of Chapter 612 of the Statutes of 2007, is amended and renumbered to read:

66452.15 (a) Pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice within five days after receipt of the subdivision public report to each tenant of his or her exclusive right for at least 90 days after issuance of the subdivision public report to contract for the purchase of his or her respective unit in the form outlined in subdivision (b).

(b) The notice shall be as follows:

"To the occupant(s) of

_____:

(address)

The owner(s) of this building, at (address), have received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment, or stock cooperative project). Commencing on the date of issuance of the subdivision public report, you have the exclusive right for 90 days to contract for the purchase of your rental unit upon the same or more favorable terms and conditions than the unit will initially be offered to the general public.

_____

(signature of owner or owner's agent)

_____

(date)"

The written notices to tenants required by this section shall be deemed satisfied if the notices comply with the legal requirements for service by mail.

SEC. 4. Section 66452.21 is added to the Government Code, to read:

66452.21. (a) The expiration date of any tentative or vesting tentative subdivision map or parcel map for which a tentative or vesting tentative map, as the case may be, has been approved that has not expired on the date that the act that added this section became effective and that will expire before January 1, 2011, shall be extended by 12 months.

(b) The extension provided by subdivision (a) shall be in addition to any extension of the expiration date provided for in Section 66452.6, 66452.11, 66452.13, or 66463.5.

(c) Any legislative, administrative, or other approval by any state agency that pertains to a development project included in a map that is extended pursuant to subdivision (a) shall be extended by 12 months if this approval has not expired on the date that the act that added this section became effective. This extension shall be in addition to any extension provided for in Section 66452.13.

(d) For purposes of this section, the determination of whether a tentative subdivision map or parcel map expires before January 1, 2011, shall count only those extensions of time pursuant to subdivision (e) of Section 66452.6 or subdivision (e) of Section 66463.5 approved on or before the date that the act that added this section became effective and any additional time in connection with the filing of a final map pursuant to subdivision (a) of Section 66452.6 for a map that was recorded on or before the date that the act that added this section became effective. The

determination shall not include any development moratorium or litigation stay allowed or permitted by Section 66452.6 or 66463.5.

SEC. 5. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings, and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. Prior to the expiration of an approved or conditionally approved tentative map, upon the application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) (1) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(e) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (c), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is, or was, pending in a court

of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (b), (c), and (d) of Section 66498.5 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (b), (c), and (d) of Section 66498.5 shall be determined from the recordation of the parcel map instead of the final map.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

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

In order to permit cities, counties, and a city and county to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry, it is necessary that this act take immediate effect.

## CHAPTER 125

An act to amend Sections 101, 113, 118, 250, 1542, 1761, 1900, 1912, 1913, 1913.5, and 3516 of, to amend the heading of Chapter 6 (commencing with Section 750) of Division 1 of, to add Sections 201, 218, 219, 364, 365, 760, 767, 1239, 1240, 1330, 1331, 1332, 1592, 1593, and 1911.5 to, to add a heading as Article 1 (commencing with Section 750) to, to add Article 2 (commencing with Section 780) and Article 3 (commencing with Section 790) to, Chapter 6 of Division 1 of, to add Article 1.5 (commencing with Section 1210) to Chapter 10 of Division 1 of, to add Chapter 4 (commencing with Section 500) to, and Chapter 4.5 (commencing with Section 550) to, Division 1 of, to repeal Sections 751.7, 760.1, 761.5, 771, 772, 773, 774, 775, 775.1, 776, 777, 777.5, 778, 779, 782, 1232, 1335, and 1336 of, to repeal Article 5 (commencing with Section 419) of Chapter 3 of Division 1 of, to repeal Chapter 4 (commencing with Section 490) and Chapter 18 (commencing with Section 3350) of Division 1 of, and to repeal and add Sections 752, 753, 754, 755, 756, 758, 759, 761, 762, 763, 764, 765, 766, 768, and 769 of, the Financial Code, and to amend Section 11105 of the Penal Code, relating to financial institutions.

[Approved by Governor July 16, 2008. Filed with Secretary of State July 16, 2008.]

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

SECTION 1. Section 101 of the Financial Code is amended to read:

101. (a) A California state bank is a corporation incorporated under Division 1 (commencing with Section 100) of the Corporations Code that is, with the approval of the commissioner, incorporated for the purpose of engaging in, or that is authorized by the commissioner to engage in, the commercial or industrial banking business.

(b) All provisions of law applicable to corporations generally (including, but not limited to, the General Corporation Law (Division 1 (commencing with Section 100), Title 1 of the Corporations Code)) shall apply to banks. However, whenever any provision of this division or of any regulation or order issued under any provision (other than this section) of this division applicable to banks is inconsistent with any provision of law applicable to corporations generally, such provision of this division or of such regulation or order shall apply and such provision of law applicable to corporations generally shall not apply.

SEC. 1.5. Section 113 of the Financial Code is amended to read:

113. "Person" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, joint stock company, limited liability company, unincorporated association, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

SEC. 2. Section 118 of the Financial Code is amended to read:

118. (a) All references in this division and in Division 1 (commencing with Section 100), Title 1 of the Corporations Code to financial statements, balance sheets, income statements and statements of changes in financial position of a bank and all references to assets, liabilities, earnings, retained earnings, shareholders' equity, and similar accounting items of a bank mean such financial statements or such items prepared or determined in conformity with generally accepted accounting principles then applicable in the United States, fairly presenting in conformity with generally accepted accounting principles accepted in the United States the matters which they purport to present, subject to any specific accounting treatment required by any provision of Division 1 (commencing with Section 100), Title 1 of the Corporations Code, of this division, or of any regulation or order issued under this division.

(b) The commissioner may, by regulation or order, require that any financial statement or accounting item of a bank be prepared or determined in a manner other than in conformity with generally accepted accounting principles accepted in the United States if the commissioner finds that such other manner is necessary or appropriate to carry out the purposes or provisions of this division.

SEC. 2.5. Section 201 is added to the Financial Code, to read:

201. This chapter is applicable to this division, Division 1 (commencing with Section 99), Division 1.5 (commencing with Section 4800), Division 5 (commencing with Section 14000), Division 7 (commencing with Section 18000), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000).

SEC. 3. Section 218 is added to the Financial Code, to read:

218. Notwithstanding any other provision of law, the commissioner may adopt and implement any method of accepting electronic filings of applications, reports, or other matters, which, in the opinion of the commissioner, is secure. Any method of electronic filing chosen by the commissioner shall include a method to verify the identity of the person making the filing. The verification shall be deemed to satisfy all other verifications required by this division, and shall have the same force and effect as the use of manual signatures.

SEC. 4. Section 219 is added to the Financial Code, to read:

219. (a) (1) In this section, "federal law" includes, but is not limited to, the United States Constitution, any federal statute, any federal court

decision, and any regulation, circular, bulletin, interpretation, decision, order, and waiver issued by a federal agency.

(2) The definitions set forth in Section 1700 apply to this section.

(b) (1) Notwithstanding any other provision of law, except as provided in subdivision (c), if the commissioner finds that any provision of federal law applicable to national banking associations doing business in this state is substantively different from the provisions of this code applicable to banks organized under the laws of this state, the commissioner may by regulation make that provision of federal law applicable to banks organized under the laws of this state.

(2) If the commissioner finds that any provision of federal law applicable to foreign (other nation) banks with respect to federal agencies or federal branches in this state is substantively different from the provisions of this code applicable to foreign (other nation) banks with respect to agencies or branch offices licensed by the commissioner under Chapter 13.5 (commencing with Section 1700), the commissioner may by regulation make that provision of federal law applicable to foreign (other nation) banks with respect to agencies or branch offices licensed by the commissioner under Chapter 13.5.

(c) (1) Section 11343.4 and Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code do not apply to any regulation adopted under subdivision (b).

(2) The commissioner shall file any regulation adopted pursuant to subdivision (b), together with a citation to this section as authority for the adoption and a citation to the provisions of federal law made applicable by the regulation, with the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(3) Any regulation adopted under subdivision (b) shall become effective on the date when it is filed with the Secretary of State unless the commissioner prescribes a later date in the regulation or in a written instrument filed with the regulation.

(4) Any regulation adopted under subdivision (b) shall expire at 12 p.m. on December 31 of the year following the calendar year in which it becomes effective.

(5) Any regulation adopted pursuant to subdivision (b) shall be subject to the following restrictions:

(A) The commissioner shall not renew or reinstate the regulation adopted pursuant to subdivision (b).

(B) The commissioner shall not adopt a new regulation pursuant to subdivision (b), to address the same conformity issue that was addressed by the regulation that expired pursuant to subdivision (c).

(d) The commissioner may adopt regulations pursuant to subdivision (b) that are exempt from the expiration and restrictions of subdivision (c) if the regulations are adopted in compliance with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, including those listed in paragraph (1) of subdivision (c).

SEC. 5. Section 250 of the Financial Code is amended to read:

250. The commissioner may have an office in the City of Sacramento, the City of Los Angeles, the City of San Diego, the City and County of San Francisco, or any other location in the state that he or she considers appropriate. The commissioner shall provide at the expense of the department such office space, furniture, and equipment as may be necessary or convenient for the transaction of the business of the department.

SEC. 6. Section 364 is added to the Financial Code, to read:

364. The commissioner may, in approving an application to organize and establish a corporation to engage in the banking or trust business pursuant to Section 362, impose any conditions the commissioner deems reasonable or necessary or advisable in the public interest.

SEC. 7. Section 365 is added to the Financial Code, to read:

365. (a) With the approval of the commissioner, a bank may be formed to facilitate a merger or an acquisition of control. The new bank may survive the merger or acquisition of control.

(b) Sections 360, 360.5, 361, 362, and 363 shall not apply to the formation of a bank pursuant to subdivision (a).

(c) Article 4 (commencing with Section 250) shall apply to a bank formed pursuant to subdivision (a).

(d) A request for approval to form a bank in accordance with subdivision (a) shall be accompanied by a fee of two thousand five hundred dollars ($2,500).

SEC. 8. Article 5 (commencing with Section 419) of Chapter 3 of Division 1 of the Financial Code is repealed.

SEC. 9. Chapter 4 (commencing with Section 490) of Division 1 of the Financial Code is repealed.

SEC. 10. Chapter 4 (commencing with Section 500) is added to Division 1 of the Financial Code, to read:

## Chapter 4. Bank Offices

500. For purposes of this chapter, the following definitions apply:

(a) "Automated teller machine" means any electronic information processing device used by a financial institution and its customers for the primary purpose of executing transactions solely between the financial

institution and its customers, if the transactions are not incidental to sales between the customer and a business entity other than a financial institution.

(b) "Branch office" means any office at which core banking business is conducted other than an automated teller machine, a device used to facilitate check guarantee or check authorization, or a remote service facility as defined in subsection (d) of Section 345.12 of Title 12 of the Code of Federal Regulations.

(c) "Core banking business" means the business of receiving deposits, paying checks, making loans, and other activities that the commissioner may specify by order or regulation. "Core banking business," when used to describe the trust business, includes receiving fiduciary assets and administering fiduciary accounts.

(d) "Facility," means an office in this state at which a bank engages in noncore banking business but at which it does not engage in core banking business.

(e) "Head office" means the office designated by the bank as its headquarters.

(f) "Noncore banking business" means all activities permissible for banks, except core banking business, and except those activities prohibited by law or determined by the commissioner by regulation or order not to be noncore banking business.

(g) "Office" means the head office, any branch office, and any facility office of a bank.

(h) "Redesignate offices" means (1) the relocation by a bank of its head office to the site of a branch or facility office in this state and the concurrent establishment by the bank of an office at the former site of the head office, or (2) the relocation by a bank of a branch office to the site of a facility office and the concurrent establishment by the bank of a branch or facility office at the former site of the branch office.

501. The commissioner shall issue a certificate in duplicate authorizing a bank to establish and maintain an office. A bank shall pay a fee of twenty-five dollars ($25) for every certificate the commissioner issues pursuant to this section.

502. Every bank shall establish and maintain a head office which shall be located in this state.

503. A bank, with the approval of its board, may establish and maintain one or more offices.

504. A bank, with the approval of its board, may relocate an office.

505. A bank, with the approval of its board, may redesignate offices.

506. Each time a bank establishes an office, relocates an office, or redesignates an office, the bank shall, within 10 days of the establishment,

relocation, or redesignation of the offices, file a notice with the commissioner. The notice shall include:

(a) The type of office or offices to be established, relocated, or redesignated.

(b) The complete address of the office or offices to be established, relocated, or redesignated. If an office is being relocated, the old address of the office and the address at which the office will be relocated.

(c) The date the office or offices were established, relocated, or redesignated.

(d) The appropriate fee for the certificate or certificates to be issued by the commissioner.

507. On or before January 1 of each year, every bank shall file with the commissioner a list of all offices that are currently maintained and operated by the bank. The report shall designate the type of each office that is being maintained and operated, and the complete address of each office.

508. (a) A bank may close or discontinue the operation of any branch office if, before the closing or discontinuance, (1) the bank files with the commissioner a notice containing the information in subdivision (b), and (2) the commissioner within 60 days after the filing of the notice or any longer period to which the bank consents, filing of the notice or any longer period to which the bank consents, either (A) issues a written statement not objecting to the notice, or (B) does not issue a written objection to the notice.

(b) (1) A notice filed under subdivision (a) shall contain all of the following information:

(A) The name of the California state bank.

(B) The location of the branch office proposed to be closed or discontinued.

(C) The location of the office to which the business of the branch office proposed to be closed or discontinued is proposed to be transferred.

(D) The proposed date of closing or discontinuance.

(E) A detailed statement of the reasons for the decision to close the branch office.

(F) Statistical or other information in support of the reasons consistent with the institution's written policy for branch office closings.

(G) Any other information that the commissioner may require.

(2) A notice filed under subdivision (a) shall be in the form, shall be signed in the manner, and shall, if the commissioner requires, be verified in the manner that the commissioner may require.

(c) For purposes of subdivision (a), a notice is deemed to be filed with the commissioner at the time when the complete notice, including any amendments or supplements, containing all the information required

by the commissioner, and otherwise complying with subdivision (b), is received by the commissioner.

(d) In determining whether or not to object to a notice filed under subdivision (a), except if the commissioner finds that it is necessary in the interests of safety and soundness that the branch office be closed or discontinued, the commissioner shall consider whether the closing or discontinuance of the branch office will have a seriously adverse effect on the public convenience or advantage.

509. If the commissioner finds for any reason that the establishment, relocation, or redesignation of office would be unsafe or unsound for a bank, the commissioner may order the bank not to establish, relocate, or redesignate offices without the prior approval of the commissioner. The order may contain any other restrictions and conditions as the commissioner deems necessary.

510. If a bank violates any provision of this chapter or fails to comply with any order, the commissioner may levy a penalty against the bank pursuant to Section 216.3.

SEC. 11. Chapter 4.5 (commencing with Section 550) is added to Division 1 of the Financial Code, to read:

## Chapter 4.5. Authorizations For Banks

550. (a) Notwithstanding the provisions of Sections 1051, 1052, and 1054 of the Labor Code and Section 2947 of the Penal Code, a bank or any affiliate thereof, licensed under the laws of any state or of the United States, or any officer or employee thereof, may deliver fingerprints taken of a director, an officer, an employee, or an applicant for employment to local, state, or federal law enforcement agencies for the purpose of obtaining information as to the existence and nature of a criminal record, if any, of the person fingerprinted relating to convictions, and to any arrest for which that person is released on bail or on his or her own recognizance pending trial, for the commission or attempted commission of a crime involving robbery, burglary, theft, embezzlement, fraud, forgery, bookmaking, receiving stolen property, counterfeiting, or involving checks or credit cards or using computers.

(b) The Department of Justice shall, pursuant to Section 11105 of the Penal Code, and a local agency may, pursuant to Section 13300 of the Penal Code, furnish to the officer of the bank or affiliate responsible for the final decision regarding employment of the person fingerprinted, or to his or her designees having responsibilities for personnel or security decisions in the usual scope and course of their employment with the bank or affiliate, summary criminal history information when requested pursuant to this section. If, upon evaluation of the criminal history

information received pursuant to this section, the bank or affiliate determines that employment of the person fingerprinted would constitute an unreasonable risk to that bank or affiliate or its customers, the person may be denied employment.

(c) Banks and their affiliates shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all directors, officers, employees, or an applicant for employment for the purpose of obtaining information regarding the existence and content of a record of state and federal convictions and also information regarding the existence and content of a record of state and federal arrests for which the Department of Justice establishes that the person is free on bail, or on his or her recognizance, pending trial or appeal.

(d) When the Department of Justice receives a request under this section for federal summary criminal history information, it shall forward the request to the Federal Bureau of Investigation. Once the information is received from the Federal Bureau of Investigation, the Department of Justice shall review, compile, and disseminate the information to the federally chartered bank or affiliate pursuant to paragraph (1) of subdivision (o) of Section 11105 of the Penal Code.

(e) When the Department of Justice receives a request for federal summary criminal history information from a nonchartered bank, it shall forward the request to the Federal Bureau of Investigation. Once the information is received from the Federal Bureau of Investigation, the Department of Justice shall review and provide a fitness determination on an applicant for employment based on criminal convictions or on arrests for which the person is released on bail or on his or her recognizance pending trial for the commission or attempted commission of crimes specified in subdivision (a).

(f) A bank or affiliate may request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (a).

(g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the requests described in this section.

(h) 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.

(i) "Affiliate," as used in this section, means any corporation controlling, controlled by, or under common control with, a bank, whether directly, indirectly, or through one or more intermediaries.

551. (a) Notwithstanding Section 726 of the Code of Civil Procedure or any other provision of law to the contrary, a state or nationally chartered bank, its subsidiaries or affiliates transacting business in this

state, or any successor in interest thereto, that originates, acquires, or purchases, in whole or in part, any loan secured directly or collaterally, in whole or in part, by a mortgage or deed of trust on real property, or any interest therein, may bring an action for recovery of damages, including exemplary damages not to exceed 50 percent of the actual damages, against a borrower where the action is based on fraud under Section 1572 of the Civil Code and the fraudulent conduct by the borrower induced the original lender to make that loan.

(b) The provisions of this section shall not apply to loans secured by single-family, owner-occupied residential real property, when the property is actually occupied by the borrower as represented to the lender in order to obtain the loan and the loan is for an amount of one hundred fifty thousand dollars ($150,000) or less, as adjusted annually, commencing on January 1, 1987, to the Consumer Price Index as published by the United States Department of Labor.

(c) Any action maintained under this section for damages shall not constitute a money judgment for deficiency or a deficiency judgment within the meaning of Section 580a, 580b, or 580d of the Code of Civil Procedure.

SEC. 12. The heading of Chapter 6 (commencing with Section 750) of Division 1 of the Financial Code is amended to read:

CHAPTER 6. RESTRICTIONS AND PROHIBITED PRACTICES

SEC. 13. The heading of Article 1 (commencing with Section 750) is added to Chapter 6 of Division 1 of the Financial Code, to read:

Article 1. General

SEC. 14. Section 751.7 of the Financial Code is repealed.

SEC. 15. Section 752 of the Financial Code is repealed.

SEC. 16. Section 752 is added to the Financial Code, to read:

752. Any director, officer, or employee of a bank or of a foreign banking corporation who asks for or receives, or consents or agrees to receive, any commission, emolument, or gratuity or any money, property, or thing of value for his own personal benefit or of personal advantage for procuring or endeavoring to procure for any person any loan from such bank, or the purchase or discount of any note, draft, check, bill of exchange, or other obligation by such bank, or for permitting any person to overdraw any account with such bank, is guilty of a felony.

SEC. 17. Section 753 of the Financial Code is repealed.

SEC. 18. Section 753 is added to the Financial Code, to read:

753. Any director, officer, agent, or employee of any bank who knowingly receives or possesses himself or herself of any of its property otherwise than in payment of a just demand, and with intent to defraud, omits to make or cause to be made a full and true entry thereof in its books and accounts or concurs in omitting to make any material entry thereof is guilty of a felony.

SEC. 19. Section 754 of the Financial Code is repealed.

SEC. 20. Section 754 is added to the Financial Code, to read:

754. Any director, officer, agent, or employee of a bank who knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or having the custody of its books willfully refuses or neglects to make any proper entry in such books as required by law, or to exhibit or allow the same to be inspected or extracts to be taken therefrom by the commissioner or his or her deputies or examiners, is guilty of a felony.

SEC. 21. Section 755 of the Financial Code is repealed.

SEC. 22. Section 755 is added to the Financial Code, to read:

755. No bank shall publish a statement of its resources or liabilities in connection with those of any other bank, unless such statement shall show the resources and liabilities of each bank separately.

SEC. 23. Section 756 of the Financial Code is repealed.

SEC. 24. Section 756 is added to the Financial Code, to read:

756. (a) Any person who willfully and knowingly makes, circulates, or transmits to another or others, any statement or rumor, written, printed, or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank doing business in this state, or who knowingly counsels, aids, procures, or induces another to start, transmit, or circulate any such statement or rumor, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than one year, or both.

(b) The provisions of Section 216.3 shall not apply to this section.

SEC. 25. Section 758 of the Financial Code is repealed.

SEC. 26. Section 758 is added to the Financial Code, to read:

758. (a) In this section, "subject person," when used with respect to a bank, means any director or officer of the bank, any controlling person of the bank, or any director or officer of a controlling person of the bank. For purposes of this subdivision, "controlling person" has the meaning set forth in subdivision (c) of Section 700.

(b) No bank shall purchase any real or personal property or any interest in real or personal property, including, but not limited to, a leasehold, or any contract arising from the sale of real or personal property or any

note or bond in which any subject person of such bank is personally or financially interested, directly or indirectly, for such person's own account, for such person, or as the partner or agent of others, without the prior approval by the board of directors of the bank and for not more than the current market value of the property purchased.

SEC. 27. Section 759 of the Financial Code is repealed.

SEC. 28. Section 759 is added to the Financial Code, to read:

759. (a) In this section, "subject person" has the meaning set forth in subdivision (a) of Section 758.

(b) No subject person of a bank shall purchase, directly or indirectly, or be interested in the purchase of, any of the bank's obligations or assets without the prior approval of the board of the directors of the bank and for an amount less than the then current market value. Every person violating this section shall be liable to the people of this state, for each offense, for twice the market value of the assets so purchased.

SEC. 29. Section 760 is added to the Financial Code, to read:

760. (a) For purposes of this section, the following terms have the following meanings:

(1) "Carrying a security" means maintaining, reducing, or retiring indebtedness originally incurred to acquire a security.

(2) "Controlling person" has the same meaning specified in Section 700.

(3) "Security" has the following meanings:

(A) When used with respect to a bank, "security" has the same meaning set forth in subdivision (c) of Section 690.

(B) When used with respect to any other person, "security" has the same meaning set forth in Section 25019 of the Corporations Code.

(b) No bank shall acquire, hold, extend credit on the security of, or extend credit for the purpose of acquiring or carrying, any security of the bank or of any controlling person of the bank.

(c) (1) Any bank which acquires or holds securities in violation of this section shall be liable to the people of this state for twice the market, book, or face value of the securities, whichever is greatest.

(2) Any bank which extends credit in violation of this section shall be liable to the people of this state for twice the amount of the credit so extended.

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

(1) Any acquisition or extension of credit by a bank which is necessary to reduce or prevent loss to the bank on debts previously contracted in good faith.

(2) Any redemption by a bank of any of its redeemable shares in accordance with applicable provisions of this division and of Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.

(3) Any acquisition by a bank of any of its shares, other than an acquisition of the type described in paragraph (1) or (2), if the acquisition is approved in advance by the commissioner.

(e) The provisions of Section 216.3 shall not apply to this section.

SEC. 30. Section 760.1 of the Financial Code is repealed.

SEC. 31. Section 761 of the Financial Code is repealed.

SEC. 32. Section 761 is added to the Financial Code, to read:

761. Any officer, director, trustee, employee, or agent of any bank in this state, who abstracts or willfully misapplies any of the money, funds, or property of the bank, or willfully misapplies its credit, is guilty of a felony. Upon conviction, the court shall, in addition to any other punishment imposed, order the person to make full restitution to the bank. Nothing in this section shall be deemed or construed to repeal, amend or impair any existing provision of law prescribing a punishment for such an offense.

SEC. 33. Section 761.5 of the Financial Code is repealed.

SEC. 34. Section 762 of the Financial Code is repealed.

SEC. 35. Section 762 is added to the Financial Code, to read:

762. (a) Every director of a bank in this state who does either of the following is guilty of a misdemeanor:

(1) In case of the fraudulent insolvency of such bank, the director participated in the fraud.

(2) Wilfully does any act as the director that is expressly forbidden by law or wilfully omits to perform any duty imposed by law upon him or her as the director.

(b) The insolvency of a bank is deemed fraudulent for the purposes of this section, unless its affairs appear upon investigation to have been administered clearly, legally, and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe.

SEC. 36. Section 763 of the Financial Code is repealed.

SEC. 37. Section 763 is added to the Financial Code, to read:

763. An officer or agent of any bank in this state, who makes or delivers any guaranty or endorsement on behalf of such bank, whereby it may become liable upon any of its discounted notes, bills or obligations, in a sum beyond the amount of loans and discounts which such bank may legally make, is guilty of a misdemeanor.

SEC. 38. Section 764 of the Financial Code is repealed.

SEC. 39. Section 764 is added to the Financial Code, to read:

764. A director of a bank, organized under the laws of this state, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended to make a loan or discount to any director of such corporation, or upon paper upon which any such director is liable

or responsible to an amount exceeding the amount allowed by the statutes is guilty of a misdemeanor.

SEC. 40. Section 765 of the Financial Code is repealed.

SEC. 41. Section 765 is added to the Financial Code, to read:

765. Any director, trustee, officer, or employee of any bank organized under the laws of this state, who makes or maintains, or attempts to make or maintain, a deposit of such bank's funds with any other corporation on condition, or with the understanding, express or implied, that the corporation receiving such deposit make a loan or advance, directly or indirectly, to any director, trustee, officer, or employee of the corporation so making or maintaining or attempting to make or maintain such deposit is guilty of a felony.

SEC. 42. Section 766 of the Financial Code is repealed.

SEC. 43. Section 766 is added to the Financial Code, to read:

766. Any officer or employee of any bank organized under the laws of this state, who intentionally conceals from the directors of the bank any discounts or loans made by it between the regular meetings of its board, or the purchase of any securities or the sale of its securities during that period, or knowingly fails to report to the board when required to do so by law, all discounts or loans made by it and all securities purchased or sold by it between the regular meetings of its board, is guilty of a misdemeanor.

SEC. 44. Section 767 is added to the Financial Code, to read:

767. Every officer, agent, teller, or clerk of any bank, and every individual banker, or agent, teller, or clerk of any individual banker, who receives any deposits, knowing that the bank, or association, or banker is insolvent, is guilty of a misdemeanor.

SEC. 45. Section 768 of the Financial Code is repealed.

SEC. 46. Section 768 is added to the Financial Code, to read:

768. Any officer, director, trustee, employee, or agent of any bank, who willfully makes a false or untrue entry in any book or record or in any report, tag, or statement of the business, affairs, or condition or in connection with any transaction of the bank, with intent to deceive any officer, director or trustee thereof, or any agent or examiner, private or official, employed or lawfully appointed to examine into its condition or into any of its affairs or transactions, or any public officer, office, or board to which the bank is required by law to report, or which has authority by law to examine into its affairs or transactions, or into any of its affairs or transactions, or who, with like intent, willfully omits to make a new entry of any matter particularly pertaining to the business, property, condition, affairs, transactions, assets, or accounts of the bank in any book, record, report, statement, or tag of the bank, or who with like intent alters, abstracts, conceals, or destroys any book, record, report,

statement, or tag of the bank made, written, or kept, or required to be made, written, or kept by him or her or under his or her direction, is guilty of a felony.

SEC. 47. Section 769 of the Financial Code is repealed.

SEC. 47.5. Section 769 is added to the Financial Code, to read:

769. Unless specifically authorized by law or by the commissioner, a bank shall not become, act as, or in any other manner assume the duties or liabilities of, a general partner. For purposes of this section, "general partner" has the meaning set forth in subdivision (m) of Section 15901.02 of the Corporations Code.

SEC. 48. Section 771 of the Financial Code is repealed.

SEC. 49. Section 772 of the Financial Code is repealed.

SEC. 50. Section 773 of the Financial Code is repealed.

SEC. 51. Section 774 of the Financial Code is repealed.

SEC. 52. Section 775 of the Financial Code is repealed.

SEC. 53. Section 775.1 of the Financial Code is repealed.

SEC. 54. Section 776 of the Financial Code is repealed.

SEC. 55. Section 777 of the Financial Code is repealed.

SEC. 56. Section 777.5 of the Financial Code is repealed.

SEC. 57. Section 778 of the Financial Code is repealed.

SEC. 58. Section 779 of the Financial Code is repealed.

SEC. 59. Article 2 (commencing with Section 780) is added to Chapter 6 of Division 1 of the Financial Code, to read:

## Article 2. Loans to Insiders

780. It is the intent of the Legislature that the provisions of this article, insofar as they are contained in Regulation O (12 C.F.R. Part 215) of the Federal Reserve Board, conform, and be interpreted by anyone construing the provisions of this article to so conform, to Regulation O, to any rule or interpretation promulgated thereunder by the Board of Governors of the Federal Reserve System, and to any interpretation issued by an official or employee of the Federal Reserve System duly authorized to issue the interpretation.

781. As used in this article:

(a) "Bank" means:

(1) Any commercial bank, industrial bank, or trust company incorporated under the laws of this state.

(2) Any foreign (other nation) bank that is licensed by the commissioner under Article 3 (commencing with Section 1750) of Chapter 13.5 to maintain a depositary agency or branch office, as defined in Section 1700, in this state, with respect to any office of that type.

(3) Any corporation incorporated under the laws of this state that is incorporated for the purpose of engaging in, or that is authorized by the commissioner to engage in, business under Article 1 (commencing with Section 3500) of Chapter 19.

(4) Any foreign corporation that is licensed by the commissioner under Article 1 (commencing with Section 3500) of Chapter 19 to maintain an office in this state and to transact at the office business under that article, with respect to any office of that type.

(5) When used to designate a person that extends credit, any subsidiary of a bank, as defined in paragraph (1), (2), (3), or (4).

(b) "Company" has the meaning set forth in subdivision (b) of Section 215.2 of Regulation O.

(c) "Executive officer" has the meaning set forth in paragraph (1) of subdivision (e) of Section 215.2 of Regulation O. Also, "executive officer," when used with respect to any bank of the type described in paragraph (2) or (4) of subdivision (a), includes the manager of each office of the type referred to in paragraph (2) or (4) of subdivision (a) that the bank maintains in this state.

(d) "Extension of credit" has the meaning set forth in Section 215.3 of Regulation O. However, for purposes of this subdivision, the term "member bank," as used in Section 215.3, means a bank.

(e) "Regulation O" means Regulation O (Part 215 (commencing with Section 215.1) of Title 12 of the Code of Federal Regulations) of the Board of Governors of the Federal Reserve System.

(f) "Subsidiary" has the meaning set forth in Section 1841(d) of Title 12 of the United States Code. However, for purposes of this subdivision, the term "bank holding company," as used in Section 1841(d) of Title 12 of the United States Code, means a bank holding company, as defined in Section 1841(a) of Title 12 of the United States Code, or a bank, and the term "board," as used in Section 1841(d) of Title 12 of the United States Code, means the commissioner.

782. Sections 215.2, 215.3, 215.4, 215.5, 215.8, and 215.9 of Regulation O in all of their particulars, including footnotes, are hereby referred to, incorporated by reference into this article, and adopted, subject to the following:

(a) The term "this Subpart," as used in the referenced sections of Regulation O, means this article.

(b) Subdivision (j) of Section 215.2 of Regulation O is not applicable. Instead, the term "member bank," as used in the referenced sections of Regulation O, means a bank.

(c) The term "executive officer," as used in the referenced sections of Regulation O, includes, in the case of a bank of the type described in paragraph (2) or (4) of subdivision (a) of Section 781, the manager of

each office of the type referred to in paragraph (2) or (4) of subdivision (a) of Section 781 that the bank maintains in this state.

(d) The definition of "lending limit" in subdivision (i) of Section 215.2 of Regulation O is not applicable; instead, the term "lending limit," as used in the referenced sections of Regulation O, means an amount equal to the limit on obligations of a single obligor set forth in Section 1221, and any reference in the referenced sections of Regulation O to the lending limit specified in subdivision (i) of Section 215.2 is considered to be a reference to the limit specified in Section 1221.

(e) (1) Any company which is majority owned by one or more executive officers or directors of a bank, individually or collectively, is deemed to be a related interest of each of those executive officers or directors for purposes of the referenced sections of Regulation O.

(2) In case an individual who is an executive officer of a bank is also a director or executive officer of a company, the company is deemed to be a related interest of the individual for purposes of the referenced sections of Regulation O except subdivision (c) of Section 215.4. However, this paragraph shall not apply to an extension of credit by a bank to any of the following companies:

(A) A bank holding company of which the bank is a subsidiary.

(B) Any subsidiary of the bank holding company.

(C) Any nonprofit company engaged in religious, charitable, educational, scientific, literary, social, or recreational purposes, provided that the individual whose position as a director or executive officer of the company at issue does not receive compensation in excess of one thousand dollars ($1,000) per year for serving as a director or executive officer of the company.

(3) In case a bank in making an extension of credit becomes subject to the requirements set forth in subdivision (b)(1)(i) of Section 215.4 of Regulation O because of paragraph (1) or (2), the bank shall be deemed to fulfill the requirement if the extension of credit is promptly reported to the board of the bank.

783. No bank shall extend credit in an aggregate amount greater than the amount permitted in paragraph (4) of subdivision (c) of Section 215.5 of Regulation O to any company that is majority owned by one or more executive officers of the bank, individually or collectively. For purposes of paragraph (4) of subdivision (c) of Section 215.5 of Regulation O, the total amount of credit extended by the bank to the company is considered to be extended to each of those executive officers.

784. In making any extension of credit that is subject to this article, a bank shall comply with all other applicable provisions of this division relating to extensions of credit by banks.

785. No provision of this article or of Article 2 (commencing with Section 1220) of Chapter 10 shall apply to an advance of money made by a bank pursuant to Section 317 of the Corporations Code.

786. A bank may make a loan, otherwise complying with the provisions of this division, for the benefit of a trust, notwithstanding that the bank or any one or more executive officers or directors of the bank are trustees of the trust.

787. Any bank that makes an extension of credit in violation of this article is subject to a civil penalty pursuant to Section 216.3. Any person, other than the bank making the extension of credit, who knowingly makes or procures an extension of credit in violation of this article is guilty of a felony.

SEC. 60. Section 782 of the Financial Code is repealed.

SEC. 61. Article 3 (commencing with Section 790) is added to Chapter 6 of Division 1 of the Financial Code, to read:

Article 3. Banking Business by Unauthorized Persons

790. No person who has not received a certificate from the commissioner authorizing it to engage in the banking business shall solicit or receive deposits, issue certificates of deposit with or without provision for interest, make payments on checks, or transact business in the way or manner of a bank or trust company.

791. No person who has not received a certificate from the commissioner authorizing it to engage in the banking business shall advertise that it is accepting deposits, and issuing notes or certificates therefore, or make use of any office sign, at the place where its business is transacted, having thereon any artificial or corporate name, or other words indicating that the place or office is the place or office of a bank or trust company, that deposits are received there or payments made on checks, or any other form of banking business is transacted, nor shall any person make use of or circulate any letterheads, billheads, blank notes, blank receipts, certificates, or circulars, or any written or printed paper, whatever, having thereon any artificial or corporate name or other words indicating that the business is the business of a bank or trust company, or transact business in a way or manner as to lead the public to believe that its business is that of a bank or trust company, except to the extent expressly authorized by this division.

792. No person who has not received a certificate from the commissioner authorizing it to engage in the banking business shall transact business under any name or title that contains the word “bank” or “banker” or “banking” or “industrial bank” or “industrial loan company” or “investment and loan” or “savings bank” or “thrift and

loan" or "trust" or "trustee" or "trust company" or act or advertise in any manner that indicates that the business is the business of a bank or trust company. Any building and loan association or savings association having in its corporate name words not clearly indicating the nature of its business shall state, on all signs, letterheads, and advertising matter, "This is a building and loan association" or "This is a savings association" or words to that effect.

793. No provision of Section 790, 791, or 792 prohibits any of the following from transacting any business or performing any activity if it is authorized by applicable law to transact the business or perform the activity and is not prohibited by any applicable law, other than Sections 790, 791, and 792, from transacting the business or performing the activity:

(a) Any California state commercial bank, industrial bank, or trust company.

(b) Any national bank.

(c) Any insured foreign (other state) state bank.

(d) Any foreign (other state) state bank that is licensed by the commissioner under Article 4 (commencing with Section 3860) of Chapter 22 to maintain a facility, as defined in Section 3800, in this state.

(e) Any foreign (other nation) bank that is licensed by the commissioner under Chapter 13.5 (commencing with Section 1700) to maintain an office in this state.

(f) Any foreign (other nation) bank that maintains a federal agency, as defined in subdivision (g) of Section 1700, or federal branch, as defined in subdivision (h) of Section 1700, in this state.

(g) Any California state corporation that is incorporated for the purpose of engaging in, and that is authorized by the commissioner to engage in, business under Article 1 (commencing with Section 3500) of Chapter 19.

(h) Any corporation incorporated under Section 25A of the Federal Reserve Act (12 U.S.C. Sec. 612 et seq.).

(i) Any foreign corporation that is licensed by the commissioner under Article 1 (commencing with Section 3500) of Chapter 19 to maintain an office in this state and to transact at that office business under Article 1 (commencing with Section 3500) of Chapter 19.

(j) Any industrial bank that is organized under the laws of another state of the United States and is insured by the Federal Deposit Insurance Corporation.

794. Any person or any bank violating any provision of the foregoing sections of this article shall be liable to the people of the state in the amount of one hundred dollars ($100) per day or part thereof during which that violation continues.

795. No person shall represent by advertisement, circular, or otherwise, or in any manner mislead anyone to believe, that any securities are legal investments for savings banks in this state or conform to the requirements of law relating to such investments, unless those securities are in fact at that time legal investments for such banks or do in fact so conform. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 62. Article 1.5 (commencing with Section 1210) is added to Chapter 10 of Division 1 of the Financial Code, to read:

Article 1.5. Loan and Investment Limitations

1210. (a) In this article and in Article 4 (commencing with Section 3860) of Chapter 22, "affiliate," when used with respect to a specified person, means any person controlling, controlled by, or under common control with, the specified person, directly or indirectly, through one or more intermediaries.

(b) "Control" has the meaning set forth in Section 700.

(c) "Regulated corporation" means any corporation in which a bank makes an equity investment and which the bank controls.

(d) "Securities issued by a person" means any debt, equity, or other security issued by a person, and any and all affiliates of that person, issued for the benefit of that person or for the benefit of an affiliate of that person.

1211. (a) Subject to the limitations in Sections 1221 and 1330, a bank may hold both obligations made by a person, and securities issued by that same person.

(b) The total amount of obligations and securities held by a bank pursuant to subdivision (a) shall not exceed 25 percent of the sum of the shareholders' equity, allowance for loan and lease losses, capital notes and debentures of the bank.

1212. Subject to prior approval by the commissioner and to any limitations the commissioner may impose on an investment, the limitations in subdivision (b) of Section 1211 and Section 1330 shall not apply to investments by banks in securities of regulated corporations.

1213. Sections 1211 and 1330 shall not apply to investments held by a bank prior to the operative date of this section. All authorizations regarding investments by a bank issued by the commissioner prior to the operative date of this section are terminated.

SEC. 63. Section 1232 of the Financial Code is repealed.

SEC. 64. Section 1239 is added to the Financial Code, to read:

1239. For the purpose of determining whether any loan or investment is secured by a first lien on real property as required by any provision of this division, none of the following shall be deemed a prior encumbrance unless any installment or payment thereunder, other than a rental or royalty under a lease, is due and delinquent:

(a) The lien of any tax, assessment, or bond levied or issued by any state or territory of the United States or by any district, political subdivision, or municipal corporation thereof, except the lien of an assessment levied against a particular parcel of real property and of any bond given or issued pursuant to law in lieu of the payment of the assessment.

(b) A lien created by a contract and given to secure the payment for water to be furnished under the contract for the irrigation of the real property or any part thereof.

(c) A lease of the real property under which all rents or royalties are reserved to the owner.

(d) The lien of a bond given or issued pursuant to law in lieu of the payment of an assessment levied against a particular parcel of real property and the lien of any assessment levied to pay that bond, if the unpaid balance of the bond and the amount of the loan or investment combined do not exceed the percentage of the sound market value of the real property permitted to be so loaned or invested by any provision of this division.

(e) A lien given to secure the payment of any assessment or subscription to meet the requirements of any law of the United States in respect to any irrigation project of the United States in any state or territory of the United States which may be levied, made, or received by any corporation or association formed to carry out the provisions of that law, if the unpaid balance of the assessment or subscription and the amount of the loan or investment combined do not exceed the percentage of the sound market value of the real property permitted to be so loaned or invested by any provision of this division.

SEC. 65. Section 1240 is added to the Financial Code, to read:

1240. No loan made by any bank in excess of any limitations contained in this division or which is made in violation of any of the provisions of this division shall be invalid or illegal as to the lender for that reason, nor shall any loan made to any bank in excess of the amounts permitted by this division be invalid or illegal as to the lender for that reason.

SEC. 66. Section 1330 is added to Article 4 of Chapter 10 of Division 1 of the Financial Code, to read:

1330. The total amount invested by a bank in the securities issued by a person shall not exceed 15 percent of the sum of the shareholders'

equity, allowance for loan and lease losses, capital notes and debentures of the bank, except:

(a) Obligations of the United States and those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds, consolidated bonds, collateral trust debentures, or other obligations issued by the Federal Financing Bank, the United States Postal Service, federal land banks, or federal intermediate credit banks established under the Federal Farm Loan Act; in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933; in consolidated notes, bonds, debentures, and other obligations issued by federal land banks, federal intermediate credit banks, and banks for cooperatives under the Farm Credit Act of 1971; in the bonds of any federal home loan bank established under the Federal Home Loan Bank Act; and in stock, bonds, debentures, participations, and other obligations of or issued by the Student Loan Marketing Association, the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(c) Obligations of the State of California and those for which the credit of the State of California is pledged for the payment of principal and interest.

(d) Obligations of a local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of the bonds upon all property within its boundaries subject to taxation by the local agency or district.

(e) Capital stock of the Federal Reserve Bank serving the district in which the bank is located.

(f) Capital stock of a federal home loan bank in the manner provided in the Federal Home Loan Bank Act.

(g) Capital stock of the Federal Deposit Insurance Corporation.

SEC. 67. Section 1331 is added to Article 4 of Chapter 10 of Division 1 of the Financial Code, to read:

1331. Section 1330 shall not apply to investments made pursuant to this section. A bank may invest in shares of an investment company (1) registered with the Securities and Exchange Commission pursuant to the federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) and for which the shares are registered under the federal Securities Act of 1933 (15 U.S.C. Sec. 77a et seq.), and (2) the portfolio of which consists solely of the following:

(a) Debt obligations in which a bank is permitted to invest without limitation pursuant to subdivision (a), (b), (c), or (d) of Section 1330 and repurchase agreements fully collateralized by those obligations.

(b) Loans of federal funds and similar loans of unsecured day(s) funds, maturing in six months or less to institutions insured by the Federal Deposit Insurance Corporation Federal Funds. Loans under this subdivision are limited to transactions described in subsection (a) or (b) of Section 32.102 of Title 12 of the Code of Federal Regulations involving investment companies in which the entire beneficial interest is held exclusively by depository institutions, as permitted by Section 204.123 of Title 12 of the Code of Federal Regulations.

(c) Cash or its equivalent.

SEC. 68. Section 1332 is added to Article 4 of Chapter 10 of Division 1 of the Financial Code, to read:

1332. Notwithstanding Section 1330, a bank may purchase, acquire, or hold the stock of any corporation pursuant to a plan of reorganization approved by the commissioner by which all of the stock of one or more banks organized under the laws of this state shall be acquired and immediately reissued proportionately to the stockholders of the acquiring bank

SEC. 69. Section 1335 of the Financial Code is repealed.

SEC. 70. Section 1336 of the Financial Code is repealed.

SEC. 70.5. Section 1542 of the Financial Code is amended to read:

1542. Security deposited with the Treasurer by trust companies pursuant to Section 1540 or 1541 shall consist of the following:

(a) Bonds or other 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 of the State of California or those for which the faith and credit of the State of California are pledged for the payment of principal and interest or in registered warrants of the State of California.

(c) Obligations and securities of the type described in subdivisions (a) to (g), inclusive, of Section 1330.

(d) Obligations and assets of the type described in subdivisions (a) to (c), inclusive, of Section 1331.

(e) Loans secured by a first lien on real property and otherwise complying with the provisions of subdivision (a) of Section 1227.

(f) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the International Finance Corporation, or the African Development Bank.

SEC. 71. Section 1592 is added to the Financial Code, to read:

1592. Notwithstanding any other provision of law, any bank and any trust company holding securities in a fiduciary capacity or while engaged in a trust business, or while acting in any capacity under a court or private trust, or while acting in that capacity with one or more persons as

cofiduciary or cofiduciaries, unless the instrument creating the trust contains a provision to the contrary, is authorized to deposit or arrange for the deposit of the securities in a securities depository, as defined in Section 30004, which is licensed under Section 30200 or exempted from licensing thereunder by Section 30005 or 30006. When securities are so deposited, they may be held in the custody of the securities depository in which they are deposited or in the custody of any other securities depository so licensed or exempted and in which the securities depository in which the securities were deposited maintains an account, or in the custody of any bank or trust company with authority to accept custody of the securities, that accepts custody of the securities on behalf of a securities depository. The securities may be held in the name of the nominee of the securities depository in which they are deposited, or in the name of the nominee of any other securities depository with which the securities depository in which they are deposited maintains an account. The custodian of securities so deposited may merge certificates representing securities of the same class of the same issuer and may hold those certificates in bulk with any other securities deposited in any securities depository by any person regardless of the ownership of the securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. Any bank or trust company that deposits or arranges for the deposit of the securities in a securities depository shall maintain records that at all times show the ownership of the deposited securities. A bank or trust company depositing securities pursuant to this section shall be subject to such rules and regulations as in the case of state chartered institutions, the commissioner and, in the case of national banking associations, the Comptroller of the Currency may from time to time issue. This section shall apply to securities now held or hereafter held by a bank or trust company in the above designated capacities. A bank or trust company may, but shall not be required to, own capital stock of a securities depository in which it deposits securities pursuant to this section.

SEC. 72. Section 1593 is added to the Financial Code, to read:

1593. Notwithstanding any other provision of law, any bank and any trust company holding securities in a fiduciary capacity or while engaged in a trust business, or while acting in any capacity under a court or private trust, or while acting in that capacity with one or more persons as cofiduciary or cofiduciaries, unless the instrument creating the trust contains a provision to the contrary, is authorized to deposit or arrange for the deposit with a federal reserve bank of any such securities the principal and interest of which the United States or any department, agency, or instrumentality thereof has agreed to pay, or has guaranteed payment, to be credited to one or more accounts on the books of the

federal reserve bank in the name of the bank or trust company, to be designated fiduciary or safekeeping accounts, to which accounts other similar securities may be credited. Any bank or trust company that deposits or arranges for the deposit of securities pursuant to this section shall maintain records that at all times show the ownership of the securities deposited. A bank or trust company depositing securities pursuant to this section shall be subject to such rules and regulations as in the case of state-chartered institutions, the commissioner and, in the case of national banking associations, the Comptroller of the Currency, may from time to time issue. Ownership of, and other interests in, the securities credited to such account may be transferred by entries on the books of the federal reserve bank without physical delivery of any securities. A bank or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities deposited by the bank or trust company pursuant to this section for the account of the fiduciary. A fiduciary shall, on demand by any party to its accounting, certify in writing to that party the securities deposited for its account as a fiduciary pursuant to this section. This section shall apply to all fiduciaries and custodians for fiduciaries, acting on the effective date of this section or who thereafter may act regardless of the state of the instrument or court order by which they are appointed.

SEC. 73. Section 1761 of the Financial Code is amended to read:

1761. (a) In this section:

(1) "Adjusted liabilities," when used with respect to a foreign (other nation) bank, means the liabilities of such bank's business in this state, excluding (A) accrued expenses, (B) any liability to an office (whether in or outside of this state) or majority-owned subsidiary of the bank, and (C) such other liabilities as the commissioner may by regulation or order exclude.

(2) "Applicable minimum," when used with respect to eligible assets deposited or to be deposited with an approved depository by a foreign (other nation) bank, means such amount as the commissioner may from time to time by regulation or order determine to be necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the bank's business in this state, or for the protection of the public interest. However, in the case of a foreign (other nation) bank which is licensed to maintain a branch office, the applicable minimum shall in no event be less than 1 percent of the adjusted liabilities of such bank.

(3) "Approved depository," when used with respect to a foreign (other nation) bank, means a bank organized under the laws of this state or a national bank headquartered in this state which has been selected by such foreign (other nation) bank and approved by the commissioner for

the purpose of acting as the approved depository of the foreign (other nation) bank and which has filed with the commissioner, in such form as the commissioner may by regulation or order prescribe, an agreement to comply with all applicable provisions of this section and of any regulation or order issued under this section.

(4) "Eligible assets" when used with respect to a foreign (other nation) bank, means any of the following:

(A) Cash.

(B) Any security of the type described in Section 1542.

(C) Any negotiable certificate of deposit which (i) has a maturity of not more than one year, (ii) is payable in the United States, and (iii) is issued by a bank organized under the laws of a state of the United States, by a national bank, or by a branch office of a foreign (other nation) bank which is located in the United States.

(D) Any commercial paper which is payable in the United States and which is rated P-1 or its equivalent by a nationally recognized rating service; provided, however, that any conflict in rating shall be resolved in favor of the lower rating.

(E) Any banker's acceptance which is payable in the United States and which is eligible for discount with a Federal Reserve bank.

(F) Any other asset which the commissioner by regulation or order determines to be eligible.

Notwithstanding the foregoing provisions of this paragraph, "eligible asset," when used with respect to a foreign (other nation) bank, does not include any instrument the issuer of which (i) is, or is affiliated with, such foreign (other nation) bank, (ii) is domiciled in, or controlled by a bank or other person domiciled in, the same foreign nation as the foreign (other nation) bank, or (iii) is, or is controlled by, such foreign nation. For purposes of the foregoing provision, to be "affiliated" means to control, to be controlled by, or to be under common control with; and to "control" has the meaning set forth in subdivision (b) of Section 700.

(b) For purposes of this section:

(1) The amount of adjusted liabilities of a foreign (other nation) bank's business in this state shall be computed for such period, in such manner, and on such basis as the commissioner may by regulation or order prescribe.

(2) Any eligible asset shall be valued at the lesser of market or par.

(c) (1) Before any foreign (other nation) bank is licensed to transact business in this state, such bank shall deposit, and each foreign (other nation) bank which is licensed to transact business in this state shall maintain on deposit, with an approved depository eligible assets having a value in an amount not less than the applicable minimum.

(2) Whenever a foreign (other nation) bank which is licensed to transact business in this state ceases to be so licensed, such bank shall thereafter maintain on deposit with an approved depository eligible assets having a value in an amount not less than the applicable minimum for such period of time as the commissioner may determine to be necessary for the protection of creditors of the bank's business in this state or for the protection of the public interest.

(d) (1) No foreign (other nation) bank which maintains eligible assets on deposit with an approved depository pursuant to this section shall withdraw any such eligible assets except with the prior approval of the commissioner.

(2) No approved depository which holds eligible assets on deposit from a foreign (other nation) bank pursuant to this section shall release any such eligible assets except with the prior approval of the commissioner or as otherwise provided in subdivision (h).

(e) Any foreign (other nation) bank which maintains eligible assets on deposit with an approved depository pursuant to this section shall, unless the commissioner shall have suspended or revoked its license to transact business in this state or taken possession of its property and business in this state, be entitled to receive any income paid on such eligible assets.

(f) (1) Whenever a foreign (other nation) bank deposits eligible assets with, or withdraws eligible assets from, an approved depository pursuant to this section, such bank shall do so in accordance with such procedures and requirements as the commissioner may by regulation or order prescribe.

(2) Whenever an approved depository receives, holds, or releases eligible assets pursuant to this section, such approved depository shall do so in accordance with such procedures and requirements as the commissioner may by regulation or order prescribe and shall file with the commissioner such reports as and when the commissioner may by regulation or order require.

(g) Whenever a foreign (other nation) bank maintains eligible assets on deposit with an approved depository pursuant to this section:

(1) The eligible assets shall be deemed to be pledged to the commissioner for the benefit of the creditors of the bank's business in this state; and, notwithstanding any provision of the Uniform Commercial Code to the contrary, the commissioner, for the benefit of such creditors, shall be deemed to have a security interest in such eligible assets.

(2) The eligible assets shall be free from any lien, charge, right of setoff, credit, or preference in connection with any claim of the approved depository against the bank.

(h) (1) In case the commissioner takes possession of the property and business of a foreign (other nation) bank which maintains eligible assets on deposit with an approved depository pursuant to this section, such approved depository shall, upon order of the commissioner, release such eligible assets to the commissioner, as liquidator of the property and business of such bank.

(2) In case a foreign (other nation) bank which maintains eligible assets on deposit with an approved depository pursuant to this section fails to pay any judgment creditor of its business in this state and the commissioner has not taken possession of the property and business of such bank, such approved depository shall release such eligible assets to the commissioner, and the commissioner shall make such disposition of the eligible assets, as a court of competent jurisdiction of this state or of the United States may order for the benefit of such judgment creditor. For purposes of this paragraph, "judgment creditor of its business in this state" means a person to whom the bank is required to pay money under a judgment which (A) arose out of the bank's business in this state, (B) has been entered by a court of this state or of the United States, (C) has become final, in that all possibility of direct attack on such judgment by way of appeal, motion for new trial, motion to vacate, or petition for extraordinary writ has been exhausted, and (D) has remained unpaid for a period of not less than 60 days after becoming final.

SEC. 74. Section 1900 of the Financial Code is amended to read:

1900. (a) (1) For purposes of this section, "foreign bank" means the business in this state of every foreign (other nation) bank licensed under Article 3 (commencing with Section 1750) of Chapter 13.5.

(2) For purposes of this subdivision, an examination made by the commissioner in conjunction with or with assistance from a bank regulatory agency of the United States, of a state of the United States, or of a foreign nation is deemed to be an examination caused by the commissioner.

(3) No provision of this subdivision shall be deemed to require that the commissioner cause an examination to be made onsite at the offices of a bank.

(4) The commissioner shall cause every California state bank and every foreign bank to be examined to the extent and whenever and as often as the commissioner shall deem it advisable, but in no case less frequently than once every 12 months, except that the following banks shall be examined pursuant to federal law no less frequently than state banks and foreign banks that meet the respective federal criteria:

(A) California state banks that meet the criteria set forth in Section 1820(d)(4) of Title 12 of the United States Code.

(B) Foreign banks that meet the criteria set forth in Section 211.26(c)(2) of Title 12 of the Code of Federal Regulations.

(5) The examinations required by paragraph (4) may be conducted in alternate examination periods, as appropriate, if the commissioner determines that an examination of the state bank by the appropriate federal regulator, insuring or guaranteeing corporation during the intervening examination period carries out the purpose of this section. The commissioner may not accept two consecutive examinations, or two consecutive examination reports, made by federal regulators, insuring or guaranteeing corporations, or agencies with respect to the condition of the state bank.

(6) The commissioner shall cause every California state trust company to be examined to the extent and whenever and as often as the commissioner shall deem it advisable, but in no case less frequently than once every 24 months.

(7) The commissioner may examine subsidiaries of every California state bank, state trust company, and foreign (other nation) bank licensed under Article 3 (commencing with Section 1750) of Chapter 13.5 to the extent and whenever and as often as the commissioner shall deem it advisable.

(b) The commissioner may at any time examine any of the following:

(1) Any office of a bank organized under the laws of this state.

(2) Any office of a foreign (other state) bank that maintains an office in this state.

(3) Any office of a foreign (other nation) bank that maintains an office in this state.

(c) The officers and employees of every California state bank, California state trust company, and foreign bank being examined shall exhibit to the examiners, on request, any or all of its securities, books, records, and accounts and shall otherwise facilitate the examination so far as it may be in their power.

SEC. 75. Section 1911.5 is added to the Financial Code, to read:

1911.5. In Sections 1912 and 1913, "holding company" shall have the meaning set forth in Section 3700.

SEC. 76. Section 1912 of the Financial Code is amended to read:

1912. If it appears to the commissioner that a bank, trust company, or foreign banking corporation, or any holding company or subsidiary of the bank, trust company, or foreign banking corporation, is violating or failing to comply with its articles or with any applicable law, the commissioner may direct the bank, trust company, or foreign banking corporation to comply with its articles or with the law by an order issued over his or her official seal, or if it appears to the commissioner that any bank, trust company, or foreign banking corporation is conducting its

business in an unsafe or injurious manner the commissioner may in like manner direct it to discontinue the unsafe or injurious practices. The order shall require the bank, trust company, or foreign banking corporation, or any holding company or subsidiary of the bank, trust company, or foreign banking corporation, to show cause before the commissioner at a time and place to be fixed by him or her why the order should not be observed.

SEC. 77. Section 1913 of the Financial Code is amended to read:

1913. If upon any hearing held pursuant to Section 1912 it appears to the commissioner that the bank, trust company, or foreign banking corporation, or any holding company or subsidiary of the bank, trust company, or foreign banking corporation, is violating or failing to comply with its articles or with any applicable law or is conducting its business in an unsafe or injurious manner the commissioner may make a final order directing it to comply with its articles or with the law or to discontinue the unsafe or injurious practices. Unless within 10 days after the issuance of the final order its enforcement is restrained in a proceeding brought by the bank, trust company, or foreign banking corporation, or any holding company or subsidiary of the bank, trust company, or foreign banking corporation, it shall forthwith comply with the order.

SEC. 78. Section 1913.5 of the Financial Code is amended to read:

1913.5. (a) For the purposes of this section, the following definitions are applicable:

(1) "Account holder" includes, in the case of a deposit account, the depositor; in the case of a trust account, each trustor and beneficiary of the trust account; and, in the case of any other fiduciary account, each person who occupies, with respect to the account, a position that is similar to the position that a trustor or beneficiary occupies with respect to a trust account.

(2) "Bank" means the following:

(A) Any commercial bank, industrial bank, or trust company incorporated under the laws of this state.

(B) Any foreign (other state) state bank that maintains a branch office in this state, with respect to the branch office and any other office in this state.

(C) Any foreign (other state) state bank that is licensed by the commissioner under Article 4 (commencing with Section 3860) of Chapter 22 to maintain a facility (as defined in Section 3800) in this state, with respect to that office.

(D) Any foreign (other nation) bank that is licensed by the commissioner under Chapter 13.5 (commencing with Section 1700) to maintain an office in this state, with respect to that office.

(E) Any corporation incorporated under the laws of this state that is incorporated for the purpose of engaging in, or that is authorized by the commissioner to engage in, business under Article 1 (commencing with Section 3500) of Chapter 19.

(F) Any foreign corporation that is licensed by the commissioner under Article 1 (commencing with Section 3500) of Chapter 19 to maintain an office in this state and to transact at that office business under Article 1 (commencing with Section 3500) of Chapter 19, with respect to that office.

(3) "Licensee" means any bank, savings association, credit union, transmitter of money abroad, issuer of payment instruments, issuer of traveler's checks, insurance premium finance agency, or business and industrial development corporation that is authorized by the commissioner to conduct business in this state.

(4) "Order" means any approval, consent, authorization, permit, exemption, denial, prohibition, or requirement applicable to a specific case issued by the commissioner, including, without limitation, any condition thereof. "Order" does not include any certificate of authority or license issued by the commissioner but does include any condition of a license and any written agreement made by any person with the commissioner under this division.

(5) "Subject person of a bank" means any director, officer, or employee of the bank, or any person who participates in the conduct of the business of the bank. However, "subject person of a bank" does not include a controlling person of the bank that is registered as a bank holding company with the Board of Governors of the Federal Reserve System pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. Sections 1841, et seq.). "Subject person of a bank" does not include an individual who is a director, officer, or employee of a controlling person of the bank unless the individual is a director, officer, or employee of the bank or participates in the conduct of the business of the bank. For purposes of this paragraph, "controlling person" has the meaning set forth in Section 700.

(6) "Violation" includes, without limitation, any act done, alone or with one or more persons, for or toward causing, bringing about, participating in, counseling, aiding, or abetting a violation.

(b) If, after notice and a hearing, the commissioner finds the following, the commissioner may issue an order suspending or removing a subject person of a bank from his or her office with the bank or prohibiting the subject person from further participating in any manner in the conduct of the business of the bank, except with the prior consent of the commissioner:

(1) (A) That the subject person has violated any provision of this division or of any regulation or order issued under this division, or any provision of any other applicable law relating to the business of the bank; or

(B) That the subject person has engaged or participated in any unsafe or unsound act with respect to the business of the bank; or

(C) That the subject person has committed or engaged in any act that constitutes a breach of his or her fiduciary duty as a subject person; and

(2) (A) That the bank has suffered or will probably suffer substantial financial loss or other damage by reason of the violation, act, or breach of fiduciary duty; or

(B) That the interests of the bank's accountholders have been or are likely to be seriously prejudiced by reason of the violation, act, or breach of fiduciary duty; or

(C) That the subject person has received financial gain by reason of the violation, act, or breach of fiduciary duty; and

(3) That the violation, act, or breach of fiduciary duty is one involving personal dishonesty on the part of the subject person, or one that demonstrates a willful or continuing disregard for the safety or soundness of the bank.

(c) If, after notice and a hearing, the commissioner finds the following, the commissioner may issue an order suspending or removing a subject person of a bank from his or her office with the bank or prohibiting the subject person from further participating in any manner in the conduct of the business of the bank, except with the prior consent of the commissioner:

(1) That the subject person's conduct or practice with respect to another bank or business institution has resulted in substantial financial loss or other damage; and

(2) That the conduct or practice has evidenced personal dishonesty or willful or continuing disregard for the safety and soundness of the other bank or business institution; and

(3) That the conduct or practice is relevant in that it demonstrates unfitness to continue as a subject person of the bank.

(d) If the commissioner finds the following, the commissioner may immediately issue an order suspending or removing a subject person of a bank from his or her office with the bank or prohibiting the subject person from further participating in any manner in the conduct of the business of the bank, except with the prior consent of the commissioner:

(1) That it is necessary for the protection of the bank or the interests of the bank's accountholders that the commissioner issue the order immediately; and

(2) (A) That any of the factors set forth in paragraph (1) of subdivision (b), any of the factors set forth in paragraph (2) of subdivision (b), and any of the factors set forth in paragraph (3) of subdivision (b) are true with respect to the subject person; or

(B) That any of the factors set forth in paragraph (1) of subdivision (c), any of the factors set forth in paragraph (2) of subdivision (c), and the factor set forth in paragraph (3) of subdivision (c) are true with respect to the subject person.

(e) (1) If the commissioner finds the following, the commissioner may immediately issue an order suspending or removing a subject person of a bank from his or her office with the bank or prohibiting the subject person from further participating in any manner in the conduct of the business of the bank, except with the prior consent of the commissioner:

(A) That the subject person has been charged in an indictment issued by a grand jury or in an information, complaint, or similar pleading issued by a United States attorney, district attorney, or other governmental official or agency authorized to prosecute crimes, with a crime that is punishable by imprisonment for a term exceeding one year and that involves dishonesty or breach of trust; and

(B) That the person's continuing to serve as a subject person of the bank may pose a material threat to the interests of the bank's accountholders or may threaten to materially impair public confidence in the bank. In case the criminal proceedings are terminated other than by a judgment of conviction, the order shall be deemed rescinded.

(2) If the commissioner finds the following, the commissioner may immediately issue an order suspending or removing a subject person of a bank, or a former subject person of a bank, from his or her office, if any, with the bank and prohibiting the person from further participating in any manner in the conduct of the business of the bank, except with the prior consent of the commissioner:

(A) That the person has been finally convicted of a crime that is punishable by imprisonment for a term exceeding one year and that involves dishonesty or breach of trust; and

(B) That the person's continuing to serve or resumption of service as a subject person of the bank may pose a material threat to the interests of the bank's accountholders or may threaten to materially impair public confidence in the bank.

(3) The fact that any subject person of a bank charged with a crime involving dishonesty or breach of trust is not finally convicted of that crime shall not preclude the commissioner from issuing an order regarding the subject person pursuant to other provisions of this division.

(f) (1) Within 30 days after an order is issued pursuant to subdivision (d) or (e), the person to whom the order is issued may file with the

commissioner an application for a hearing on the order. The commissioner shall, upon the written request of the person, extend the 30-day period by an additional 30 days provided the request is filed with the commissioner within 30 days after the order is issued. If the commissioner fails to commence the hearing within 15 business days after the application is filed, or within a longer period to which the person consents, the order shall be deemed rescinded. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any person to whom an order is issued under subdivision (d) or (e) to petition for judicial review of the order shall not be affected by the failure of that person to apply to the commissioner for a hearing on the order pursuant to this subdivision.

(g) (1) Any person to whom an order is issued under subdivision (b), (c), (d), or (e) may apply to the commissioner to modify or rescind that order. The commissioner shall not grant that application unless the commissioner finds that it is in the public interest to do so and that it is reasonable to believe that the person will, if and when he or she becomes a subject person of a bank, comply with all applicable provisions of this division and of any regulation or order issued thereunder.

(2) The right of any person to whom an order is issued under subdivision (b), (c), (d), or (e) to petition for judicial review of that order shall not be affected by the failure of the person to apply to the commissioner pursuant to paragraph (1) to modify or rescind the order.

(h) (1) A notice issued under this section shall state the facts constituting the grounds for removal, suspension, or prohibition.

(2) A hearing held before the commissioner pursuant to this section shall be private unless the commissioner, in his or her discretion, after fully considering the view of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.

(i) (1) It is unlawful for any subject person of a bank or former subject person of a bank to whom an order is issued under subdivision (b), (c), (d), or (e) to do any of the following, except with the prior consent of the commissioner, so long as the order is effective:

(A) To serve or act as a director, officer, employee, or agent of any licensee.

(B) To vote any shares or other securities of a licensee having voting rights, for the election of any person as a director of the licensee.

(C) Directly or indirectly, to solicit, procure, or transfer or attempt to transfer, or vote any proxy, consent, or authorization with respect to any shares or other securities of any licensee having voting rights.

(D) Otherwise to participate in any manner in the conduct of the business of any licensee.

(2) Any person who violates paragraph (1) shall, upon conviction, be punished by a fine of not more than five thousand dollars ($5,000) or imprisoned in the state prison, or in a county jail not to exceed one year, or by both that fine and imprisonment.

(3) If, after notice and a hearing, the commissioner finds that any person has violated paragraph (1), the commissioner may order that person to pay to the commissioner a civil penalty in an amount as the commissioner may specify, provided that the amount of the civil penalty shall not exceed one thousand dollars ($1,000) for each violation or, in the case of a continuing violation, one thousand dollars ($1,000) for each day for which the violation continues.

In determining the amount of a civil penalty to be paid to the commissioner under this paragraph, the commissioner shall consider the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations by the person, and other factors that in the opinion of the commissioner may be relevant.

SEC. 79. Chapter 18 (commencing with Section 3350) of Division 1 of the Financial Code is repealed.

SEC. 80. Section 3516 of the Financial Code is amended to read:

3516. No corporation shall deposit any of its funds with any other moneyed corporation unless the other corporation has been nominated and designated as a depositary for the funds of the depositing corporation by the vote of a majority of the directors of the depositing corporation and has been approved by the commissioner as a depositary. The commissioner may in his or her discretion revoke his or her approval of any such depositary. This limitation shall not apply to the deposit of funds by a corporation with another moneyed corporation, that owns all or a majority of the capital stock of the corporation.

SEC. 81. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or

security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or parole revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) Any city or county, city and county, district, or any officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance,

or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(16) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of level 1 humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement

decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving criminal record offender information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(10) (A) Any public utility, as defined in Section 216 of the Public Utilities Code, or any cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal

history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. Any public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities or cable corporations to request state summary criminal history information on any current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means any corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal-level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal-level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(D) (i) Authority for a cable corporation to request state or federal-level criminal history information under this paragraph shall commence July 1, 2005.

(ii) Authority for a public utility to request federal-level criminal history information under this paragraph shall commence July 1, 2005.

(11) To any campus of the California State University or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the

Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing

with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided however that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(*l*) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101 of the Penal Code, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated,

successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (9) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) Any statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding

any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 261 or 550 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 550 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (*l*), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (*l*), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

SEC. 82. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 126

An act to add Section 8125.5 to the Health and Safety Code, relating to cemeteries.

[Approved by Governor July 16, 2008. Filed with Secretary of State July 16, 2008.]

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

SECTION 1. Section 8125.5 is added to the Health and Safety Code, to read:

8125.5. The City of Simi Valley may survey, lay out, dedicate, own, and operate for burial purposes, or may purchase, or receive by gift or donation, five acres or more of public lands to be used as a public cemetery.

SEC. 2. Due to the unique circumstances concerning the City of Simi Valley, 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. Therefore, this act is necessarily applicable only to the City of Simi Valley.

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## CHAPTER 127

An act to amend Sections 23358, 23390, and 23396.5 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 16, 2008. Filed with Secretary of State July 16, 2008.]

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

SECTION 1. Section 23358 of the Business and Professions Code is amended to read:

23358. (a) Licensed winegrowers, notwithstanding any other provisions of this division, may also exercise the following privileges:

(1) Sell wine and brandy to any person holding a license authorizing the sale of wine or brandy.

(2) Sell wine and brandy to consumers for consumption off the premises where sold.

(3) Sell wine to consumers for consumption on the premises.

(4) Sell all beers, wines, and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place as defined in Section 23038 of this code, which is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and which is operated by and for the licensee. At such bona fide public eating place beer, wine, and brandy may be used in the preparation of food and beverages to be consumed on the premises.

(b) A winegrower may also have upon the premises all beers, wines, and brandies, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. Alcoholic beverage products sold at the premises that are not produced and bottled by, or produced and packaged for, the winegrower shall be purchased by the winegrower only from a licensed wholesaler.

(c) A winegrower shall actually produce on his or her licensed premises by conversion of grapes, berries, or other fruit, into wine, not less than 50 percent of all wines sold to consumers on his or her licensed premise or premises and any licensed branch premise or premises.

(d) The department may, if it shall determine for good cause that the granting of any such privilege would be contrary to public welfare or morals, deny the right to exercise any on-sale privilege authorized by this section in either a bona fide eating place the main entrance to which is within 200 feet of a school or church, or on the licensed winery premises, or both.

(e) Nothing in this section or in Section 23390 is intended to alter, diminish, replace, or eliminate the authority of a county, city, or city and county from exercising land use regulatory authority by law to the extent the authority may restrict, but not eliminate, privileges afforded by these sections.

SEC. 2. Section 23390 of the Business and Professions Code is amended to read:

23390. A licensed winegrower or brandy manufacturer, in addition to exercising all the privileges of his or her license at his or her licensed premises, may exercise all his or her license privileges at or from branch offices or warehouses, or United States bonded wine cellars located away from his or her place of production or manufacture, other than production or manufacture, the sale of wine to consumers for consumption on the licensed premises, the sale of wine or brandy to consumers for consumption on the premises in a bona fide eating place, and the sale or delivery of wine to consumers in containers supplied, furnished, or sold by the consumer. The department shall, upon request, issue to a winegrower or brandy manufacturer a duplicate of his or her original license for a location or locations other than his or her wine production or brandy manufacture premises. The duplicate license authorizes the maintenance and operation of each branch or warehouse or United States bonded wine cellar declared and designated by the winegrower or brandy manufacturer at the location for which the duplicate license is issued. The fee for each duplicate winegrower's license and for each duplicate brandy manufacturer's license is as specified in Section 23320.

Notwithstanding the provisions of any other section of this division, a duplicate winegrower's license or duplicate brandy manufacturer's license shall be issued forthwith upon the application therefor. In the event any protest is received by the department concerning the issuance of the duplicate license, the protest shall be considered as an accusation against the licensee and a hearing had thereon as if an accusation had been filed.

For 30 days from the date of the issuance of the duplicate license, no retail sales of wine or brandy shall be made at any branch office for which a duplicate winegrower's license or duplicate brandy manufacturer's license is issued pursuant to this section.

Notwithstanding any other provision of law, the department may allow any person who held more than one original winegrower's license, on or before January 1, 1981, to transfer any duplicate license which has been issued, on or before January 1, 1981, on any of the original winegrower's licenses to any other original winegrower's license held by that person, on or before January 1, 1981, provided that the licensee cancels the original winegrower's license from which any duplicate license is transferred. This subdivision shall not authorize any person to acquire any additional duplicate licenses other than those held by that licensee on or before January 1, 1981.

SEC. 3. Section 23396.5 of the Business and Professions Code is amended to read:

23396.5. Notwithstanding any other provision of law, any on-sale licensee, which maintains a bona fide eating place in conjunction with such license, or any winegrower that is exercising a privilege pursuant to Section 23358, may allow any person who has purchased and partially consumed a bottle of wine to remove such partially consumed bottle from the premises upon departure.

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## CHAPTER 128

An act to amend Sections 17150 and 42133.5 of, and to add Section 17150.1 to, the Education Code, relating to school facilities.

[Approved by Governor July 16, 2008. Filed with Secretary of State July 16, 2008.]

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

SECTION 1. Section 17150 of the Education Code is amended to read:

17150. (a) Upon the approval by the governing board of the school district to proceed with the issuance of revenue bonds or to enter into an agreement for financing school construction pursuant to Chapter 18 (commencing with Section 17170), the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation and evidence of the ability of the school

district to repay that obligation to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of revenue bonds or to enter into an agreement for financing pursuant to Chapter 18 (commencing with Section 17170), the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

(c) Prior to delivery of the notice required by subdivision (a) neither the county nor its officers shall have responsibility for the administration of the indebtedness of the school district. Failure to comply with the requirements of this section will not affect the validity of the indebtedness.

SEC. 2. Section 17150.1 is added to the Education Code, to read:

17150.1. (a) No later than 30 days before the approval by the governing board of the school district to proceed with the issuance of certificates of participation and other debt instruments that are secured by real property and do not require approval of the voters of the school district, the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide information necessary to assess the anticipated effect of the debt issuance, including the repayment schedules for that debt obligation, evidence of the ability of the school district to repay that obligation, and the issuance costs, to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) No later than 30 days before the approval by the county board of education to proceed with the issuance of certificates of participation

and other debt instruments that are secured by real property and do not require approval of the voters of the county, the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide information necessary to assess the anticipated effect of the debt issuance, including the repayment schedules for that debt obligation, the evidence of the ability of the county office of education or school district to repay that obligation, and issuance costs, to the Superintendent, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

SEC. 3. Section 42133.5 of the Education Code is amended to read:

42133.5. Regardless of the certification of the budgetary status of a school district or county office of education under subdivision (*l*) of Section 1240 or Section 42131, the proceeds obtained by a school district from the sources listed in subdivisions (a) to (f), inclusive, shall not be used for general operating purposes of the school district.

(a) The sale of a saleback or leaseback agreement, or interests in the agreement.

(b) A debt instrument payable from payments under a saleback or leaseback agreement.

(c) Certificates of participation.

(d) Other debt instruments that meet both of the following criteria:

(A) They are secured by real property.

(B) They do not require the approval of the voters of the school district.

SEC. 4. 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.

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## CHAPTER 129

An act to amend Section 1192.9 of, to add Section 1242 to, and to repeal and add Sections 1240, 1241, and 1241.1 of, the Insurance Code, relating to insurance.

[Approved by Governor July 16, 2008. Filed with
Secretary of State July 16, 2008.]

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

SECTION 1. Section 1192.9 of the Insurance Code is amended to read:

1192.9. Notwithstanding Section 1100, a domestic insurer may make excess funds investments in shares of an investment company, as defined in the Federal Investment Company Act of 1940, if the requirements of subdivisions (b) and (c) are satisfied. No investment made pursuant to this section that ceases to satisfy the requirements of subdivision (b) or (c) shall be retained as an excess fund investment. No domestic insurer shall invest under any provision of this code in the shares of any investment company which has more than 33.33 percent of its investments in foreign investments that do not comply with paragraph (4) of subdivision (b).

(a) The definitions in this subdivision apply to the following terms when used in this section:

(1) A mutual fund is an open-end management company as defined in Section 5(a)(1) of the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80(a)-5(a)(1)).

(2) An exchange traded fund is either an open-ended management company as defined in Section 5(a)(1) of the Federal Investment Company Act of 1940, or a unit investment trust as defined in Section 4(2) of the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-4(1)), that is registered under the Federal Investment Company Act of 1940 and that satisfies the terms of exemptive orders issued by the United States Securities and Exchange Commission which qualify it to be an exchange-traded fund.

(3) A fund is any investment company authorized in this section as an excess fund investment.

(b) The investment company shall:

(1) Be registered with and reporting to the United States Securities and Exchange Commission.

(2) Be domiciled in the United States with all assets held in the United States by a bank, trust company, or other authorized custodian chartered by the United States, its territories, possessions, or states.

(3) Have assets in excess of one hundred million dollars ($100,000,000), or be affiliated with other investment companies that have, in the aggregate, assets in excess of one billion dollars ($1,000,000,000).

(4) Have at least 66.67 percent of its investments be investments that are authorized under Article 3 (commencing with Section 1170) and Article 4 (commencing with Section 1190), except that any amount of a fund's assets may consist of foreign investments, provided that if more than 50 percent of its total investments consist of foreign investments, then the insurer's investment in that fund shall comply with the provisions of subparagraph (C) of paragraph (1) of subdivision (c), notwithstanding any other provision of this section or this code.

(5) Have at least 36 months of active investment history.

(6) Issue its shares as fully paid and nonassessable, with no preemptive, conversion, or exchange rights.

(7) Issue its shares to the insurer or to the insurer's custodian, subcustodian, or depository designated pursuant to Section 1104.9, or have its shares be retained by a bank, trust company, or other entity other than the investment company which is authorized by the United States to act as a transfer and dividend paying agent for the investment company.

(8) Provide equal rights and privileges to each share within the same class or series, and entitle each share within its class or series to vote and to participate equally in dividends and distributions declared by the investment company and in the net distributable assets of the investment company on liquidation.

(9) If it is a mutual fund, entitle shareholders to require the investment company to redeem all shares.

(10) If it is an exchange-traded fund, all of its shares are both of the following:

(A) Registered under the Federal Securities Act of 1933.

(B) Either listed and traded on a national securities exchange registered under the Securities Exchange Act of 1934 or have prices ascertained by quotations furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority.

(11) Have no investment policies that authorize any of the following:

(A) Borrowings to exceed 33 ⅓ percent of its total assets.

(B) The aggregate notional value of its derivative instruments outstanding to exceed 10 percent of its total assets.

(C) Investment in commodities or direct ownership of real estate.

(12) Have an expense ratio that does not exceed the following amounts of its average daily net asset values:

(A) For a money market fund, 100 basis points.

(B) For a bond fund, 200 basis points.

(C) For a stock or mixed stock/bond fund, 300 basis points.

(c) An insurer shall do the following:

(1) At no time make or retain an excess fund investment under the authority of this section that exceeds the following limits:

(A) An amount of its admitted assets, as reported in its most recent annual statement, that is more than any of the following:

(i) Three percent in a single investment company or 7 percent in an affiliated group of investment companies.

(ii) Twenty-five percent in all investments authorized by this section.

(B) One hundred percent of its surplus as regards policyholders, as reported in its most recent annual statement, in all investments authorized by this section.

(C) For an investment in a fund which has more than 50 percent of its assets in foreign investments, those foreign investments shall be foreign investments as defined by Section 1240 and shall be considered foreign investments, investments denominated in foreign currencies, or both, as applicable, for purposes of the limitations set forth in subdivisions (a) and (b) of Section 1241. No insurer shall invest in any such fund pursuant to any other provision of this code.

(D) An investment in any single investment company that exceeds 10 percent of the total net asset value of that investment company.

(2) Make a specific determination, pursuant to Sections 1200 and 1201, that an investment company has stated investment policies that are suitable for the insurer's investment objectives.

(d) In addition to any other remedies available under this code for any violation of this section, the commissioner may, after giving an insurer notice and an opportunity to be heard, deny credit in any financial statement filed with the commissioner for all or any part of an investment in an investment company, even if it otherwise complies with this section, if he or she finds the investment to be unsound or hazardous.

The grounds for finding an investment unsound or hazardous may include, but are not limited to, the following determinations:

(1) The investment company's investment adviser or subadviser lacks sufficient investment experience to render reliable investment advice; or lacks good professional character or good standing with any securities licensing authorities having jurisdiction over them.

(2) The portfolio turnover rate of the investment company is excessive in relation to its investment goals.

(3) The investment company's annual investment management fee, or other fees or charges incurred by the investment company or the insurer, are not reasonable when compared to charges or fees associated with similar investment companies.

(4) An investment company fails to mirror substantially any security index upon which its stated investment policy is based.

SEC. 2. Section 1240 of the Insurance Code is repealed.

SEC. 3. Section 1240 is added to the Insurance Code, to read:

1240. The following definitions shall apply in this article:

(a) "Foreign currency" means a currency other than that of the United States.

(b) "Foreign investment" means an investment in a foreign jurisdiction, or an investment in a person, real estate, or asset domiciled in a foreign jurisdiction, that is substantially of the same kind, class, and investment grade as those eligible for investment under this code, other than under Section 1210 or 1241. An investment shall not be a foreign investment if the issuing person, qualified primary credit source, or qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction, unless both of the following apply:

(1) The issuing person is a shell business entity.

(2) The investment is not assumed, accepted, guaranteed, or insured or otherwise backed by a domestic jurisdiction or a person, that is not a shell business entity, domiciled in a domestic jurisdiction.

(c) For purposes of subdivision (b), the following definitions apply:

(1) "Shell business entity" means a business entity having no economic substance, except as a vehicle for owning interests in assets issued, owned, or previously owned by a person domiciled in a foreign jurisdiction.

(2) "Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(3) "Qualified primary credit source" means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(d) "Foreign jurisdiction" means a jurisdiction other than the United States or any of its political subdivisions.

SEC. 4. Section 1241 of the Insurance Code is repealed.

SEC. 5. Section 1241 is added to the Insurance Code, to read:

1241. (a) Subject to the limitation in Section 1242, and except for those foreign investments permitted under Section 1192.95, a domestic insurer may acquire foreign investments of substantially the same type as those that an insurer is permitted to acquire pursuant to this code, if, as a result of the acquisition and after giving effect to the investment, both of the following apply:

(1) The aggregate amount of foreign investments then held by the insurer does not exceed:

(A) Twenty percent of admitted assets, for an insurer with admitted assets equal to or in excess of five hundred million dollars ($500,000,000).

(B) Five percent of admitted assets, for an insurer with admitted assets less than five hundred million dollars ($500,000,000).

(2) The aggregate amount of foreign investments then held by the insurer in a single foreign jurisdiction does not exceed:

(A) Ten percent of admitted assets, for any foreign jurisdiction that has a sovereign debt rating of SVO 1.

(B) Three percent of admitted assets, for any foreign jurisdiction that has a sovereign debt rating lower than SVO 1.

(b) Subject to the limitations of Section 1242, an insurer may acquire investments denominated in foreign currencies, whether or not they are foreign investments acquired under subdivision (a) of this section, or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction as defined in Section 1211 with respect to investments denominated in a foreign currency, if the following requirements are met:

(1) The aggregate amount of investments then held by an insurer under this subdivision denominated in foreign currencies does not exceed:

(A) Ten percent of admitted assets, for an insurer described in subparagraph (A) of paragraph (1) of subdivision (a).

(B) Three percent of admitted assets, for an insurer described in subparagraph (B) of paragraph (1) of subdivision (a).

(2) The aggregate amount of investments then held by an insurer under this subdivision denominated in the foreign currency of a single foreign jurisdiction does not exceed:

(A) Ten percent of admitted assets, for an insurer described in subparagraph (A) of paragraph (1) of subdivision (a) for a foreign jurisdiction that has a sovereign debt rating of SVO 1 or 3 percent of admitted assets as to any other foreign jurisdiction.

(B) Three percent of admitted assets, for an insurer described in subparagraph (B) of paragraph (1) of subdivision (a).

(3) An investment shall not be considered denominated in a foreign currency if the acquiring insurer enters into one or more contracts in transactions permitted under Section 1211 and the business entity counterparty agrees under the contract or contracts to exchange all payments made on the foreign currency denominated investment for United States currency at a rate that effectively insulates the investment cashflows against future changes in currency exchange rates during the period the contract or contracts are in effect.

(c) In addition to investments permitted under subdivisions (a) and (b), a domestic insurer that is authorized to do business in a foreign

jurisdiction, and that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in the foreign currency of that jurisdiction may acquire foreign investments respecting that jurisdiction, subject to the limitations of Section 1242. However, investments made under this subdivision in obligations of foreign governments, their political subdivisions, and government-sponsored enterprises shall not be subject to the limitations of Section 1242 if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer shall not exceed the greater of the following:

(1) The amount that the insurer is required by the law of the foreign jurisdiction to invest in the foreign jurisdiction.

(2) One hundred fifteen percent of the amount of the insurer's reserves, net of reinsurance and other obligations under the contracts.

(d) In addition to investments permitted under subdivisions (a) and (b), an insurer that is not authorized to do business in a foreign jurisdiction, but that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in the foreign currency of that jurisdiction may acquire foreign investments respecting that jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations of Section 1242. However, investments made under this subdivision in obligations of foreign governments, their political subdivisions, and government-sponsored enterprises shall not be subject to the limitations of Section 1242 if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer shall not exceed 105 percent of the amount of the insurer's reserves, net of reinsurance and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.

(e) The investments acquired under this section shall be subject to Sections 1200, 1201, and 1202.

(f) Nothing in this section shall in any way restrict or limit Canadian investments otherwise permitted by this code. Canadian investments acquired under other sections of this code shall not be considered foreign investments for purposes of the limitations set forth in this section.

(g) Investments made pursuant to Section 1192.9 in investment companies shall be governed by this article to the extent specified in Section 1192.9.

SEC. 6. Section 1241.1 of the Insurance Code is repealed.

SEC. 7. Section 1241.1 is added to the Insurance Code, to read:

1241.1. (a) No domestic insurer shall acquire any investment respecting a foreign jurisdiction, or any investment denominated in the currency of that foreign jurisdiction, if that jurisdiction is designated as

a state sponsor of terrorism by the United States Secretary of State pursuant to Section 6(j) of the Export Administration Act, Section 40 of the Arms Export Control Act, and Section 620A of the Foreign Assistance Act.

(b) If any investment made pursuant to Section 1241 later becomes prohibited by this section, that investment shall not be retained as an investment made pursuant to this code.

SEC. 8. Section 1242 is added to the Insurance Code, to read:

1242. (a) (1) Except as otherwise specified in Section 1241, a domestic insurer shall not acquire directly or indirectly through an investment subsidiary, an investment under Section 1241 if, as a result of and after giving effect to the investment, the insurer would hold more than 3 percent of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person, or 5 percent of its admitted assets in investments in the voting securities of a depository institution or any company that controls the institution.

(2) The 3 percent limitation in paragraph (1) shall not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

(b) A domestic insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under Section 1241 if, as a result of and after giving effect to the investment, the insurer's aggregate medium and lower grade investments do not comply with the limitations of Section 1196.1.

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## CHAPTER 130

An act to add Section 23826.10 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 16, 2008. Filed with Secretary of State July 16, 2008.]

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

SECTION 1. Section 23826.10 is added to the Business and Professions Code, to read:

23826.10. (a) Notwithstanding any other provision of this chapter, in any county of the 29th class, commencing January 1, 2009, the department may issue five additional new original on-sale general licenses for bona fide public eating places per year, for a period of three

years. Any premises to qualify for a license under this section shall have a seating capacity for 50 or more diners. In no event shall more than 15 on-sale general licenses for bona fide eating places be issued under this section.

(b) In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

(c) Nothing in this chapter shall prohibit a person who currently holds a valid on-sale general license for seasonal business from applying for an original on-sale general license pursuant to this section.

(d) A license issued under this section shall not be transferred from one county to another nor shall it be transferred to any premises not qualifying under this section.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances of the economy of the county of the 29th class specified in Section 1, that are applicable only to the county of the 29th class, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution, and, therefore, this special statute is necessary.

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## CHAPTER 131

An act to amend Section 391 of the Welfare and Institutions Code, relating to dependent children.

[Approved by Governor July 16, 2008. Filed with Secretary of State July 16, 2008.]

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

SECTION 1. Section 391 of the Welfare and Institutions Code is amended to read:

391. (a) At any hearing to terminate jurisdiction over a dependent child who has reached the age of majority, the county welfare department shall do all of the following:

(1) Ensure that the child is present in court, unless the child does not wish to appear in court, or document efforts by the county welfare department to locate the child when the child is not available.

(2) Submit a report verifying that the following information, documents, and services have been provided to the child:

(A) Written information concerning the child's dependency case, including any known information regarding the child's Indian heritage or tribal connections, if applicable, his or her family history and

placement history, any photographs of the child or his or her family in the possession of the county welfare department, other than forensic photographs, the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the child is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

(B) The following documents:

(i) Social security card.

(ii) Certified birth certificate.

(iii) Health and education summary, as described in subdivision (a) of Section 16010.

(iv) Driver's license, as described in Section 12500 of the Vehicle Code, or identification card, as described in Section 13000 of the Vehicle Code.

(v) A letter prepared by the county welfare department that includes the following information:

(I) The child's name and date of birth.

(II) The dates during which the child was within the jurisdiction of the juvenile court.

(III) A statement that the child was a foster youth in compliance with state and federal financial aid documentation requirements.

(vi) If applicable, the death certificate of the parent or parents.

(vii) If applicable, proof of the child's citizenship or legal residence.

(C) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance; referral to transitional housing, if available, or assistance in securing other housing; and assistance in obtaining employment or other financial support.

(D) Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.

(E) Assistance in maintaining relationships with individuals who are important to a child who has been in out-of-home placement in a group home for six months or longer from the date the child entered foster care, based on the child's best interests.

(3) The court may continue jurisdiction if it finds that the county welfare department has not met the requirements of paragraph (2) of subdivision (a) and that termination of jurisdiction would be harmful to the best interests of the child. If the court determines that continued jurisdiction is warranted pursuant to this section, the continuation shall only be ordered for that period of time necessary for the county welfare department to meet the requirements of paragraph (2) of subdivision (a). This section shall not be construed to limit the discretion of the juvenile

court to continue jurisdiction for other reasons. The court may terminate jurisdiction if the county welfare department has offered the required services, and the child either has refused the services or, after reasonable efforts by the county welfare department, cannot be located.

(b) The Judicial Council shall develop and implement standards, and develop and adopt appropriate forms, necessary to implement this section.

SEC. 2. 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.

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## CHAPTER 132

An act to amend Section 301 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor July 16, 2008. Filed with Secretary of State July 16, 2008.]

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

SECTION 1. Section 301 of the Welfare and Institutions Code is amended to read:

301. (a) In any case in which a social worker, after investigation of an application for petition or other investigation he or she is authorized to make, determines that a child is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the social worker may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the child's parent or guardian, undertake a program of supervision of the child. If a program of supervision is undertaken, the social worker shall attempt to ameliorate the situation which brings the child within, or creates the probability that the child will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Sections 16506 and 16507.3, within the time periods specified in those sections. No further child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the social worker may file a petition with the juvenile court pursuant to Section 332. Nothing in this section shall be construed to prevent the social worker from filing a petition pursuant to Section 332 when otherwise authorized by law.

(b) The program of supervision of the child undertaken pursuant to this section may call for the child to obtain care and treatment for the misuse of, or addiction to, controlled substances from a county mental health service or other appropriate community agency.

(c) If the parent is a dependent of the juvenile court at the time that a social worker seeks to undertake a program of supervision pursuant to subdivision (a), including a voluntary family reunification program or a voluntary family maintenance program, and if counsel has been appointed for the parent pursuant to subdivision (c) of Section 317, the program of supervision shall not be undertaken until the parent has consulted with his or her counsel.

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## CHAPTER 133

An act to amend Sections 9090 and 9094 of the Elections Code, and to amend Section 88005 of the Government Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 2008. Filed with Secretary of State July 17, 2008.]

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

SECTION 1. Section 9090 of the Elections Code is amended to read:

9090. The ballot pamphlet shall be printed according to the following specifications:

(a) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in eight-point type.

(b) The pamphlet shall be of a size and printed on a quality and weight of paper which, in the judgment of the Secretary of State, best serves the voters.

(c) The pamphlet shall contain a certificate of correctness by the Secretary of State.

SEC. 2. Section 9094 of the Elections Code is amended to read:

9094. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on unless a voter has registered fewer than 29 days before the election. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21

days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same postal address.

(b) In those instances in which the county elections official does not utilize data processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county elections official not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county elections official shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county elections official to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county elections official shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

SEC. 3. Section 88005 of the Government Code is amended to read:

88005. The ballot pamphlet shall be printed according to the following specifications:

(a) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in 8-point type.

(b) It shall be of a size and printed on a quality and weight of paper which in the judgment of the Secretary of State best serves the voters.

(c) The pamphlet shall contain a certificate of correctness by the Secretary of State.

SEC. 4. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is necessary for these provisions to take effect immediately in order to have the ballot pamphlets printed in time for the November 4, 2008, statewide general election.

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## CHAPTER 134

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 2008. Filed with Secretary of State July 17, 2008.]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for the developmentally disabled are covered subject to utilization controls.

(d) (1) Purchase of prescribed drugs is covered subject to the Medi-Cal List of Contract Drugs and utilization controls.

(2) Purchase of drugs used to treat erectile dysfunction or any off-label uses of those drugs are covered only to the extent that federal financial participation is available.

(3) (A) To the extent required by federal law, the purchase of outpatient prescribed drugs, for which the prescription is executed by a prescriber in written, nonelectronic form on or after April 1, 2008, is covered only when executed on a tamper resistant prescription form. The implementation of this paragraph shall conform to the guidance issued by the federal Centers of Medicare and Medicaid Services but shall not conflict with state statutes on the characteristics of tamper resistant prescriptions for controlled substances, including Section 11162.1 of the Health and Safety Code. The department shall provide providers and beneficiaries with as much flexibility in implementing these rules as allowed by the federal government. The department shall notify and consult with appropriate stakeholders in implementing, interpreting, or making specific this paragraph.

(B) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may take the actions specified in subparagraph (A) by means of a provider bulletin or notice, policy letter, or other similar instructions without taking regulatory action.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetist services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in a nursing facility or any category of intermediate care facility for the developmentally disabled.

(g) Blood and blood derivatives are covered.

(h) (1) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due

to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions that preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's California Children Services Program.

(2) For persons 21 years of age or older, the services specified in paragraph (1) shall be provided subject to the following conditions:

(A) Periodontal treatment is not a benefit.

(B) Endodontic therapy is not a benefit except for vital pulpotomy.

(C) Laboratory processed crowns are not a benefit.

(D) Removable prosthetics shall be a benefit only for patients as a requirement for employment.

(E) The director may, by regulation, provide for the provision of fixed artificial dentures that are necessary for medical conditions that preclude the use of removable dental prostheses.

(F) Notwithstanding the conditions specified in subparagraphs (A) to (E), inclusive, the department may approve services for persons with special medical disorders subject to utilization review.

(3) Paragraph (2) shall become inoperative July 1, 1995.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

Therapeutic shoes and inserts are covered when provided to beneficiaries with a diagnosis of diabetes, subject to utilization controls, to the extent that federal financial participation is available.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control. The utilization controls shall allow authorization of durable medical equipment needed to assist a disabled beneficiary in caring for a child for whom the disabled beneficiary is a parent, stepparent, foster parent, or legal guardian, subject to the availability of federal financial participation. The department shall adopt emergency regulations to define and establish criteria for assistive durable medical equipment in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(n) Family planning services are covered, subject to utilization controls.

(o) Inpatient intensive rehabilitation hospital services, including respiratory rehabilitation services, in a general acute care hospital are covered, subject to utilization controls, when either of the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery.

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(p) Adult day health care is covered in accordance with Chapter 8.7 (commencing with Section 14520).

(q) (1) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(2) All dental hygiene services provided by a registered dental hygienist in alternative practice pursuant to Sections 1768 and 1770 of the Business and Professions Code may be covered as long as they are within the scope of Denti-Cal benefits and they are necessary services provided by a registered dental hygienist in alternative practice.

(r) (1) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety

Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

(2) All providers enrolled under this subdivision shall satisfy all applicable statutory and regulatory requirements for becoming a Medi-Cal provider.

(3) This subdivision shall be implemented only to the extent funding is available under Section 14106.6.

(s) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to those persons. These services may be provided to patients placed in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life-support systems, including, but not limited to, support of respiratory functions.

(21) Respiratory care practitioner services as defined in Sections 3702 and 3703 of the Business and Professions Code, subject to prescription by a physician and surgeon.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home- and community-based services waiver.

(t) Home- and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for those services under waivers granted in accordance with Section 1396n of Title 42 of the United States Code. The director may seek waivers for any or all home- and community-based services approvable under Section 1396n of Title 42 of the United States Code. Coverage for those services shall be limited by the terms, conditions, and duration of the federal waivers.

(u) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are available.

(v) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(w) Hospice service which is Medicare-certified hospice service is covered, subject to utilization controls. Coverage shall be available only to the extent that no additional net program costs are incurred.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

(y) Home- and community-based services approved by the United States Department of Health and Human Services for beneficiaries with a diagnosis of AIDS or ARC, who require intermediate care or a higher level of care.

Services provided pursuant to a waiver obtained from the Secretary of the United States Department of Health and Human Services pursuant to this subdivision, and which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with the waiver, and subject to the terms, conditions, and duration of the waiver. These services shall be provided to individual beneficiaries in accordance with the client's needs as identified in the plan of care, and subject to medical necessity and applicable utilization control.

The director may under this section contract with organizations qualified to provide, directly or by subcontract, services provided for in this subdivision to eligible beneficiaries. Contracts or agreements entered into pursuant to this division shall not be subject to the Public Contract Code.

(z) Respiratory care when provided in organized health care systems as defined in Section 3701 of the Business and Professions Code, and as an in-home medical service as outlined in subdivision (s).

(aa) (1) There is hereby established in the department, a program to provide comprehensive clinical family planning services to any person who has a family income at or below 200 percent of the federal poverty level, as revised annually, and who is eligible to receive these services pursuant to the waiver identified in paragraph (2). This program shall be known as the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program.

(2) The department shall seek a waiver for a program to provide comprehensive clinical family planning services as described in paragraph (8). The program shall be operated only in accordance with the waiver

and the statutes and regulations in paragraph (4) and subject to the terms, conditions, and duration of the waiver. The services shall be provided under the program only if the waiver is approved by the federal Centers for Medicare and Medicaid Services in accordance with Section 1396n of Title 42 of the United States Code and only to the extent that federal financial participation is available for the services.

(3) Solely for the purposes of the waiver and notwithstanding any other provision of law, the collection and use of an individual's social security number shall be necessary only to the extent required by federal law.

(4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005, and 24013, and any regulations adopted under these statutes shall apply to the program provided for under this subdivision. No other provision of law under the Medi-Cal program or the State-Only Family Planning Program shall apply to the program provided for under this subdivision.

(5) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, without taking regulatory action, the provisions of the waiver after its approval by the federal Health Care Financing Administration and the provisions of this section by means of an all-county letter or similar instruction to providers. Thereafter, the department shall adopt regulations to implement this section and the approved waiver in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Beginning six months after the effective date of the act adding this subdivision, the department shall provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

(6) In the event that the Department of Finance determines that the program operated under the authority of the waiver described in paragraph (2) is no longer cost effective, this subdivision shall become inoperative on the first day of the first month following the issuance of a 30-day notification of that determination in writing by the Department of Finance to the chairperson in each house that considers appropriations, the chairpersons of the committees, and the appropriate subcommittees in each house that considers the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(7) If this subdivision ceases to be operative, all persons who have received or are eligible to receive comprehensive clinical family planning services pursuant to the waiver described in paragraph (2) shall receive family planning services under the Medi-Cal program pursuant to subdivision (n) if they are otherwise eligible for Medi-Cal with no share of cost, or shall receive comprehensive clinical family planning services

under the program established in Division 24 (commencing with Section 24000) either if they are eligible for Medi-Cal with a share of cost or if they are otherwise eligible under Section 24003.

(8) For purposes of this subdivision, "comprehensive clinical family planning services" means the process of establishing objectives for the number and spacing of children, and selecting the means by which those objectives may be achieved. These means include a broad range of acceptable and effective methods and services to limit or enhance fertility, including contraceptive methods, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies, natural family planning, abstinence methods, and basic, limited fertility management. Comprehensive clinical family planning services include, but are not limited to, preconception counseling, maternal and fetal health counseling, general reproductive health care, including diagnosis and treatment of infections and conditions, including cancer, that threaten reproductive capability, medical family planning treatment and procedures, including supplies and followup, and informational, counseling, and educational services. Comprehensive clinical family planning services shall not include abortion, pregnancy testing solely for the purposes of referral for abortion or services ancillary to abortions, or pregnancy care that is not incident to the diagnosis of pregnancy. Comprehensive clinical family planning services shall be subject to utilization control and include all of the following:

(A) Family planning related services and male and female sterilization. Family planning services for men and women shall include emergency services and services for complications directly related to the contraceptive method, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies, and followup, consultation, and referral services, as indicated, which may require treatment authorization requests.

(B) All United States Department of Agriculture, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies that are in keeping with current standards of practice and from which the individual may choose.

(C) Culturally and linguistically appropriate health education and counseling services, including informed consent, that include all of the following:

(i) Psychosocial and medical aspects of contraception.

(ii) Sexuality.

(iii) Fertility.

(iv) Pregnancy.

(v) Parenthood.

(vi) Infertility.

(vii) Reproductive health care.

(viii) Preconception and nutrition counseling.

(ix) Prevention and treatment of sexually transmitted infection.

(x) Use of contraceptive methods, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies.

(xi) Possible contraceptive consequences and followup.

(xii) Interpersonal communication and negotiation of relationships to assist individuals and couples in effective contraceptive method use and planning families.

(D) A comprehensive health history, updated at the next periodic visit (between 11 and 24 months after initial examination) that includes a complete obstetrical history, gynecological history, contraceptive history, personal medical history, health risk factors, and family health history, including genetic or hereditary conditions.

(E) A complete physical examination on initial and subsequent periodic visits.

(ab) Purchase of prescribed enteral formulae is covered, subject to the Medi-Cal list of enteral formulae and utilization controls.

(ac) Diabetic testing supplies are covered when provided by a pharmacy, subject to utilization controls.

SEC. 2. The Legislature finds and declares that, because providers have previously been made aware of the change in federal law that requires a prescription executed by a prescriber in written, nonelectronic form to be covered under the Medi-Cal program only when the prescription is executed on a tamper resistant prescription form, it is the intent of the Legislature that the amendments made by this act to Section 14132 of the Welfare and Institutions Code apply retroactively.

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 timely comply with the federal statutory implementation date of April 1, 2008, to enhance fraud prevention, and to avoid the loss of federal financial participation funding for drugs administered in the Medi-Cal program, it is necessary that this act take effect immediately.

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## CHAPTER 135

An act to add Section 5011.7 to the Public Resources Code, relating to parks and recreation.

[Approved by Governor July 17, 2008. Filed with
Secretary of State July 17, 2008.]

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

SECTION 1. Section 5011.7 is added to the Public Resources Code, to read:

5011.7. (a) The Legislature finds and declares that the use of conservation easements can assist the department in protecting the natural resources of the state park system and prevent incompatible uses on property at a low cost, while maintaining land in private ownership and productive use.

(b) For the purposes of this section, the following terms have the following meaning:

(1) "Conservation easement" means a limitation in a recorded instrument that contains an easement, restriction, covenant, condition, or offer to dedicate, that has been executed by or on behalf of the owner of the land subject to that limitation and is binding upon successive owners of the land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition. "Conservation easement" includes a conservation easement as defined in Section 815.1 of the Civil Code, an open-space easement as defined in Section 51075 of the Government Code, and an agricultural conservation easement as defined in Section 10211.

(2) "Local government" means a city, county, or district.

(3) "Nonprofit land trust organization" means a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)), and that has among its purposes the conservation of natural or cultural resources.

(c) The department may acquire a conservation easement on real property, pursuant to the requirements of Section 5006, if the department determines that the conservation easement is necessary to protect a unit of the state park system from an incompatible use or to preserve and enhance the natural resource, cultural, or historic value of the unit of the state park system.

(d) (1) For the purposes of this section, the department may make grants to a state or local government agency or a nonprofit land trust organization to purchase and hold a conservation easement, using funds appropriated to the department through the annual Budget Act that have been authorized for encumbrance for either capital outlay or local assistance.

(2) The director shall not disburse grant funds to a state or local government agency or a nonprofit land trust organization to purchase and hold the easement until the grantee agrees that the easement acquired will be used only for the purpose for which the grant was requested.

(3) The director shall find that the disposition of the easement is consistent with, and in furtherance of, the purposes of this division and that the holder of the easement is qualified to monitor and enforce the easement.

(4) If the state or local government agency or nonprofit land trust organization holding the easement is dissolved, the easement shall be transferred to a state or local government agency or nonprofit land trust organization that is qualified to monitor and enforce the easement. The transfer of the easement shall go into effect after a subsequently recorded document reflecting that transfer is recorded.

(5) The easement or its terms may be amended with the consent of the property owner and the state or local government agency or nonprofit land trust organization holding the easement and upon approval by the department if the department determines that the amendment is consistent with this section. An amendment to the conservation easement shall go into effect once a subsequently recorded document setting forth the amendment is recorded.

(6) The director shall not disburse any grant funds unless the recipient agrees to restrict the use of the land in perpetuity.

(e) On or before July 1, 2009, the department shall adopt written policies regarding conservation easement purchases. At a minimum, these policies shall include procedures to monitor and enforce the provisions of the conservation easement. The policies shall be made available on the department's Internet Web site.

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## CHAPTER 136

An act to amend Section 51201 of the Government Code, relating to land use.

[Approved by Governor July 17, 2008. Filed with Secretary of State July 17, 2008.]

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

SECTION 1. Section 51201 of the Government Code is amended to read:

51201. As used in this chapter, unless otherwise apparent from the context:

(a) "Agricultural commodity" means any and all plant and animal products produced in this state for commercial purposes including, but not limited to, plant products used for producing biofuels.

(b) "Agricultural use" means use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial purposes.

(c) "Prime agricultural land" means any of the following:

(1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

(5) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars ($200) per acre for three of the previous five years.

(d) "Agricultural preserve" means an area devoted to either agricultural use, as defined in subdivision (b), recreational use as defined in subdivision (n), or open-space use as defined in subdivision (o), or any combination of those uses and which is established in accordance with the provisions of this chapter.

(e) "Compatible use" is any use determined by the county or city administering the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. "Compatible use" includes agricultural use, recreational use or open-space use unless the board or council finds after notice and hearing that the use is not compatible with the agricultural, recreational or open-space use to which the land is restricted by contract pursuant to this chapter.

(f) "Board" means the board of supervisors of a county which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(g) "Council" means the city council of a city which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(h) Except where it is otherwise apparent from the context, "county" or "city" means the county or city having jurisdiction over the land.

(i) A "scenic highway corridor" is an area adjacent to, and within view of, the right-of-way of:

(1) An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the Department of Transportation as an official state scenic highway; or

(2) A county scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

(A) The scenic highway is included in an adopted general plan of the county or city; and

(B) The scenic highway corridor is included in an adopted specific plan of the county or city; and

(C) Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county or city highway has been officially designated by the Department of Transportation as an official county scenic highway.

(j) A "wildlife habitat area" is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state.

(k) A "saltpond" is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, has been used for the solar evaporation of seawater in the course of salt production for commercial purposes.

(*l*) A "managed wetland area" is an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.

(m) A "submerged area" is any land determined by the board or council to be submerged or subject to tidal action and found by the board or council to be of great value to the state as open space.

(n) "Recreational use" is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Any ancillary structures necessary for a recreational use shall comply with the provisions of Section 51238.1.

(o) "Open-space use" is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within:

(1) A scenic highway corridor, as defined in subdivision (i).

(2) A wildlife habitat area, as defined in subdivision (j).

(3) A saltpond, as defined in subdivision (k).

(4) A managed wetland area, as defined in subdivision (*l*).

(5) A submerged area, as defined in subdivision (m).

(6) An area enrolled in the United States Department of Agriculture's Conservation Reserve Program or Conservation Reserve Enhancement Program.

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## CHAPTER 137

An act to amend Section 9084 of, and to add Section 13307.5 to, the Elections Code, and to amend Section 88001 of the Government Code, relating to elections.

[Approved by Governor July 17, 2008. Filed with Secretary of State July 17, 2008.]

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

SECTION 1. Section 9084 of the Elections Code is amended to read:

9084. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, that each state measure would repeal or revise.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics, and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083.

(h) The Voter Bill of Rights pursuant to Section 2300.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question on the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's Internet Web site for information about candidates for the offices of President and Vice President of the United States.

SEC. 2. Section 13307.5 is added to the Elections Code, to read:

13307.5. A candidate for United States Representative may purchase the space to place a statement in the voter information portion of the sample ballot that does not exceed 250 words. The statement may not make reference to any opponent of the candidate. The statement shall be submitted in accordance with the timeframes and procedures set forth in this code for the preparation of the voter information portion of the sample ballot.

SEC. 3. Section 88001 of the Government Code is amended to read:

88001. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, that would be repealed or revised by each state measure.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

(h) The Voter Bill of Rights pursuant to Section 2300 of the Elections Code.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question as to the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's Internet Web site for information about candidates for the offices of President and Vice President of the United States.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

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## CHAPTER 138

An act to amend Sections 17050, 18300, 18400.1, and 18865 of the Health and Safety Code, relating to housing.

[Approved by Governor July 17, 2008. Filed with Secretary of State July 17, 2008.]

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

SECTION 1. Section 17050 of the Health and Safety Code is amended to read:

17050. (a) Except as provided in Section 18930, the Department of Housing and Community Development may promulgate rules and regulations to interpret and make specific this part. When adopted, those rules and regulations shall apply to all parts of the state.

(b) Upon written notice to the Department of Housing and Community Development, any city, county, or city and county may assume the responsibility for the enforcement of this part, for the building standards published in the California Building Standards Code relating to employee housing, and for the other regulations adopted pursuant to this part following approval by the department for that assumption.

(c) The Department of Housing and Community Development shall adopt regulations which shall set forth the conditions for assumption and may include required qualifications of local enforcement agencies. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of active and inactive employee housing within its jurisdiction.

(d) A city, county, or city and county may, by ordinance, establish a schedule of fees for the operation of employee housing not to exceed that which is established by the department. In no event may fees be charged to residents of employee housing.

(e) (1) In the event of nonenforcement of this part, of the building standards published in the California Building Standards Code relating to employee housing, or of the other rules and regulations adopted pursuant to this part, the department shall enforce this part, the building standards published in the California Building Standards Code relating to employee housing, and the rules and regulations adopted pursuant to this part in any city, county, or city and county after the department has given written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and has failed to initiate corrective measures to carry out its responsibility within 30 days of the date of the notice.

(2) On or after January 1, 1987, in the event the local enforcement agency has failed to initiate adequate and reasonable corrective measures to carry out its responsibility, as determined by the department, within 30 days of the date of notice of one or more specific examples of nonenforcement, the department, at its option, may undertake investigation and enforcement of the alleged violations of this part within the local enforcement agency's jurisdiction, and the local enforcement agency shall be liable to the department and the Attorney General for the actual costs of the investigation and enforcement by these state agencies.

(f) (1) The department shall conduct an annual evaluation of the enforcement of this part, of the building standards published in the California Building Standards Code relating to employee housing, and of the other regulations adopted pursuant to this part by each city, county, or city and county which has assumed responsibility for enforcement. The department shall submit a written summary of the evaluation conducted pursuant to this subdivision with the report required by Section 50408.

(2) The department, in consultation with interested persons, including housing advocates and farming organizations, shall conduct an evaluation of the definition of "rural" as used in paragraph (1) of subdivision (b) of Section 17008 and submit a written summary of the evaluation with the report required in calendar year 1996 by Section 17031.8.

(g) Except as provided in Section 18945, the department shall be sole judge as to whether the local enforcement agency is properly enforcing the provisions. Except as provided in Section 18945, the local enforcement agency shall have the right to appeal the decision to the department.

(h) (1) Any city, county, or city and county may cancel its assumption of responsibility for the enforcement of these provisions by providing written notice of cancellation to the department. The department shall assume the responsibility within 90 days after receipt of the notice.

(2) A local enforcement agency that has been approved by the department to enforce the provisions of this chapter and cancels its assumption of responsibility and returns enforcement to the department under paragraph (1) shall remit to the department the fees established and collected under Section 17036 and subdivision (d) that have not been expended pursuant to this chapter and the regulations adopted thereunder. For the purpose of this paragraph, the local enforcement agency shall either identify the actual expenditures and pay to the department the balance of fees collected, or shall pay the department a sum equal to the percentage of the years remaining before outstanding permits to operate expire.

(i) The enforcement agency may:

(1) Enter public or private properties to determine whether there exists any employee housing to which this part applies.

(2) Enter and inspect all employee housing wheresoever situated, and inspect all accommodations, equipment, or paraphernalia connected therewith.

(3) Enter and inspect the land adjacent to the employee housing to determine whether the sanitary and other requirements of this part, the building standards published in the California Building Standards Code

relating to employee housing, and the other rules and regulations adopted pursuant to this part have been or are being complied with.

SEC. 2. Section 18300 of the Health and Safety Code is amended to read:

18300. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and, when adopted, the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of both this part and Part 2.3 (commencing with Section 18860) and the regulations adopted pursuant to this part and Part 2.3 (commencing with Section 18860) following approval by the department for the assumption.

(c) The department shall adopt regulations that set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations shall relate solely to the ability of local agencies to enforce properly this part and the regulations adopted pursuant to this part. The regulations shall not set forth requirements for local agencies different than those that the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce both this part and Part 2.3 (commencing with Section 18860) and the regulations adopted pursuant to this part and Part 2.3 (commencing with Section 18860) in the city, county, or city and county, after the department has given written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part or Part 2.3 (commencing with Section 18860), the local enforcement agency may appeal the decision to the director of the department.

(e) (1) Any city, city and county, or county may cancel its assumption of responsibility for the enforcement of both this part and Part 2.3 (commencing with Section 18860) by providing written notice of the cancellation to the department. The department shall assume responsibility within 90 days after receipt of the notice.

(2) Any local enforcement agency that relinquishes enforcement authority to the department shall remit to the department any fees collected pursuant to Section 18502 that have not been expended for purposes of this part, except that, for fees collected pursuant to subdivision (c) of that section, the local enforcement agency shall pay to the department a sum that is equal to the percentage of the year remaining before outstanding permits to operate expire. In addition, the local enforcement agency that relinquishes enforcement authority to the department shall remit to the department any fees collected pursuant to this part for permits to construct or for plan review, or both, for which a final approval of the construction has not yet been issued.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce this part and the regulations adopted pursuant to this part, as they relate to manufactured homes, mobilehomes, or recreational vehicles, and to accessory buildings or structures located in both of the following areas:

(1) Inside of parks while the city, county, or city and county has assumed responsibility for enforcement of both this part and Part 2.3 (commencing with Section 18860).

(2) Outside of parks.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for manufactured homes, mobilehomes, and mobilehome parks within the city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, senior mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home or mobilehome used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or

other waste therefrom when the facilities are located outside a park for which a permit is required by this part or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a manufactured home or mobilehome outside a park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of manufactured homes and mobilehomes, which permit may be refused or revoked if the use violates this part or Part 2 (commencing with Section 18000), any regulations adopted pursuant thereto, or any local ordinance applicable to that use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when the manufactured home or mobilehome is located outside a mobilehome park, under circumstances when this part or Part 2 (commencing with Section 18000) and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(5) From prescribing and enforcing setback and separation requirements governing the installation of a manufactured home, mobilehome, or mobilehome accessory structure or building installed outside of a mobilehome park.

(h) (1) A city, including a charter city, county, or city and county, shall not require the average density in a new park to be less than that permitted by the applicable zoning ordinance, plus any density bonus, as defined in Section 65915 of the Government Code, for other affordable housing forms.

(2) A city, including a charter city, county, or city and county, shall not require a new park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that the facilities or improvements are required in other types of residential developments containing a like number of residential dwelling units.

(3) A city, including a charter city, county, or city and county, shall not require the setback and separation requirements authorized by paragraph (5) of subdivision (g) to be greater than those permitted by applicable ordinances for other housing forms.

SEC. 3. Section 18400.1 of the Health and Safety Code is amended to read:

18400.1. (a) In accordance with subdivision (b), the enforcement agency shall enter and inspect mobilehome parks, as required under this part, with a goal of inspecting at least 5 percent of the parks per year, to ensure enforcement of this part and the regulations adopted pursuant to this part. The enforcement agency's inspection shall include an inspection

of the exterior portions of individual manufactured homes and mobilehomes in each park inspected. Any notices of violation of this part shall be issued pursuant to Chapter 3.5 (commencing with Section 18420).

(b) In developing its mobilehome park maintenance inspection program, the enforcement agency shall inspect the mobilehome parks that the enforcement agency determines have complaints that have been made to the enforcement agency regarding serious health and safety violations in the park. A single complaint of a serious health and safety violation shall not automatically trigger an inspection of the entire park unless upon investigation of that single complaint the enforcement agency determines that there is a violation and that an inspection of the entire park is necessary.

(c) This part does not allow the enforcement agency to issue a notice for a violation of existing laws or regulations that were not violations of the laws or regulations at the time the mobilehome park received its original permit to operate, or the standards governing any subsequent permit to construct, 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) Not less than 30 days prior to the inspection of a mobilehome park under this section, the enforcement agency shall provide individual written notice of the inspection to the registered owners of the manufactured homes or mobilehomes, with a copy of the notice to the occupants thereof, if different than the registered owners, and to the owner or operator of the mobilehome park and the responsible person, as defined in Section 18603.

(e) At the sole discretion of the enforcement agency's inspector, a representative of either the park operator or the mobilehome owners may accompany the inspector during the inspection if that request is made to the enforcement agency or the inspector requests a representative to accompany him or her. If either party requests permission to accompany the inspector or is requested by the inspector to accompany him or her, the other party shall also be given the opportunity, with reasonable notice, to accompany the inspector. Only one representative of the park owner and one representative of the mobilehome owners in the park may accompany the inspector at any one time during the inspection. If more than one representative of the mobilehome owners in the park requests permission to accompany the inspector, the enforcement agency may adopt procedures for choosing that representative.

(f) The enforcement agency shall coordinate a preinspection orientation for mobilehome owners and mobilehome park operators with the use of an audiovisual presentation furnished by the department to affected local enforcement agencies. Enforcement agencies shall furnish the audiovisual presentation to park operators and mobilehome owner representatives in each park subject to inspection not less than 30 days prior to the inspection. Additionally, it is the Legislature's intent that the department shall, where practicable, conduct live presentations, forums, and outreach programs throughout the state to orient mobilehome owners and park operators on the mobilehome park maintenance inspection program and their rights and obligations under the program.

(g) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 4. Section 18865 of the Health and Safety Code is amended to read:

18865. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and, when adopted, the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of both this part and Part 2.1 (commencing with Section 18200) and the regulations adopted pursuant to this part following approval by the department for the assumption.

(c) The department shall adopt regulations that set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations shall relate solely to the ability of local agencies to enforce properly this part and the regulations adopted pursuant to this part. The regulations shall not set forth requirements for local agencies different than those that the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of special occupancy parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce both this part and Part 2.1 (commencing with Section 18200) and the regulations adopted pursuant to this part and Part 2.1 in the city, county, or city and county, after the department has given

written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency may appeal the decision to the director of the department.

(e) (1) Any city, city and county, or county may cancel its assumption of responsibility for the enforcement of both this part and Part 2.1 (commencing with Section 18200) by providing written notice of cancellation to the department. The department shall assume responsibility within 90 days after receipt of the notice.

(2) A local enforcement agency that has been approved by the department to enforce the provisions of this chapter and cancels its assumption of responsibility and returns enforcement to the department under paragraph (1) shall remit to the department the fees collected under Section 18870.2 that have not been expended pursuant to this chapter and the regulations adopted thereunder, except that, for fees for a permit to operate, the local enforcement agency shall pay to the department a sum that is equal to the percentage of the year remaining before outstanding permits to operate expire. In addition, the local enforcement agency that relinquishes enforcement authority to the department shall remit to the department any fees collected pursuant to this part for permits to construct or for plan review, or both, for which a final approval of the construction has not yet been issued.

(f) Every city, county, or city and county shall, within its jurisdiction, enforce this part and the regulations adopted pursuant to this part, as they relate to recreational vehicles and to accessory buildings or structures located in both of the following areas: (1) inside of parks where the city, county, or city and county has assumed responsibility for enforcement of both this part and Part 2.1 (commencing with Section 18200), and (2) outside of parks.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) Establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for special occupancy parks within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for special occupancy parks.

(2) Regulating the construction and use of equipment and facilities located outside of a recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when the facilities are located outside a park for which a permit is required by this part or the regulations adopted pursuant thereto.

(3) Requiring a permit to use a recreational vehicle outside a park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of recreational vehicles, which permit may be refused or revoked if the use violates this part or Part 2 (commencing with Section 18000), any regulations adopted pursuant thereto, or any local ordinance applicable to that use or Part 2.1 (commencing with Section 18200).

(h) A city, including a charter city, county, or city and county, shall not require a new park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that the facilities or improvements are required in other types of similar recreational facilities, if any, in the city, county, or city and county.

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## CHAPTER 139

An act to amend Sections 113709 and 114315 of the Health and Safety Code, and to amend Section 22455 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 2008. Filed with Secretary of State July 17, 2008.]

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

SECTION 1. Section 113709 of the Health and Safety Code is amended to read:

113709. This part does not prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, from regulating the provision of consumer toilet and handwashing facilities, or from adopting requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon a street pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

SEC. 2. Section 114315 of the Health and Safety Code is amended to read:

114315. (a) A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.

(b) This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

SEC. 3. Section 22455 of the Vehicle Code is amended to read:

22455. (a) The driver of any commercial vehicle engaged in vending upon a street may vend products on a street in a residence district only after bringing the vehicle to a complete stop and lawfully parking adjacent to the curb, consistent with the requirements of Chapter 9 (commencing with Section 22500) and local ordinances adopted pursuant thereto.

(b) Notwithstanding subdivision (a) of Section 114315 of the Health and Safety Code or any other provision of law, a local authority may, by ordinance or resolution, adopt additional requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon any street.

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## CHAPTER 140

An act relating to state lands.

[Approved by Governor July 17, 2008. Filed with Secretary of State July 17, 2008.]

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

SECTION 1. (a) That portion of the South Spit in Humboldt County that consists of parcel nos. 308-031-001, 308-021-001, 308-012-001, 308-012-002, 308-011-001, 308-011-002, 305-191-001, and 305-191-002 shall be named the Mike Thompson Wildlife Area, South Spit Humboldt Bay.

(b) This section shall become operative only upon Representative Mike Thompson's completion of his legislative service.

(c) The costs of the signage shall be funded by the parties who request the state to erect that signage pursuant to this section.

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## CHAPTER 141

An act to amend Section 513 of the Public Resources Code, relating to state parks.

[Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 513 of the Public Resources Code is amended to read:

513. (a) The department, as a means of furthering the interpretive and educational functions of the state park system, may enter into an agreement to act cooperatively with a nonprofit cooperating association engaged in educational or interpretive work in a state park system unit, as the director may designate, whereby the cooperating association would furnish educational and interpretive materials, or educational and interpretive services, or educational and interpretative materials and services, for sale to the public.

(b) Pursuant to Article 1 (commencing with Section 5080.02) of Chapter 1.2 of Division 5, a concession may provide materials and services that are intended to add to the convenience, enjoyment, and safety of state park system visitors. A concession may also provide, pursuant to this section, educational and interpretive materials and services, as described in paragraphs (2) and (3) of subdivision (d), with the approval of the department.

(c) A cooperating association may provide, pursuant to this section, noneducational and noninterpretive materials and services, as described in paragraph (4) of subdivision (d), as part of its cooperating association program with the approval of the department, if the department is unable to obtain, through a good faith effort, a concessionaire to provide those materials and services.

(d) For purposes of this section, the following definitions apply:

(1) "Cooperating association" means a corporation that meets all of the following criteria:

(A) The corporation is a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code.

(B) The articles of incorporation of the corporation state that the specific purpose of the corporation is to provide support for educational and interpretive programs of the state park system, or portions of the programs.

(C) The corporation has a cooperating association program contract with the department.

(D) The corporation is in compliance with the department's policies and guidelines regarding cooperating associations and has obtained the department's approval for its educational and interpretive materials and services.

(2) "Educational and interpretive materials" include items that promote visitor appreciation, understanding, and knowledge of natural, cultural, and historic resources of the state park system, including educational and interpretive gifts and souvenirs.

(3) "Educational and interpretive services" include those activities and programs that focus on natural, cultural, and historic resources of the state park system and are not generally offered by the department.

(4) "Educational and interpretive materials and services" do not include lodging, food service, horse and equipment rentals, camping supplies, gifts and souvenirs, other than those described in paragraph (2), transportation, except for equipment owned by the department, recreational lessons, and the operation of specialized facilities within a state park unit such as the theater at Hearst San Simeon State Historic Monument and Old Town San Diego State Historic Park, golf courses, and marinas.

(e) The department, at its discretion, may provide the services of department personnel and shall provide space, if available, for the sale of cooperating association materials, services, or both, within a state park unit.

(f) Subject to rules and regulations that the director shall adopt, all moneys collected by the cooperating association or received by the department from the sale of cooperating association materials, services, or both, provided by a cooperating association shall be retained by or returned to the cooperating association for use in the interpretive and educational programs of the state park system unit that the cooperating association has been designated to serve.

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## CHAPTER 142

An act to amend Section 4011.10 of the Penal Code, relating to inmates.

[Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 4011.10 of the Penal Code is amended to read:

4011.10. (a) It is the intent of the Legislature in enacting this section to provide county sheriffs, chiefs of police, and directors or administrators of local detention facilities with an incentive to not engage in practices designed to avoid payment of legitimate emergency health care costs for the treatment or examination of persons lawfully in their custody, and to promptly pay those costs as requested by the provider of services. Further, it is the intent of the Legislature to encourage county sheriffs, chiefs of police, and directors or administrators of local detention facilities to bargain in good faith when negotiating a service contract with hospitals providing emergency health care services.

(b) Notwithstanding any other provision of law, a county sheriff, police chief or other public agency that contracts for emergency health services, may contract with providers of emergency health care services for care to local law enforcement patients. Hospitals that do not contract with the county sheriff, police chief, or other public agency that contracts for emergency health care services shall provide emergency health care services to local law enforcement patients at a rate equal to 110 percent of the hospital's actual costs according to the most recent Hospital Annual Financial Data report issued by the Office of Statewide Health Planning and Development, as calculated using a cost-to-charge ratio.

(c) A county sheriff or police chief shall not request the release of an inmate from custody for the purpose of allowing the inmate to seek medical care at a hospital, and then immediately rearrest the same individual upon discharge from the hospital, unless the hospital determines this action would enable it to bill and collect from a third-party payment source.

(d) The California Hospital Association, the University of California, the California State Sheriffs' Association and the California Police Chiefs' Association shall, immediately upon enactment of this section, convene the Inmate Health Care and Medical Provider Fair Pricing Working Group. The working group shall consist of at least six members from the California Hospital Association and the University of California, and six members from the California State Sheriffs' Association and the California Police Chiefs' Association. Each organization should give great weight and consideration to appointing members of the working group with diverse geographic and demographic interests. The working group shall meet as needed to identify and resolve industry issues that create fiscal barriers to timely and affordable emergency inmate health

care. In addition, the working group shall address issues including, but not limited to, inmates being admitted for care and later rearrested and any other fiscal barriers to hospitals being able to enter into fair market contracts with public agencies. To the extent that the rate provisions of this statute result in a disproportionate share of local law enforcement patients being treated at any one hospital or system of hospitals, the working group shall address this issue. No reimbursement is required under this provision.

(e) Nothing in this section shall require or encourage a hospital or public agency to replace any existing arrangements that any city police chief, county sheriff, or other public agency that contracts for emergency health services for care to local law enforcement patients.

(f) An entity that provides ambulance or any other emergency or nonemergency response service to a sheriff or police chief, and that does not contract with their departments for that service, shall be reimbursed for the service at the rate established by Medicare. Neither the sheriff nor the police chief shall reimburse a provider of any of these services that their department has not contracted with at a rate that exceeds the provider's reasonable and allowable costs, regardless of whether the provider is located within or outside of California.

(g) For the purposes of this section, "reasonable and allowable costs" shall be defined in accordance with Part 413 of Title 42 of the Code of Federal Regulations and federal Centers for Medicare and Medicaid Services Publication Numbers 15.1 and 15.2.

(h) For purposes of this section, in those counties in which the sheriff does not administer a jail facility, a director or administrator of a local department of corrections established pursuant to Section 23013 of the Government Code is the person who may contract for services provided to jail inmates in the facilities he or she administers in those counties.

(i) This section is repealed as of January 1, 2014.

SEC. 2. 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.

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## CHAPTER 143

An act to add Section 41533 to the Education Code, relating to teachers.

[Filed with Secretary of State July 18, 2008.]

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

SECTION 1. This act shall be known and may be cited as the Jason Flatt Act of 2008.

SEC. 2. Section 41533 is added to the Education Code, to read:

41533. A school district that receives a grant pursuant to this article may expend a portion of those funds to provide to each of its teachers two hours of training in the prevention of youth suicide. The training provided pursuant to this section shall not exceed two hours, and may occur during a regularly scheduled inservice training day.

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## CHAPTER 144

An act to amend Section 6141 of the Penal Code, relating to criminal offenders.

[Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 6141 of the Penal Code is amended to read:

6141. The California Rehabilitation Oversight Board shall meet at least quarterly, and shall regularly examine the various mental health, substance abuse, educational, and employment programs for inmates and parolees operated by the Department of Corrections and Rehabilitation. The board shall report to the Governor and the Legislature biannually, on March 15 and September 15, and may submit other reports during the year if it finds they are necessary. The reports shall include, but are not limited to, findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in rehabilitation services in the department, and levels of offender participation and success in the programs. The board shall also make recommendations to the Governor and Legislature with respect to modifications, additions, and eliminations of rehabilitation and treatment programs. In performing its duties, the board shall use the work products developed for the department as a result of the provisions of the 2006 Budget Act, including Provision 18 of Item 5225-001-0001.

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# CHAPTER 145

An act to amend Section 76361.1 of the Education Code, relating to community colleges.

[Approved by Governor July 18, 2008. Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 76361.1 of the Education Code is amended to read:

76361.1. (a) This section applies only to the Los Rios, Peralta, and Rio Hondo community college districts.

(b) Notwithstanding any other provision of law, a district to which this section applies may require that a fee authorized by subdivision (a) of Section 76361 for transportation services be paid only by students and employees using the services, or, in the alternative, by any of the following groups of people:

(1) Upon the favorable vote of a majority of the students and a majority of the employees of a campus of the district, who voted at an election on the question of whether or not the governing board should require all students and employees at the campus to pay a fee for transportation services for a period of time to be determined by the governing board of the district, the fees may be required to be paid by all students, other than those students who are exempt from the fees pursuant to paragraph (1) of subdivision (c), and all employees of the campus of the community college district.

(2) Upon the favorable vote of a majority of the students at a campus of the district, who voted at an election on the question of whether or not the governing board should require all students to pay a fee for transportation services for a period of time to be determined by the governing board of the district, the fees may be required to be paid by all students, other than those students who are exempt from the fees pursuant to paragraph (1) of subdivision (c), at the campus of the community college district. However, the employees shall not be entitled to use the services.

(3) Upon the favorable vote of a majority of the students at a campus of the district taking a specified number of course credits for a specified duration, to be determined by the governing board, who voted at an election on the question of whether or not the governing board should require all students taking that prescribed number of course credits to pay a fee for transportation services for a period of time to be determined

by the governing board of the district, the fees may be required to be paid by those students taking the prescribed number of course credits, except those students who are exempt from the fees pursuant to paragraph (1) of subdivision (c), at the campus of the community college district. However, the employees shall not be entitled to use the services.

(c) (1) If, pursuant to Section 76361, a fee is required of students for transportation services, any fee required of a part-time student shall be a pro rata lesser amount than the fee charged to full-time students, depending on the number of units for which the part-time student is enrolled. Notwithstanding any other provision of law, the governing board of a community college district to which this section applies that provides for transportation services may adopt rules and regulations to exempt low-income students from this fee, or to require low-income students to pay all or part of this fee.

(2) Notwithstanding any other provision of law:

(A) The governing board of a community college district to which this section applies shall not enter into, or extend, a contract for transportation services provided by a common carrier or a municipally owned transit system, funded by the proceeds of a fee authorized under this section, unless and until a majority of the students of that district who vote in an election, held no more than 10 years prior to the date of the expiration of the contract proposed to be entered into or no more than 10 years prior to the date to which it is proposed that an existing contract be extended, have approved the payment of the fee for this purpose. An election held pursuant to this subparagraph shall be held in accordance with regulations adopted by the board of governors to ensure that the election is publicly noticed and that all students, including full-time, part-time, evening, and weekend students, have an opportunity to vote in the election.

(B) If the governing board of a community college district to which this section applies decides to seek to terminate or alter the arrangements under which the district receives transportation services from a common carrier or municipally owned transit system, the governing board shall provide at least 12 months' notice of that intention to the provider of transportation services.

(d) A community college district to which this section applies is subject to subdivisions (d), (e), and (f) of Section 76361.

SEC. 2. The Legislature finds and declares that, due to unique circumstances relating to the transportation services utilized by the community served by the Peralta Community College District, a general

statute cannot be made applicable, and the enactment of Section 1 of this act as a special statute is therefore necessary.

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## CHAPTER 146

An act to amend Section 1473.5 of the Penal Code, relating to battering.

[Approved by Governor July 18, 2008. Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 1473.5 of the Penal Code is amended to read:

1473.5. (a) A writ of habeas corpus also may be prosecuted on the basis that expert testimony relating to intimate partner battering and its effects, within the meaning of Section 1107 of the Evidence Code, was not received in evidence at the trial court proceedings relating to the prisoner's incarceration, and is of such substance that, had it been received in evidence, there is a reasonable probability, sufficient to undermine confidence in the judgment of conviction, that the result of the proceedings would have been different. Sections 1260 to 1262, inclusive, apply to the prosecution of a writ of habeas corpus pursuant to this section. As used in this section, "trial court proceedings" means those court proceedings that occur from the time the accusatory pleading is filed until and including judgment and sentence.

(b) This section is limited to violent felonies as specified in subdivision (c) of Section 667.5 that were committed before August 29, 1996, and that resulted in judgments of conviction after a plea or trial as to which expert testimony admissible pursuant to Section 1107 of the Evidence Code may be probative on the issue of culpability.

(c) If a petitioner for habeas corpus under this section has previously filed a petition for writ of habeas corpus, it is grounds for denial of the new petition if a court determined on the merits in the prior petition that the omission of expert testimony relating to battered women's syndrome or intimate partner battering and its effects at trial was not prejudicial and did not entitle the petitioner to the writ of habeas corpus.

(d) For purposes of this section, the changes that become effective on January 1, 2005, are not intended to expand the uses or applicability of expert testimony on battering and its effects that were in effect immediately prior to that date in criminal cases.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

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## CHAPTER 147

An act to amend Section 9166 of the Food and Agricultural Code, relating to animals.

[Approved by Governor July 18, 2008. Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 9166 of the Food and Agricultural Code is amended to read:

9166. (a) In addition to any other penalty or fine prescribed by law, any person who violates any provision of this division, or any regulation which is issued pursuant to this division, is subject to an administrative penalty of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) for each violation. Each violation during any day constitutes a separate offense. Any money that is recovered under this section shall be paid into the State Treasury and shall be credited to the Department of Food and Agriculture Fund.

(b) If the secretary finds that a violation has occurred, the person charged shall receive notice of the nature of the violation, and shall be given an opportunity to be heard in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, except that informal hearing procedures may not be used under the circumstances described in subdivision (a) or (b) of Section 11445.20 of the Government Code.

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## CHAPTER 148

An act to amend Sections 21151.4 and 21151.8 of the Public Resources Code, relating to the environment.

[Approved by Governor July 18, 2008. Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 21151.4 of the Public Resources Code is amended to read:

21151.4. (a) An environmental impact report shall not be certified or a negative declaration shall not be approved for any project involving the construction or alteration of a facility within one-fourth of a mile of a school that might reasonably be anticipated to emit hazardous air emissions, or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the state threshold quantity specified pursuant to subdivision (j) of Section 25532 of the Health and Safety Code, that may pose a health or safety hazard to persons who would attend or would be employed at the school, unless both of the following occur:

(1) The lead agency preparing the environmental impact report or negative declaration has consulted with the school district having jurisdiction regarding the potential impact of the project on the school.

(2) The school district has been given written notification of the project not less than 30 days prior to the proposed certification of the environmental impact report or approval of the negative declaration.

(b) As used in this section, the following definitions apply:

(1) "Extremely hazardous substance" means an extremely hazardous substance as defined pursuant to paragraph (2) of subdivision (g) of Section 25532 of the Health and Safety Code.

(2) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air of a substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

SEC. 2. Section 21151.8 of the Public Resources Code is amended to read:

21151.8. (a) An environmental impact report shall not be certified or a negative declaration shall not be approved for a project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless all of the following occur:

(1) The environmental impact report or negative declaration includes information that is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.

(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood, or other nearby schools.

(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

(2) (A) The school district, as the lead agency, in preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous emissions or handle hazardous or extremely hazardous substances or waste. The notification by the school district, as the lead agency, shall include a list of the locations for which information is sought.

(B) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to subparagraph (A) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with subparagraph (A) as to the area of responsibility of an agency that does not respond within 30 days.

(C) If the school district, as a lead agency, has carried out the consultation required by subparagraph (A), the environmental impact report or the negative declaration shall be conclusively presumed to comply with subparagraph (A), notwithstanding any failure of the consultation to identify an existing facility or other pollution source specified in subparagraph (A).

(3) The governing board of the school district makes one of the following written findings:

(A) Consultation identified no facilities of this type or other significant pollution sources specified in paragraph (2).

(B) The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes a finding pursuant to this clause, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

(iii) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) The facilities or other pollution sources specified in paragraph (2) exist, but conditions in clause (i), (ii), or (iii) of subparagraph (B) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education Code. If the governing board makes this finding, the governing board shall adopt a statement of overriding considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(b) As used in this section, the following definitions shall apply:

(1) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(2) "Extremely hazardous substances" means an extremely hazardous substance as defined pursuant to paragraph (2) of subdivision (g) of Section 25532 of the Health and Safety Code.

(3) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(4) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(5) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(6) "Administering agency" means an agency authorized pursuant to Section 25502 of the Health and Safety Code to implement and enforce Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(8) "Facilities" means any source with a potential to use, generate, emit, or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.

(9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

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## CHAPTER 149

An act to amend Section 60200.1 of the Education Code, relating to instructional materials.

[Approved by Governor July 18, 2008. Filed with Secretary of State July 18, 2008.]

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

SECTION 1. Section 60200.1 of the Education Code is amended to read:

60200.1. (a) (1) The instructional materials described in paragraph (1) of subdivision (a) of Section 60200 shall be submitted to the state board for adoption in 2008.

(2) The instructional materials for foreign language shall be submitted to the state board for adoption in 2012.

(3) The instructional materials for health shall be submitted to the state board for adoption in 2013.

(b) Notwithstanding any other law, the requirement in paragraph (6) of subdivision (c) of Section 60200 that other criteria be approved at least 30 months before the date that the materials are to be approved for adoption shall not apply if all of the following conditions are met:

(1) The criteria adopted are consistent with the content standards adopted by the state board in each of the four core content areas for which standards are adopted.

(2) The schedule for the adoption of instructional materials requires instructional materials for history-social science to be adopted in November 2011, and instructional materials for science to be adopted by November 2012.

(3) The state board approves criteria for the adoption of instructional materials in history-social science at least 18 months before the state board adopts instructional materials in history-social science.

(4) The state board approves the criteria for the adoption of instructional materials for science at least 24 months before the state board adopts instructional materials in science.

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## CHAPTER 150

An act to amend Section 1094.5 of the Code of Civil Procedure, and to amend Sections 18670, 19175, 19574, 19574.1, 19574.2, 19575, 19576, 19578, 19582, and 19583 of, to repeal Sections 19173.1, 19175.3, 19570.1, 19572.1, 19576.5, 19576.6, 19582.1, and 19582.6 of, and to repeal and add Section 18575 of, the Government Code, relating to civil service.

[Approved by Governor July 18, 2008. Filed with Secretary of State July 18, 2008.]

*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 that, in the exercise of reasonable diligence, could not have been produced or that 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. 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 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. 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 that 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 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.

(j) Effective January 1, 1996, this subdivision shall apply to state employees in State Bargaining Unit 5. For purposes of this section, the court is not authorized to review any disciplinary decisions reached pursuant to Section 19576.1 of the Government Code.

SEC. 2. Section 18575 of the Government Code is repealed.

SEC. 3. Section 18575 is added to the Government Code, to read:

18575. (a) Except as otherwise provided in subdivisions (b) and (c), service by mail of any notice, paper, or document to be served upon a person or appointing power shall be made in the manner provided by Sections 1012 and 1013 of the Code of Civil Procedure.

(b) (1) The appointing power shall provide service of the following actions by personal service or by mail or express service carrier as provided in this subdivision:

(A) Notice of disciplinary action.

(B) Notice of rejection during probationary period.

(C) Notice of medical action.

(D) Notice of nonpunitive action.

(E) Notice of career executive assignment termination.

(F) Notice of termination with fault of a limited term, seasonal, or temporary authorization appointment.

(G) Notice of termination of an appointment under the Limited Examination and Appointment Program.

(H) Notice of termination or automatic resignation of a permanent intermittent employee.

(I) Notice of absence without leave resignation or separation pursuant to Section 89541 of the Education Code.

(2) Service by mail of the notices listed in paragraph (1) shall be made by enclosing the notice in a sealed envelope, addressed to the last known residence address of the employee, and doing any of the following:

(A) Deposit in the United States mail with postage fully prepaid, certified with return receipt requested. Service is complete at the time of deposit, but any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document served by United States mail shall be extended in accordance with subdivision (a) of Section 1013 of the Code of Civil Procedure.

(B) Deposit in the United States mail with Express Mail postage fully prepaid. Service is complete at the time of deposit, but any period of notice or any right or duty to do any act or make any response within

any period or on a date certain after the service of the document served by Express Mail shall be extended by two business days.

(C) Providing for overnight delivery, by deposit of the notice in a box or other facility regularly maintained by an express service carrier, or delivery to a courier or driver authorized by an express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, and with the employee or his or her designated representative required to acknowledge receipt of the notice at the time of delivery. Service is complete at the time of the deposit, but any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document served by overnight delivery shall be extended by two business days.

(c) (1) Service of an appeal or complaint filed with the board shall be made by personal service or by mail or express service carrier as provided in this subdivision.

(2) Service by mail of an appeal or complaint filed with the board shall be made by enclosing the notice in a sealed envelope, addressed to the Appeals Division of the State Personnel Board, and doing any of the following:

(A) Deposit in the United States mail with first-class postage fully prepaid. Service is complete at the time of deposit, but any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document served by United States mail shall be extended in accordance with subdivision (a) of Section 1013 of the Code of Civil Procedure.

(B) Deposit in the United States mail with Express Mail postage fully prepaid. Service is complete at the time of deposit, but any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document served by Express Mail shall be extended by two business days.

(C) Providing for overnight delivery, by deposit of the appeal or complaint in a box or other facility regularly maintained by an express service carrier, or delivery to a courier or driver authorized by an express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, and with the authorized representative of the State Personnel Board required to acknowledge receipt of the appeal or complaint at the time of delivery. Service is complete at the time of the deposit, but any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document served by overnight delivery shall be extended by two business days.

(d) (1) Proof of service of all papers, excluding appeals and complaints, shall be an affidavit stating the title of the papers served or filed, the name and address of the person making the service, and that he or she is over 18 years of age and not a party to the action. The proof of service shall be signed by the person making it and contain the following statement above the signature, below which the declarant's name shall be typed and signed:

"I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed at (city, state) on (date)."

(2) (A) If service is made by mail or express service carrier, in addition to the information provided in paragraph (1), the proof of service shall show the date and place of deposit, the name and address of the person served as shown on the mailing envelope, and that the envelope was sealed and deposited in the mail or provided for overnight delivery, as appropriate.

(B) A proof of service made in accordance with Section 1013a of the Code of Civil Procedure complies with this paragraph.

SEC. 4. Section 18670 of the Government Code is amended to read:

18670. (a) The board may hold hearings and make investigations concerning all matters relating to the enforcement and effect of this part and rules prescribed under this part. It may inspect any state institution, office, or other place of employment affected by this part to ascertain whether this part and the board rules are obeyed.

The board shall make investigations and hold hearings at the direction of the Governor or the Legislature or upon the petition of an employee or a citizen concerning the enforcement and effect of this part and to enforce the observance of Article VII of the Constitution and of this part and the rules made under this part.

(b) Effective January 1, 1996, this subdivision shall apply only to state employees in State Bargaining Unit 5. For purposes of subdivision (a), any discipline, as defined by Section 19576.1, is not subject to either a board investigation or hearing. Board review shall be limited to acceptance or rejection of discipline imposed pursuant to Section 19576.1.

SEC. 5. Section 19173.1 of the Government Code is repealed.

SEC. 6. Section 19175 of the Government Code is amended to read:

19175. The board at the written request of a rejected probationer, filed within 15 calendar days of the effective date of rejection, may investigate with or without a hearing the reasons for rejection. After investigation, the board may do any of the following:

(a) Affirm the action of the appointing power.

(b) Modify the action of the appointing power.

(c) Restore the name of the rejected probationer to the employment list for certification to any position within the class; provided, that his or her name shall not be certified to the agency by which he or she was rejected, except with the concurrence of the appointing power of that agency.

(d) Restore him or her to the position from which he or she was rejected, but this shall be done only if the board determines, after a hearing, that there is no substantial evidence to support the reason or reasons for rejection, or that the rejection was made in fraud or bad faith. At the hearing, the rejected probationer shall have the burden of proof. Subject to rebuttal by the rejected probationer, it shall be presumed that the rejection was free from fraud and bad faith and that the statement of reasons therefor in the notice of rejection is true.

(e) Effective January 1, 1996, this section shall not apply to state employees in State Bargaining Unit 5.

SEC. 7. Section 19175.3 of the Government Code is repealed.

SEC. 8. Section 19570.1 of the Government Code is repealed.

SEC. 9. Section 19572.1 of the Government Code is repealed.

SEC. 10. Section 19574 of the Government Code is amended to read:

19574. (a) The appointing power, or its authorized representative, may take adverse action against an employee for one or more of the causes for discipline specified in this article. Adverse action is valid only if a written notice is served on the employee prior to the effective date of the action, as defined by board rule. The notice shall be served upon the employee either personally or by mail and shall include: (1) a statement of the nature of the adverse action; (2) the effective date of the action; (3) a statement of the reasons therefor in ordinary language; (4) a statement advising the employee of the right to answer the notice orally or in writing; and (5) a statement advising the employee of the time within which an appeal must be filed. The notice shall be filed with the board not later than 15 calendar days after the effective date of the adverse action.

(b) Effective January 1, 1996, this subdivision shall apply only to state employees in State Bargaining Unit 5. This section shall not apply to discipline as defined by Section 19576.1.

SEC. 11. Section 19574.1 of the Government Code is amended to read:

19574.1. (a) An employee who has been served with notice of adverse action, or a representative designated by the employee, shall have the right to inspect any documents in the possession of, or under the control of, the appointing power which are relevant to the adverse action taken or which would constitute "relevant evidence" as defined in Section 210 of the Evidence Code. The employee, or the designated

representative, shall also have the right to interview other employees having knowledge of the acts or omissions upon which the adverse action was based. Interviews of other employees and inspection of documents shall be at times and places reasonable for the employee and for the appointing power.

(b) The appointing power shall make all reasonable efforts necessary to assure the cooperation of any other employees interviewed pursuant to this section.

SEC. 12. Section 19574.2 of the Government Code is amended to read:

19574.2. (a) Any party claiming that his or her request for discovery pursuant to Section 19574.1 has not been complied with may serve and file a petition to compel discovery with the Hearing Office of the State Personnel Board, naming as respondent the party refusing or failing to comply with Section 19574.1. The petition shall state facts showing that the respondent party failed or refused to comply with Section 19574.1, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under Section 19574.1, and the ground or grounds of respondent's refusal so far as known to petitioner.

(b) The petition shall be served upon respondent party and filed within 14 days after the respondent party first evidenced his or her failure or refusal to comply with Section 19574.1 or within 30 days after the request was made and the party has failed to reply to the request, whichever period is longer. However, no petition may be filed within 15 days of the date set for commencement of the administrative hearing, except upon a petition and a determination by the administrative law judge of good cause. In determining good cause, the administrative law judge shall consider the necessity and reasons for the discovery, the diligence or lack of diligence of the moving party, whether the granting of the petition will delay the commencement of the administrative hearing on the date set, and the possible prejudice of the action to any party. The respondent shall have a right to file a written answer to the petition. Any answer shall be filed with the Hearing Office of the State Personnel Board and the petitioner within 15 days of service of the petition.

Unless otherwise stipulated by the parties and as provided by this section, the administrative law judge shall review the petition and any response filed by the respondent and issue a decision granting or denying the petition within 20 days after the filing of the petition. Nothing in this section shall preclude the administrative law judge from determining that an evidentiary hearing shall be conducted prior to the issuance of a decision on the petition. In the event that a hearing is ordered, the decision of the administrative law judge shall be issued within 20 days of the closing of the hearing.

A party aggrieved by the decision of the administrative law judge may, within 30 days of service of the decision, file a petition to compel discovery in the superior court for the county in which the administrative hearing will be held or in the county in which the headquarters of the appointing power is located. The petition shall be served on the respondent party.

(c) If from a reading of the petition the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent party; otherwise the court shall enter an order denying the petition. The order to show cause shall be served upon the respondent and his or her attorney of record in the administrative proceeding by personal delivery or certified mail and shall be returnable no earlier than 10 days from its issuance nor later than 30 days after the filing of the petition. The respondent party shall have the right to serve and file a written answer or other response to the petition and order to show cause.

(d) The court may, in its discretion, order the administrative proceeding stayed during the pendency of the proceeding, and, if necessary, for a reasonable time thereafter to afford the parties time to comply with the court order.

(e) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under Section 19574.1, or is privileged against disclosure under Section 19574.1, the court may order lodged with it matters which are provided in subdivision (b) of Section 915 of the Evidence Code and shall examine the matters in accordance with the provisions thereof.

(f) The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and any oral argument and additional evidence as the court may allow.

(g) Unless otherwise stipulated by the parties, the court shall no later than 45 days after the filing of the petition file its order denying or granting the petition; provided, however, that the court may on its own motion for good cause extend the time an additional 45 days. The order of the court shall be in writing setting forth the matters or parts the petitioner is entitled to discover under Section 19574.1. A copy of the order shall forthwith be served by mail by the clerk upon the parties. Where the order grants the petition in whole or in part, the order shall not become effective until 10 days after the date the order is served by the clerk. Where the order denies relief to the petitioning party, the order shall be effective on the date it is served by the clerk.

(h) The order of the superior court shall be final and, except for this subdivision, shall not be subject to review by appeal. A party aggrieved

by the order, or any part thereof, may within 30 days after the service of the superior court's order serve and file in the district court of appeal for the district in which the superior court is located, a petition for a writ of mandamus to compel the superior court to set aside, or otherwise modify, its order. Where a review is sought from an order granting discovery, the order of the trial court and the administrative proceeding shall be stayed upon the filing of the petition for writ of mandamus; provided, however, that the court of appeal may dissolve or modify the stay thereafter, if it is in the public interest to do so. Where the review is sought from a denial of discovery, neither the trial court's order nor the administrative proceeding shall be stayed by the court of appeal except upon a clear showing of probable error.

(i) Where the superior court finds that a party or his or her attorney, without substantial justification, failed or refused to comply with Section 19574.1, or, without substantial justification, filed a petition to compel discovery pursuant to this section, or, without substantial justification, failed to comply with any order of court made pursuant to this section, the court may award court costs and reasonable attorney fees to the opposing party. Nothing in this subdivision shall limit the power of the superior court to compel obedience to its orders by contempt proceedings.

SEC. 13. Section 19575 of the Government Code is amended to read:

19575. The employee has 30 calendar days after the effective date of the adverse action to file with the board a written answer to the notice of adverse action. The answer shall be deemed to be a denial of all of the allegations of the notice of adverse action not expressly admitted and a request for hearing or investigation as provided in this article. With the consent of the board or its authorized representative an amended answer may subsequently be filed. If the employee fails to answer within the time specified or after answer withdraws his or her appeal the adverse action taken by the appointing power shall be final. A copy of the employee's answer and of any amended answer shall promptly be given by the board to the appointing power.

SEC. 14. Section 19576 of the Government Code is amended to read:

19576. Whenever an answer is filed by an employee who has been suspended without pay for five days or less, or who has received a formal reprimand or up to a one-step reduction in pay for four months or less, the board or its authorized representative shall make an investigation with or without a hearing as it deems necessary. However, in the event an employee receives one of these actions under subdivision (r) of Section 19572 for behavior or acts outside of duty hours, the employee shall, if he or she files an answer to the action, be afforded a hearing. If the employee receives one of the cited actions in more than three instances in any 12-month period, the employee shall, upon each additional action

within the same 12-month period, be afforded a hearing if the employee files an answer to the action.

If the provisions of this section concerning whether a hearing should be held are in conflict with the provisions of a memorandum of understanding reached pursuant to the State Employer-Employee Relations Act (SEERA), commencing with Section 3512, 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, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 15. Section 19576.5 of the Government Code is repealed.

SEC. 16. Section 19576.6 of the Government Code is repealed.

SEC. 17. Section 19578 of the Government Code is amended to read:

19578. Except as provided in Section 19576, whenever an answer is filed to an adverse action, the board or its authorized representative shall within a reasonable time hold a hearing. The board shall notify the parties of the time and place of the hearing. The hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code, except that the employee and other persons may be examined as provided in Section 19580, and the parties may submit all proper and competent evidence against or in support of the causes.

SEC. 18. Section 19582 of the Government Code is amended to read:

19582. (a) Hearings may be held by the board, or by any authorized representative, but the board shall render the decision that in its judgment is just and proper.

During a hearing, after the appointing authority has completed the opening statement or the presentation of evidence, the employee, without waiving his or her right to offer evidence in the event the motion is not granted, may move for a dismissal of the charges.

If it appears that the evidence presented supports the granting of the motion as to some but not all of the issues involved in the action, the board or the authorized representative shall grant the motion as to those issues and the action shall proceed as to the issues remaining. Despite the granting of the motion, no judgment shall be entered prior to a final determination of the action on the remaining issues, and shall be subject to final review and approval by the board.

(b) If a contested case is heard by an authorized representative, he or she shall prepare a proposed decision in a form that may be adopted as the decision in the case. A copy of the proposed decision shall be filed by the board as a public record and furnished to each party within 10 days after the proposed decision is filed with the board. The board itself may adopt the proposed decision in its entirety, may remand the proposed

decision, or may reduce the adverse action set forth therein and adopt the balance of the proposed decision.

(c) If the proposed decision is not remanded or adopted as provided in subdivision (b), each party shall be notified of the action, and the board itself may decide the case upon the record, including the transcript, with or without taking any additional evidence, or may refer the case to the same or another authorized representative to take additional evidence. If the case is so assigned to an authorized representative, he or she shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the proposed decision shall be furnished to each party. The board itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present oral and written argument before the board itself. If additional oral evidence is introduced before the board itself, no board member may vote unless he or she heard the additional oral evidence.

(d) In arriving at a decision or a proposed decision, the board or its authorized representative may consider any prior suspension or suspensions of the appellant by authority of any appointing power, or any prior proceedings under this article.

(e) The decision shall be in writing and contain findings of fact and the adverse action, if any. The findings may be stated in the language of the pleadings or by reference thereto. Copies of the decision shall be served on the parties personally or by mail.

SEC. 19. Section 19582.1 of the Government Code is repealed.

SEC. 20. Section 19582.6 of the Government Code is repealed.

SEC. 21. Section 19583 of the Government Code is amended to read:

19583. The board shall render a decision within a reasonable time after the hearing or investigation. The adverse action taken by the appointing power shall stand unless modified or revoked by the board. If the board finds that the cause or causes for which the adverse action was imposed were insufficient or not sustained, or that the employee was justified in the course of conduct upon which the causes were based, it may modify or revoke the adverse action and it may order the employee returned to his or her position with appropriate restoration of backpay and lost benefits either as of the date of the adverse action or as of such later date as it may specify. The decision of the board shall be entered upon the minutes of the board and the official roster.

## CHAPTER 151

An act to amend Sections 1785.11.2 and 1785.15 of the Civil Code, relating to consumer credit reporting agencies.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 1785.11.2 of the Civil Code is amended to read:

1785.11.2. (a) A consumer may elect to place a security freeze on his or her credit report by making a request in writing by mail to a consumer credit reporting agency. "Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer, and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subdivision does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(b) A consumer credit reporting agency shall place a security freeze on a consumer's credit report no later than three business days after receiving a written request from the consumer.

(c) The consumer credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit for a specific party or period of time.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party or period of time while a freeze is in place, he or she shall contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) Proper identification, as defined in subdivision (c) of Section 1785.15.

(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subdivision (c).

(3) The proper information regarding the third party who is to receive the credit report or the time period for which the report shall be available to users of the credit report.

(e) A consumer credit reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report pursuant to subdivision (d) shall comply with the request no later than three business days after receiving the request.

(f) A consumer credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report pursuant to subdivision (d) in an expedited manner.

(g) A consumer credit reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:

(1) Upon consumer request, pursuant to subdivision (d) or (j).

(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a consumer credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this paragraph, the consumer credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(h) A third party who requests access to a consumer credit report in connection with an application for credit or any other use may treat the application as incomplete if a security freeze is in effect and the consumer does not allow his or her credit report to be accessed for that specific party or period of time.

(i) If a consumer requests a security freeze, the consumer credit reporting agency shall disclose the process of placing and temporarily lifting a freeze and the process for allowing access to information from the consumer's credit report for a specific party or period of time while the freeze is in place.

(j) A security freeze shall remain in place until the consumer requests that the security freeze be removed. A consumer credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer if the consumer provides both of the following:

(1) Proper identification, as defined in subdivision (c) of Section 1785.15.

(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subdivision (c).

(k) A consumer credit reporting agency shall require proper identification, as defined in subdivision (c) of Section 1785.15, of the person making a request to place or remove a security freeze.

(*l*) The provisions of this section do not apply to the use of a consumer credit report by any of the following:

(1) (A) (i) A person or entity with which the consumer has or had, prior to any assignment, an account or contract, including a demand deposit account, or to which the consumer issued a negotiable instrument, for the purpose of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument.

(ii) A subsidiary, affiliate, or agent of a person or entity described in clause (i), an assignee of a financial obligation owing by the consumer to such a person or entity, or a prospective assignee of a financial obligation owing by the consumer to such a person or entity in conjunction with the proposed purchase of the financial obligation, for the purpose of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument.

(B) For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subdivision (d) for purposes of facilitating the extension of credit or other permissible use.

(3) Any state or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena.

(4) A child support agency acting pursuant to Chapter 2 (commencing with Section 17400) of Division 17 of the Family Code or Title IV-D of the Social Security Act (42 U.S.C. et seq.).

(5) The State Department of Health Care Services or its agents or assigns acting to investigate Medi-Cal fraud.

(6) The Franchise Tax Board or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities.

(7) The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act.

(8) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed.

(9) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(m) (1) Except as provided in paragraph (2), this title does not prevent a consumer credit reporting agency from charging a fee of no more than ten dollars ($10) to a consumer for the placement of each freeze, the

removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party, regarding access to a consumer credit report, except that a consumer credit reporting agency may not charge a fee to a victim of identity theft who has submitted a valid police report or valid Department of Motor Vehicles investigative report that alleges a violation of Section 530.5 of the Penal Code.

(2) With respect to a consumer who is 65 years of age or older and who has provided identification confirming his or her age, a consumer credit reporting agency may charge a fee not to exceed five dollars ($5) for the placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party.

(n) Regardless of the existence of a security freeze, a consumer reporting agency may disclose public record information lawfully obtained by, or for, the consumer reporting agency from an open public record to the extent otherwise permitted by law. This subdivision does not prohibit a consumer reporting agency from electing to apply a valid security freeze to the entire contents of a credit report.

SEC. 2. Section 1785.15 of the Civil Code is amended to read:

1785.15. (a) A consumer credit reporting agency shall supply files and information required under Section 1785.10 during normal business hours and on reasonable notice. In addition to the disclosure provided by this chapter and any disclosures received by the consumer, the consumer has the right to request and receive all of the following:

(1) Either a decoded written version of the file or a written copy of the file, including all information in the file at the time of the request, with an explanation of any code used.

(2) A credit score for the consumer, the key factors, and the related information, as defined in and required by Section 1785.15.1.

(3) A record of all inquiries, by recipient, that result in the provision of information concerning the consumer in connection with a credit transaction not initiated by the consumer and that were received by the consumer credit reporting agency in the 12-month period immediately preceding the request for disclosure under this section.

(4) The recipients, including end users specified in Section 1785.22, of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(A) For employment purposes within the two-year period preceding the request.

(B) For any other purpose within the 12-month period preceding the request.

Identification for purposes of this paragraph shall include the name of the recipient or, if applicable, the fictitious business name under which the recipient does business disclosed in full. If requested by the consumer, the identification shall also include the address of the recipient.

(b) Files maintained on a consumer shall be disclosed promptly as follows:

(1) In person, at the location where the consumer credit reporting agency maintains the trained personnel required by subdivision (d), if he or she appears in person and furnishes proper identification.

(2) By mail, if the consumer makes a written request with proper identification for a copy of the file or a decoded written version of that file to be sent to the consumer at a specified address. A disclosure pursuant to this paragraph shall be deposited in the United States mail, postage prepaid, within five business days after the consumer's written request for the disclosure is received by the consumer credit reporting agency. Consumer credit reporting agencies complying with requests for mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after the mailings leave the consumer credit reporting agencies.

(3) A summary of all information contained in files on a consumer and required to be provided by Section 1785.10 shall be provided by telephone, if the consumer has made a written request, with proper identification for telephone disclosure.

(4) Information in a consumer's file required to be provided in writing under this section may also be disclosed in another form if authorized by the consumer and if available from the consumer credit reporting agency. For this purpose, a consumer may request disclosure in person pursuant to Section 1785.10, by telephone upon disclosure of proper identification by the consumer, by electronic means if available from the consumer credit reporting agency, or by any other reasonable means that is available from the consumer credit reporting agency.

(c) "Proper identification," as used in subdivision (b) means that information generally deemed sufficient to identify a person. Only if the consumer is unable to reasonably identify himself or herself with the information described above may a consumer credit reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his or her identity.

(d) The consumer credit reporting agency shall provide trained personnel to explain to the consumer any information furnished him or her pursuant to Section 1785.10.

(e) The consumer shall be permitted to be accompanied by one other person of his or her choosing, who shall furnish reasonable identification. A consumer credit reporting agency may require the consumer to furnish

a written statement granting permission to the consumer credit reporting agency to discuss the consumer's file in that person's presence.

(f) Any written disclosure by a consumer credit reporting agency to any consumer pursuant to this section shall include a written summary of all rights the consumer has under this title and, in the case of a consumer credit reporting agency that compiles and maintains consumer credit reports on a nationwide basis, a toll-free telephone number that the consumer can use to communicate with the consumer credit reporting agency. The written summary of rights required under this subdivision is sufficient if in substantially the following form:

"You have a right to obtain a copy of your credit file from a consumer credit reporting agency. You may be charged a reasonable fee not exceeding eight dollars ($8). There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 60 days. The consumer credit reporting agency must provide someone to help you interpret the information in your credit file.

You have a right to dispute inaccurate information by contacting the consumer credit reporting agency directly. However, neither you nor any credit repair company or credit service organization has the right to have accurate, current, and verifiable information removed from your credit report. Under the Federal Fair Credit Reporting Act, the consumer credit reporting agency must remove accurate, negative information from your report only if it is over seven years old. Bankruptcy information can be reported for 10 years.

If you have notified a consumer credit reporting agency in writing that you dispute the accuracy of information in your file, the consumer credit reporting agency must then, within 30 business days, reinvestigate and modify or remove inaccurate information. The consumer credit reporting agency may not charge a fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the consumer credit reporting agency.

If reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the consumer credit reporting agency to keep in your file, explaining why you think the record is inaccurate. The consumer credit reporting agency must include your statement about disputed information in a report it issues about you.

You have a right to receive a record of all inquiries relating to a credit transaction initiated in 12 months preceding your request. This record shall include the recipients of any consumer credit report.

You may request in writing that the information contained in your file not be provided to a third party for marketing purposes.

You have a right to place a "security alert" in your credit report, which will warn anyone who receives information in your credit report that your identity may have been used without your consent. Recipients of your credit report are required to take reasonable steps, including contacting you at the telephone number you may provide with your security alert, to verify your identity prior to lending money, extending credit, or completing the purchase, lease, or rental of goods or services. The security alert may prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that taking advantage of this right may delay or interfere with the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or cellular phone or other new account, including an extension of credit at point of sale. If you place a security alert on your credit report, you have a right to obtain a free copy of your credit report at the time the 90-day security alert period expires. A security alert may be requested by calling the following toll-free telephone number: (Insert applicable toll-free telephone number). California consumers also have the right to obtain a "security freeze."

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer credit reporting agency from releasing any information in your credit report without your express authorization. A security freeze must be requested in writing by mail. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or cellular phone or other new account, including an extension of credit at point of sale. When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a specific party or period of time after the freeze is in place. To provide that authorization you must contact the consumer credit reporting agency and provide all of the following:

(1) The personal identification number or password.

(2) Proper identification to verify your identity.

(3) The proper information regarding the third party who is to receive the credit report or the period of time for which the report shall be available to users of the credit report.

A consumer credit reporting agency must authorize the release of your credit report no later than three business days after receiving the above information.

A security freeze does not apply when you have an existing account and a copy of your report is requested by your existing creditor or its agents or affiliates for certain types of account review, collection, fraud control, or similar activities.

If you are actively seeking credit, you should understand that the procedures involved in lifting a security freeze may slow your application for credit. You should plan ahead and lift a freeze, either completely if you are shopping around, or specifically for a certain creditor, before applying for new credit.

A consumer credit reporting agency may not charge a fee to a consumer for placing or removing a security freeze if the consumer is a victim of identity theft and submits a copy of a valid police report or valid Department of Motor Vehicles investigative report. A person 65 years of age or older with proper identification may be charged a fee of no more than $5 for placing, lifting, or removing a security freeze. All other consumers may be charged a fee of no more than $10 for each of these steps.

You have a right to bring civil action against anyone, including a consumer credit reporting agency, who improperly obtains access to a file, knowingly or willfully misuses file data, or fails to correct inaccurate file data.

If you are a victim of identity theft and provide to a consumer credit reporting agency a copy of a valid police report or a valid investigative report made by a Department of Motor Vehicles investigator with peace officer status describing your circumstances, the following shall apply:

(1) You have a right to have any information you list on the report as allegedly fraudulent promptly blocked so that the information cannot be reported. The information will be unblocked only if (A) the information you provide is a material misrepresentation of the facts, (B) you agree that the information is blocked in error, or (C) you knowingly obtained possession of goods, services, or moneys as result of the blocked transactions. If blocked information is unblocked, you will be promptly notified.

(2) Beginning July 1, 2003, you have a right to receive, free of charge and upon request, one copy of your credit report each month for up to 12 consecutive months."

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## CHAPTER 152

An act to amend Section 166 of the Penal Code, relating to elder and dependent adult abuse.

[Approved by Governor July 21, 2008. Filed with
Secretary of State July 21, 2008.]

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

SECTION 1. Section 166 of the Penal Code is amended to read:

166. (a) Except as provided in subdivisions (b), (c), and (d), every person guilty of any contempt of court, of any of the following kinds, is guilty of a misdemeanor:

(1) Disorderly, contemptuous, or insolent behavior committed during the sitting of any court of justice, in the immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair the respect due to its authority.

(2) Behavior as specified in paragraph (1) committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury while actually sitting for the trial of a cause, or upon any inquest or other proceedings authorized by law.

(3) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of any court.

(4) Willful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by any court, including orders pending trial.

(5) Resistance willfully offered by any person to the lawful order or process of any court.

(6) The contumacious and unlawful refusal of any person to be sworn as a witness; or, when so sworn, the like refusal to answer any material question.

(7) The publication of a false or grossly inaccurate report of the proceedings of any court.

(8) Presenting to any court having power to pass sentence upon any prisoner under conviction, or to any member of the court, any affidavit or testimony or representation of any kind, verbal or written, in aggravation or mitigation of the punishment to be imposed upon the prisoner, except as provided in this code.

(b) (1) Any person who is guilty of contempt of court under paragraph (4) of subdivision (a) by willfully contacting a victim by telephone or mail, or directly, and who has been previously convicted of a violation of Section 646.9 shall be punished by imprisonment in a county jail for not more than one year, by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.

(2) For the purposes of sentencing under this subdivision, each contact shall constitute a separate violation of this subdivision.

(3) The present incarceration of a person who makes contact with a victim in violation of paragraph (1) is not a defense to a violation of this subdivision.

(c) (1) Notwithstanding paragraph (4) of subdivision (a), any willful and knowing violation of any protective order or stay-away court order issued pursuant to Section 136.2, in a pending criminal proceeding involving domestic violence, as defined in Section 13700, or issued as a condition of probation after a conviction in a criminal proceeding involving domestic violence, as defined in Section 13700, or elder or dependent adult abuse, as defined in Section 368, or that is an order described in paragraph (3), shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) If a violation of paragraph (1) 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.

(3) Paragraphs (1) and (2) apply to the following court orders:

(A) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(B) An order excluding one party from the family dwelling or from the dwelling of the other.

(C) An order enjoining a party from specified behavior that the court determined was necessary to effectuate the orders described in paragraph (1).

(4) A second or subsequent conviction for a violation of any order described in paragraph (1) occurring within seven years of a prior conviction for a violation of any of those orders and involving an act of violence or "a credible threat" of violence, as provided in subdivisions (c) and (d) 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.

(5) The prosecuting agency of each county shall have the primary responsibility for the enforcement of the orders described in paragraph (1).

(d) (1) A person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Sections 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of subdivision (g) of Section 12021.

(2) A person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing,

purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(e) (1) If probation is granted upon conviction of a violation of subdivision (c), the court shall impose probation consistent with the provisions of Section 1203.097 of the Penal Code.

(2) If probation is granted upon conviction of a violation of subdivision (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(B) That the defendant provide restitution to 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.

(3) 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 or subdivision (c), 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.

(4) If 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 subdivision (c), 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, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents required by this subdivision, until all separate property of the offending spouse is exhausted.

(5) Any person violating any order described in subdivision (c) may be punished for any substantive offenses described under Section 136.1 or 646.9. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1 or 646.9. However, any person held in contempt for a violation of subdivision (c) shall be entitled to credit for any punishment imposed as a result of that violation against any sentence imposed upon conviction of an offense described in Section 136.1 or 646.9. Any conviction or acquittal for any substantive offense under Section 136.1 or 646.9 shall be a bar to a subsequent punishment for contempt arising out of the same act.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or

infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 153

An act to add Section 6103.3 to the Government Code, relating to local government.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 6103.3 is added to the Government Code, to read:

6103.3. (a) For any order or injunction for which the sheriff or marshal provides service of process and is prohibited under paragraph (4) of subdivision (b) of Section 6103.2 from requiring payment of a fee, the sheriff or marshal may notify the protected person by electronic or telephonic means within 24 hours after service of process that the order or injunction has been served on the restrained person, including the date and time when the order or injunction was served, if the protected person has requested this notification and has registered a telephone number or e-mail address at which the protected person may be contacted for this purpose.

(b) The sheriff may provide the notification described in subdivision (a) via an automated statewide victim information and notification system if the sheriff has access to that system, his or her county participates in that system, and local, state, or federal funds are made available for the operation of that system.

(c) If the sheriff participates in the notification program authorized under this section and the service of process is provided by a marshal, the marshal shall promptly inform the sheriff of the date and time when the order or injunction was served, and the sheriff shall provide the notice described in subdivision (a) to the protected person.

(d) This section applies only to orders or injunctions described in paragraph (1) of subdivision (q) of Section 527.6 and Section 527.8 of the Code of Civil Procedure, Division 10 (commencing with Section 6200) of the Family Code (Prevention of Domestic Violence), and Chapter 11 (commencing with Section 15600) of Part 3 of Division 9

of the Welfare and Institutions Code (Elder Abuse and Dependent Adult Civil Protection Act).

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## CHAPTER 154

An act to amend Section 1764.2 of the Welfare and Institutions Code, relating to victims' rights.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 1764.2 of the Welfare and Institutions Code is amended to read:

1764.2. (a) Notwithstanding any other provision of law, the chief deputy secretary or the chief deputy secretary's designee shall release the information described in Section 1764 regarding a person committed to the Division of Juvenile Facilities, to the victim of the offense, the next of kin of the victim, or his or her representative as designated by the victim or next of kin pursuant to Section 1767, upon request, unless the court has ordered confidentiality under subdivision (c) of Section 676. The victim or the next of kin shall be identified by the court or the probation department in the offender's commitment documents before the chief deputy secretary is required to disclose this information.

(b) The chief deputy secretary or the chief deputy secretary's designee shall, with respect to persons committed to the Division of Juvenile Facilities, including persons committed to the Department of Corrections and Rehabilitation who have been transferred to the Division of Juvenile Facilities, inform each victim of that offense, the victim's next of kin, or his or her representative as designated by the victim or next of kin pursuant to Section 1767, of his or her right to request and receive information pursuant to subdivision (a) and Section 1767.

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## CHAPTER 155

An act to add Sections 6603.3, 6603.5, and 6603.7 to the Welfare and Institutions Code, relating to sexually violent predators.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 6603.3 is added to the Welfare and Institutions Code, to read:

6603.3. (a) (1) Except as provided in paragraph (2), no attorney may disclose or permit to be disclosed to a person subject to this article, family members of the person subject to this article, or any other person, the name, address, telephone number, or other identifying information of a victim or witness whose name is disclosed to the attorney pursuant to Section 6603 and Chapter 1 (commencing with Section 2016.010) of Part 4 of Title 4 of the Code of Civil Procedure, unless specifically permitted to do so by the court after a hearing and showing of good cause.

(2) Notwithstanding paragraph (1), an attorney may disclose or permit to be disclosed, the name, address, telephone number, or other identifying information of a victim or witness to persons employed by the attorney or to a person hired or appointed for the purpose of assisting the person subject to this article in the preparation of the case, if that disclosure is required for that preparation. Persons provided this information shall be informed by the attorney that further dissemination of the information, except as provided by this section, is prohibited.

(3) A willful violation of this subdivision by an attorney, persons employed by an attorney, or persons appointed by the court is a misdemeanor.

(b) If the person subject to this article is acting as his or her own attorney, the court shall endeavor to protect the name, address, telephone number, or other identifying information of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court.

SEC. 2. Section 6603.5 is added to the Welfare and Institutions Code, to read:

6603.5. No employee or agent of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the State Department of Mental Health shall disclose to any person the name, address, telephone number, or other identifying information of a person who was involved in a civil commitment hearing under this article as the victim of a sex offense except where authorized or required by law.

SEC. 3. Section 6603.7 is added to the Welfare and Institutions Code, to read:

6603.7. (a) Except as provided in Section 6603.3, the court, at the request of the victim of a sex offense relevant in a proceeding under this

article, may order the identity of the victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that the order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the party petitioning for commitment under this article or the person subject to this article.

(b) If the court orders the 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 victim is being so identified only for the purposes of protecting his or her privacy.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 156

An act to amend Section 10139 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 10139 of the Business and Professions Code is amended to read:

10139. Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars ($20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars ($60,000). If a Real Estate Fraud Prosecution Trust Fund, as described in Section 27388 of the Government Code, exists in the county where a person or corporation is convicted, any fine collected from the person in excess of ten thousand dollars ($10,000) or any fine collected from

the corporation in excess of fifty thousand dollars ($50,000) shall be deposited in that Real Estate Fraud Prosecution Trust Fund.

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## CHAPTER 157

An act to amend Sections 7071.5, 7071.10, and 7071.11 of the Business and Professions Code, and to amend Section 116.220 of the Code of Civil Procedure, relating to contractors.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 7071.5 of the Business and Professions Code is amended to read:

7071.5. The contractor's bond required by this article shall be executed by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant. The contractor's bond shall be for the benefit of the following:

(a) A homeowner contracting for home improvement upon the homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) A property owner contracting for the construction of a single-family dwelling who is damaged as a result of a violation of this chapter by the licensee. That property owner shall only recover under this subdivision if the single-family dwelling is not intended for sale or offered for sale at the time the damages were incurred.

(c) A person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(d) An employee of the licensee damaged by the licensee's failure to pay wages.

(e) A person or entity, including an express trust fund described in Section 3111 of the Civil Code, to whom a portion of the compensation of an employee of a licensee is paid by agreement with that employee or the collective bargaining agent of that employee, damaged as the result of the licensee's failure to pay fringe benefits for its employees, including, but not limited to, employer payments described in Section 1773.1 of the Labor Code and regulations thereunder (without regard to whether the work was performed on a private or public work). Damage

to an express trust fund is limited to actual employer payments required to be made on behalf of employees of the licensee, as part of the overall compensation of those employees, which the licensee fails to pay.

SEC. 2. Section 7071.10 of the Business and Professions Code is amended to read:

7071.10. The qualifying individual's bond required by this article shall be executed by an admitted surety insurer in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual. The qualifying individual's bond shall not be required in addition to the contractor's bond when, as set forth under paragraph (1) of subdivision (b) of Section 7068, the individual proprietor has qualified for the license by his or her personal appearance, or the qualifier is a general partner as set forth under paragraph (2) of subdivision (b) of Section 7068. The qualifying individual's bond shall be for the benefit of the following persons:

(a) A homeowner contracting for home improvement upon the homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) A property owner contracting for the construction of a single-family dwelling who is damaged as a result of a violation of this chapter by the licensee. That property owner shall only recover under this subdivision if the single-family dwelling is not intended for sale or offered for sale at the time the damages were incurred.

(c) A person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(d) An employee of the licensee damaged by the licensee's failure to pay wages.

(e) A person or entity, including an express trust fund described in Section 3111 of the Civil Code, to whom a portion of the compensation of an employee of a licensee is paid by agreement with that employee or the collective bargaining agent of that employee, that is damaged as the result of the licensee's failure to pay fringe benefits for its employees including, but not limited to, employer payments described in Section 1773.1 of the Labor Code and regulations adopted thereunder (without regard to whether the work was performed on a public or private work). Damage to an express trust fund is limited to employer payments required to be made on behalf of employees of the licensee, as part of the overall compensation of those employees, which the licensee fails to pay.

SEC. 3. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. (a) The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article,

other than a bond required by Section 7071.8, shall not exceed the sum of four thousand dollars ($4,000). If any bond required by this article is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims.

(b) No license may be renewed, reissued, or reinstated while any judgment or admitted claim in excess of the amount of the bond remains unsatisfied.

(c) Except for claims covered by subdivision (d), any action against a bond required under this article, excluding the judgment bond specified under Section 7071.17, shall be brought in accordance with the following:

(1) Within two years after the expiration of the license period during which the act or omission occurred. The provisions of this paragraph shall be applicable only if the license has not been inactivated, canceled, or revoked during the license period for which the bond was posted and accepted by the registrar as specified under Section 7071.7.

(2) If the license has been inactivated, canceled, or revoked, an action shall be brought within two years of the date the license of the active licensee would have expired had the license not been inactivated, canceled, or revoked. For the provisions of this paragraph to be applicable, the act or omission for which the action is filed must have occurred prior to the date the license was inactivated, canceled, or revoked.

(3) An action against a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought in accordance with the provisions of paragraph (1) or (2), as applicable, or within two years after the last date for which a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first.

(d) A claim to recover wages or fringe benefits shall be brought within six months from the date that the wage or fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the wage or fringe benefit contributions were due.

(e) Whenever the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, provide notice to the registrar. The notice required by this subdivision shall provide the following information by declaration on a form prescribed by the registrar:

(1) The name and license number of the contractor.

(2) The surety bond number.

(3) The amount of payment.

(4) The statutory basis upon which the claim is made.

(5) The names of the person or persons to whom payments have been made.

(6) Whether or not the payments were the result of a good faith action by the surety.

The notice shall also clearly indicate whether or not the licensee filed a protest in accordance with this section.

(f) Prior to the settlement of a claim through a good faith payment by the surety, a licensee shall have not less than 15 days in which to provide a written protest. This protest shall instruct the surety not to make payment from the bond on the licensee's account upon the specific grounds that the claim is opposed by the licensee, and provide the surety a specific and reasonable basis for the licensee's opposition to payment.

(1) Whenever a licensee files a protest in accordance with this subdivision, the board shall investigate the matter and file disciplinary action as set forth under this chapter if there is evidence that the surety has sustained a loss as the result of a good faith payment made for the purpose of mitigating any damages incurred by any person or entity covered under Section 7071.5.

(2) Any licensee that fails to file a protest as specified in this subdivision shall have 90 days from the date of notification by the board to submit proof of payment of the actual amount owed to the surety and, if applicable, proof of payment of any judgment or admitted claim in excess of the amount of the bond or, by operation of law, the license shall be suspended at the end of the 90 days. A license suspension pursuant to this subdivision shall be disclosed indefinitely as a failure to settle outstanding final liabilities in violation of this chapter. The disclosure specified by this subdivision shall also be applicable to all licenses covered by the provisions of subdivision (g).

(g) No license may be renewed, reissued, or reinstated while any surety remains unreimbursed for any loss or expense sustained on any bond issued for the licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of the licensee while the licensee was subject to suspension or disciplinary action under this section.

(h) The licensee may provide the board with a notarized copy of an accord, reached with the surety to satisfy the debt in lieu of full payment. By operation of law, failure to abide by the accord shall result in the automatic suspension of any license to which this section applies. A license that is suspended for failure to abide by the accord may only be renewed or reinstated when proof of satisfaction of all debts is made.

(i) Legal fees may not be charged against the bond by the board.

SEC. 4. Section 116.220 of the Code of Civil Procedure is amended to read:

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

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

(2) Except as provided in subdivisions (c), (e), and (f), 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).

(4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars ($5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration of a fee dispute involving no more than five thousand dollars ($5,000) in controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code.

(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 has jurisdiction over a defendant guarantor as follows:

(1) For any action brought by a natural person against the Registrar of the Contractors' State License Board as the defendant guarantor, the small claims jurisdictional limit stated in Section 116.221 shall apply.

(2) For any action against a defendant guarantor that does not charge a fee for its guarantor or surety services, if the amount of the demand does not exceed two thousand five hundred dollars ($2,500).

(3) For any action brought by a natural person against a defendant guarantor that charges a fee for its guarantor or surety services, if the amount of the demand does not exceed six thousand five hundred dollars ($6,500).

(4) For any action brought by an entity other than a natural person against a defendant guarantor that charges a fee for its guarantor or surety services or against the Registrar of the Contractors' State License Board as the defendant guarantor, if the amount of the demand does not exceed four thousand dollars ($4,000).

(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 is not operative until judgment.

(e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a Department of Corrections and Rehabilitation facility, the small claims court has jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or determination of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation.

(f) In any action governed by subdivision (e), if the plaintiff fails to provide proof of compliance with the requirements of subdivision (e) at the time of trial, the judicial officer shall, at his or her discretion, either dismiss the action or continue the action to give the plaintiff an opportunity to provide that proof.

(g) For purposes of this section, "department" includes an employee of a department against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

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## CHAPTER 158

An act to amend Sections 25643, 50078.1, 54251, 56036, 56375, and 57075 of, to amend and renumber Section 25210 of, to add Chapter 2.5 (commencing with Section 25210) to, and to repeal Chapter 2.2 (commencing with Section 25210.1) of, Part 2 of Division 2 of Title 3 of, the Government Code, to amend Section 5470 of the Health and Safety Code, to repeal Section 20394.3 of the Public Contract Code, to amend Sections 5621, 13031, and 13215 of, and to repeal Section 13030 of, the Public Resources Code, to amend Section 97.41 of the Revenue and Taxation Code, to amend Section 1179.5 of the Streets and Highways Code, and to amend Sections 22976, 22981, and 22982 of the Water Code, relating to local government.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 25210 of the Government Code is amended and renumbered to read:

25209.3. The board of supervisors may do and perform all acts necessary to enable the county to participate in the Economic Opportunity Act of 1964, as amended, and its successors, including the authorization of the expenditure by the county of whatever funds that may be required by the federal government as a condition to the county's participation.

SEC. 2. Chapter 2.5 (commencing with Section 25210) is added to Part 2 of Division 2 of Title 3 of the Government Code, to read:

## CHAPTER 2.5. COUNTY SERVICE AREAS

### Article 1. General Provisions

25210. This chapter shall be known and may be cited as the County Service Area Law.

25210.1. The Legislature finds and declares all of the following:

(a) Population growth and development in unincorporated areas result in new and increased demands for public facilities and services that promote the public peace, health, safety, and general welfare.

(b) The residents and property owners in unincorporated areas should have reasonable methods available so that they can finance and provide these needed public facilities and services.

(c) The residents and property owners in some unincorporated areas may propose the incorporation of new cities or annexations to existing cities as a way to fulfill these demands for public facilities and services.

(d) In other unincorporated areas, independent special districts with directly elected or appointed governing boards can fulfill these demands for public facilities and services.

(e) County boards of supervisors need alternative organizations and methods to finance and provide needed public facilities and services to the residents and property owners of unincorporated areas.

(f) In enacting the County Service Area Law by this chapter, it is the intent of the Legislature to continue a broad statutory authority for county boards of supervisors to use county service areas as a method to finance and provide needed public facilities and services.

(g) Further, it is the intent of the Legislature that county boards of supervisors, residents, and property owners use the powers and procedures provided by the County Service Area Law to meet the diversity of local conditions, circumstances, and resources.

25210.2. Unless the context requires otherwise, as used in this chapter, the following terms shall have the following meanings:

(a) "Board" means the county board of supervisors acting as the governing authority of a county service area.

(b) "Commission" or "local agency formation commission" means a local agency formation commission that operates in the county pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5.

(c) "County service area" means a county service area formed pursuant to this chapter or any of its statutory predecessors.

(d) "Geologic hazard" means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any other natural or unnatural movement of land or earth.

(e) "Inhabited territory" means territory within which there reside 12 or more registered voters. All other territory shall be deemed "uninhabited."

(f) "Landowner" or "owner of land" means all of the following:

(1) Any person shown as the owner of land on the county's most recent assessment roll, except where that person is no longer the owner. Where that person is no longer the owner, the landowner or owner of land is any person entitled to be shown as the owner of land on the next assessment roll.

(2) Where land is subject to a recorded written agreement of sale, any person shown in the agreement as purchaser.

(3) Any public agency owning land, provided that a public agency which owns highways, rights-of-way, easements, waterways, or canals shall not be deemed a landowner or owner of land.

(g) "Latent power" means any service or facility authorized by Article 4 (commencing with Section 25213) that the local agency formation commission has determined, pursuant to subdivision (h) of Section 56425, that the county service area was not authorized to provide prior to January 1, 2009.

(h) "Voter" means a voter as defined by Section 359 of the Elections Code.

(i) "Zone" means a zone formed pursuant to Article 8 (commencing with Section 25217).

25210.3. (a) This chapter provides the authority for the organization and powers of county service areas. This chapter succeeds the former Chapter 2.2 (commencing with Section 25210.1) as added by Chapter 858 of the Statutes of 1953, and as subsequently amended.

(b) Any county service area established pursuant to the former Chapter 2.2 which was in existence on January 1, 2009, shall remain in existence as if it had been formed under this chapter.

(c) Any improvement area, improvement zone, or zone formed pursuant to the former Chapter 2.2, which was in existence on January 1, 2009, shall be deemed to be a zone and remain in existence as if it

had been formed as a zone pursuant to Article 8 (commencing with Section 25217).

(d) Any indebtedness, bond, note, certificate of participation, contract, special tax, benefit assessment, fee, charge, election, ordinance, resolution, regulation, rule, or any other action of a board taken pursuant to the former Chapter 2.2 before January 1, 2009, shall not be impaired or voided solely because of the enactment of this chapter or any error, omission, informality, misnomer, or inconsistency with this chapter.

(e) Any approval or determination, including, but not limited to, terms and conditions made with respect to a county service area by a local agency formation commission before January 1, 2009, shall remain in full force and effect.

25210.4. This chapter shall be liberally construed to effectuate its purposes.

25210.5. If any provision of this chapter or the application of any provision of this chapter in any circumstance or to any person, county, city, special district, school district, the state, or any agency or subdivision of the state is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this chapter are severable.

25210.6. (a) Any action to determine the validity of the organization of a county service area or zone shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(b) Any action to determine the validity of any bonds, warrants, contracts, obligations, loans, notes, or evidence of indebtedness of a county service area shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(c) (1) Any action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution adopted pursuant to this chapter and levying, fixing, or extending an assessment, charge, or fee or modifying or amending any existing ordinance or resolution shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(2) 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.

(3) Any appeal from a final judgment in the action or proceeding brought pursuant to this subdivision shall be filed within 30 days after entry of the judgment.

(d) Any judicial action to review any other action taken pursuant to this chapter shall be brought pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

25210.7. (a) Territory, whether contiguous or noncontiguous, in the unincorporated area of a single county may be included in a county service area.

(b) A county service area that includes the entire unincorporated area of a county may be formed to provide any or all of the services and facilities authorized by this chapter if the county does not provide those services and facilities to the same extent to the entire area of the county.

(c) All or any part of a city may be included in a county service area only if the city council gives its consent, as provided in this chapter. The executive officer of a local agency formation commission shall not issue a certificate of filing pursuant to Section 56658 for an application for an annexation of incorporated territory to a county service area or a reorganization that would result in the annexation of incorporated territory to a county service area, unless the application is accompanied by a resolution adopted by the city council of the affected city that consents to the annexation of that incorporated territory.

(d) Land devoted primarily to the commercial production of agricultural products, timber, or livestock may be included in a county service area only if that land is contiguous to other land within the county service area and only if the land will benefit from the services and facilities that the county service area provides. A local agency formation commission shall not approve any change of organization or reorganization that would result in the inclusion of land devoted primarily to the commercial production of agricultural products, timber, or livestock in a county service area unless the board finds that the land will benefit from the services and facilities that the county service area provides.

(e) Except as provided in this chapter, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5) shall govern any change of organization or reorganization of a county service area. In the case of any conflict between that division or this chapter, the provisions of this chapter shall prevail.

(f) A county service area shall not be deemed an "independent special district" as defined by Section 56044 and as that term is used in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

(g) Whenever the boundaries of an improvement zone change, a county shall comply with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5.

25210.8. (a) Except as otherwise provided in this chapter, elections for a county service area or zone are subject to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

(b) A county may conduct any election for a county service area or zone by all-mailed ballots pursuant to Division 4 (commencing with Section 4000) of the Elections Code.

(c) A county may hold advisory elections for a county service area or zone pursuant to Section 9603 of the Elections Code.

## Article 2. Formation

25211. A new county service area may be formed pursuant to this article.

25211.1. (a) A proposal to form a new county service area may be made by petition. The petition shall do all of the things required by Section 56700. In addition, the petition shall do all of the following:

(1) State which services and facilities it is proposed that the county service area be authorized to provide upon formation.

(2) Set forth the proposed methods by which the county service area will finance those services and facilities, including, but not limited to, special taxes, benefit assessments, and fees.

(3) Propose a number or distinctive name for the county service area. Notwithstanding Section 7530, every county service area shall have the words "County Service Area" within its name.

(b) The petitions, the proponents, and the procedures for certifying the sufficiency of the petitions shall comply with Chapter 2 (commencing with Section 56700) of Part 3 of Division 5. In the case of any conflict between that chapter and this article, the provisions of this article shall prevail.

(c) As determined by the local agency formation commission, the petition shall be signed by not less than either:

(1) Twenty-five percent of the registered voters living in the area to be included in the county service area.

(2) Twenty-five percent of the number of owners of land who own not less than 25 percent of the assessed value of land within the area to be included in the county service area.

25211.2. (a) Before circulating any petition, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the county service area, the proposed services and facilities that the county service area will provide, and the proposed methods by which the county service area will be financed. The notice shall be published pursuant to

Section 6061 in one or more newspapers of general circulation within the territory proposed to be included within the county service area.

(b) The notice shall be signed by one or more petitioners, and shall be in substantially the following form:

"Notice of Intent to Circulate Petition.

Notice is hereby given of the intention to circulate a petition to form the _____ [number or distinctive name of the county service area]. The reasons for forming the proposed county service area are: _____. The proposed services and facilities that the county service area will provide are: _____. The proposed method(s) by which the county service area will finance those services and facilities are: _____."

(c) Within five days after the date of publication, the proponents shall file with the executive officer of the local agency formation commission and the clerk of the board of supervisors a copy of the notice together with an affidavit made by a representative of the newspaper or newspapers in which the notice was published certifying to the fact of the publication.

(d) After the filing required by subdivision (c), the petition may be circulated for signatures.

25211.3. (a) A proposal to form a new county service area may also be made by the adoption of a resolution of application by the board of supervisors. Except for the provisions regarding the signers, the signatures, and the proponents, a resolution of application shall contain all of the matters specified for a petition in Section 25211.1.

(b) Before adopting a resolution of application, the board of supervisors shall hold a public hearing on the resolution. Notice of the hearing shall be published pursuant to Section 6061. At least 20 days before the hearing, the board of supervisors shall give mailed notice of its hearing to the executive officer of the local agency formation commission. The notice shall generally describe the proposed formation of the county service area, the territory proposed to be included in the county service area, the proposed services and facilities that the county service area will provide, and the proposed methods of financing those services and facilities.

(c) The clerk of the board of supervisors shall file a certified copy of the resolution of application with the executive officer of the local agency formation commission.

25211.4. (a) Once the proponents have filed a sufficient petition or a board of supervisors has filed a resolution of application, the local

agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5.

(b) (1) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a county service area unless the commission determines that the proposed county service area will have sufficient revenues to carry out its purposes.

(2) Notwithstanding paragraph (1), a local agency formation commission may approve a proposal that includes the formation of a county service area where the commission has determined that the proposed county service area will not have sufficient revenues provided that the commission conditions its approval on the concurrent approval of special taxes, benefit assessments, or property-related fees or charges that will generate those sufficient revenues. In approving the proposal, the commission shall provide that if the voters or property owners do not approve the special taxes, benefit assessments, or property-related fees or charges, the proposed county service area shall not be formed.

(c) (1) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a county service area that would include territory within a city unless, before the close of the commission's hearing, the city council has filed and not withdrawn a resolution that consents to the inclusion of that incorporated territory.

(2) Notwithstanding paragraph (1), a local agency formation commission may approve a proposal that includes the formation of a county service area that proposes to include territory within a city if the city council has not consented to the inclusion of that incorporated territory provided that the commission modifies the boundaries of the proposed county service area to exclude that incorporated territory.

(d) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a county service area if, before the close of the commission's hearing, the board of supervisors has filed and not withdrawn a resolution that objects to the formation of that county service area.

(e) If the local agency formation commission approves the proposal for the formation of a county service area, then the commission shall proceed pursuant to Part 4 (commencing with Section 57000) of Division 3 of Title 5.

(f) The local agency formation commission shall take one of the following actions:

(1) If a majority protest exists in accordance with Section 57078, the commission shall terminate proceedings.

(2) If no majority protest exists, the commission shall do one of the following:

(A) Order the formation without an election where all of the following apply:

(i) The territory within the proposed county service area is not inhabited territory.

(ii) All of the owners of land within the proposed county service area have given their written consent to the formation of the proposed county service area.

(iii) No special tax, benefit assessment, or property-related fee or charge is needed.

(B) Order the formation subject to the approval by the voters or landowners pursuant to Section 25211.5, in the case where no special tax, benefit assessment, or property-related fee or charge is needed.

(C) Order the formation subject to the approval by the voters of a special tax, the approval by the property owners of a benefit assessment, or the approval of property-related fees or charges, as required by law.

(g) If the local agency formation commission orders the formation of a county service area pursuant to paragraph (2) of subdivision (f), the commission shall direct the board of supervisors to direct county officials to conduct the necessary election.

25211.5. (a) If the local agency formation commission orders the formation of a county service area subject to the approval by the voters pursuant to Section 25211.4 and if the proposed county service area contains no voters, the vote shall be by the owners of land within the proposed county service area.

(b) Each landowner shall have one vote for each acre or portion of an acre of land that the landowner owns within the proposed county service area. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

## Article 3. General Powers

25212. The board shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this chapter, including, but not limited to, the following powers:

(a) To adopt and enforce rules and regulations for the administration, operation, use, and maintenance of the facilities and services authorized by Article 4 (commencing with Section 25213).

(b) To acquire any real or personal property within or outside the county service area, by contract or otherwise; to hold, manage, occupy, dispose of, convey, and encumber that property; and to create a leasehold interest in that property for the benefit of the county service area.

(c) To acquire by eminent domain, pursuant to the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of the Code of Civil Procedure), any real or personal property within or outside the county service area.

(d) To employ persons to provide, or contract with the county for, necessary staff and support services required by a county service area.

(e) To contract for professional services.

(f) To enter into and perform all contracts, including, but not limited to, contracts pursuant to either Article 3.5 (commencing with Section 20120) or Article 3.6 (commencing with Section 20150) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, as the case may be.

(g) To enter joint powers agreements pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(h) To take any and all actions necessary for, or incidental to, the powers expressed or implied by this chapter.

25212.1. (a) The board shall act only by ordinance, resolution, or motion.

(b) The minutes of the board shall record the aye and nay votes taken by the members of the board for the passage of all ordinances, resolutions, or motions.

(c) The board shall keep a record of all of its actions, including financial transactions.

(d) The board shall retain and may destroy the records of a county service area pursuant to Chapter 13 (commencing with Section 26200).

(e) The board may, by resolution, change the number or the name of a county service area. The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 1. Notwithstanding Section 7530, every county service area shall have the words "county service area" within its name. Within 10 days of its adoption, the clerk of the board of supervisors shall file a copy of the resolution with the Secretary of State, the county clerk, and the local agency formation commission.

25212.2. (a) When acquiring, improving, or using any real property, the board shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5. A county service area shall be deemed to be a "local agency" for the purposes of that article, except that the board shall not render any ordinance inapplicable pursuant to Section 53096.

(b) When acquiring, improving, or using any real property, the board shall comply with Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7. A county service area shall be deemed to be a "local agency" and a "special district" for the purposes of that article,

except that the board shall not overrule any decision pursuant to either Section 65402 or 65403.

(c) When disposing of surplus land, the board shall comply with Article 7 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5. A county service area shall be deemed to be a "local agency" for the purposes of that article.

25212.3. (a) The board may contract with any local agency, state department or agency, federal department or agency, or any tribal government for the provision of any facilities, services, or programs authorized by this chapter within the county service area.

(b) Subject to Section 56133, a county service area may provide facilities and services authorized by this chapter outside its boundaries.

25212.4. (a) The board may appoint one or more advisory committees to give advice to the board of supervisors regarding a county service area's services and facilities.

(b) The board may provide for the appointment, qualifications, terms, procedures, meetings, and ethical conduct of the members of an advisory committee. Any comments by an advisory committee are wholly advisory and it is not the responsibility or within the authority of an advisory committee to make decisions, manage, or direct the delivery of services and facilities.

## Article 4. Services and Facilities

25213. A county service area may provide any governmental services and facilities within the county service area that the county is authorized to perform and that the county does not perform to the same extent on a countywide basis, including, but not limited to, services and facilities for any of the following:

(a) Law enforcement and police protection.

(b) Fire protection, fire suppression, vegetation management, search and rescue, hazardous material emergency response, and ambulances.

(c) Recreation, including, but not limited to, parks, parkways, and open space.

(d) Libraries.

(e) Television translator stations and low-power television services.

(f) Supplying water for any beneficial uses.

(g) The collection, treatment, or disposal of sewage, wastewater, recycled water, and stormwater.

(h) The surveillance, prevention, abatement, and control of pests, vectors, and vectorborne diseases.

(i) The acquisition, construction, improvement, and maintenance, including, but not limited to, street sweeping and snow removal, of public

streets, roads, bridges, highways, rights-of-way, easements, and any incidental works.

(j) The acquisition, construction, improvement, maintenance, and operation of street lighting and landscaping on public property, rights-of-way, and easements.

(k) The collection, transfer, handling, and disposal of solid waste, including, but not limited to, source reduction, recycling, and composting.

(*l*) Funding for land use planning within the county service area by a planning agency established pursuant to Article 1 (commencing with Section 65100) of Chapter 3 of Title 7, including, but not limited to, an area planning commission.

(m) Soil conservation.

(n) Animal control.

(o) Funding for the services of a municipal advisory council established pursuant to Section 31010.

(p) Transportation.

(q) Geologic hazard abatement on public or private property or structures where the board of supervisors determines that it is in the public interest to abate geologic hazards.

(r) Cemeteries.

(s) The conversion of existing overhead electrical and communications facilities, with the consent of the public agency or public utility that owns the facilities, to underground locations pursuant to Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code.

(t) Emergency medical services.

(u) Airports.

(v) Flood control and drainage.

(w) The acquisition, construction, improvement, maintenance, and operation of community facilities, including, but not limited to, cultural facilities, child care centers, community centers, libraries, museums, and theaters.

(x) Open-space and habitat conservation, including, but not limited to, the acquisition, preservation, maintenance, and operation of land to protect unique, sensitive, threatened, or endangered species, or historical or culturally significant properties. Any setback or buffer requirements to protect open-space or habitat lands shall be owned by a public agency and maintained by the county service area so as not to infringe on the customary husbandry practices of any neighboring commercially productive agricultural, timber, or livestock operations.

(y) The abatement of graffiti.

(z) The abatement of weeds and rubbish.

25213.1. In the County of Lassen, a county service area may be formed to purchase electrical energy generated within the boundaries of the county, and the board may enter into contracts for the sale of that energy at wholesale rates to any public agency or public utility engaged in the sale or use of electrical energy.

25213.2. (a) In the County of Napa, a county service area may be formed for the sole purpose of acquiring, constructing, leasing, or maintaining, or any combination thereof, farmworker housing. Notwithstanding any other provision of this article, only a county service area formed under this section in the County of Napa may exercise this specific authority.

(b) The Board of Supervisors of the County of Napa may, following the procedures of Article 4.6 (commencing with Section 53750) of Chapter 4 of Part 1 of Division 2 of Title 5, levy an annual assessment not to exceed ten dollars ($10) per planted vineyard acre for the purposes of the county service area formed under this section. An annual assessment levied pursuant to this section may remain in effect for a period not exceeding five years. However, an annual assessment levied pursuant to this section may be reauthorized for additional five-year periods pursuant to Article 4.6.

(c) No assessment shall be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel.

(d) The board may allocate the proceeds of the annual assessment, as it deems appropriate, for any or all of the following purposes:

(1) Acquiring farmworker housing.

(2) Building farmworker housing.

(3) Leasing farmworker housing.

(4) Providing maintenance or operations for farmworker housing owned or leased by the Napa Valley Housing Authority or another public agency whose principal purpose is to develop or facilitate the development of farmworker housing in the County of Napa.

(e) The board shall appoint an advisory committee that includes, but is not limited to, farmworkers and planted vineyard land owners or agents to advise and counsel the board on the allocation of the proceeds of the annual assessment.

(f) In ascertaining parcels to be included in this county service area, the board shall use data gathered by the Napa County Flood Control and Water Conservation District.

(g) Vineyard property owners who present proof to the board that they are providing housing for their own workers shall be exempt from the assessment. The board and the advisory committee shall audit the

programs receiving the proceeds of the allocation every two years and make recommendations for changes.

25213.3. In the County of Orange, a county service area that is the successor to a dissolved harbor improvement district may exercise the powers of a harbor improvement district pursuant to Part 2 (commencing with Section 5800) of Division 8 of the Harbors and Navigation Code.

25213.4. (a) In the County of San Bernardino, a county service area in whose territory all or any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code is located may locate, construct, and maintain facilities and infrastructure for sewer and water pipelines or other facilities for sewer transmission and water supply or distribution systems along and across any street or public highway and on any lands that are now or hereafter owned by the state, for the purpose of providing facilities or services related to development, as defined in subdivision (e) of Section 56426, to, or in that portion of, the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) The facilities or services related to development may be provided by the county service area to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Notwithstanding any other provision of this code, building ordinances, zoning ordinances, and any other local ordinances, rules, and regulations of a city or other political subdivision of the state shall not apply to the location, construction, or maintenance of facilities or services related to development pursuant to this section.

25213.5. (a) If the board desires to exercise a latent power, the board shall first receive the approval of the local agency formation commission, pursuant to Article 1 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3.

(b) Notwithstanding subdivision (a) of Section 56824.14, the local agency formation commission shall not, after a public hearing called and held for the purpose pursuant to subdivisions (b) and (c) of Section 56824.14, approve a county service area's proposal to exercise a latent power if the local agency formation commission determines that another local agency already provides substantially similar services or facilities to the territory where the county service area proposes to exercise that latent power.

(c) After receiving the approval of the local agency formation commission, the county service area may exercise that latent power. Within 30 days of the adoption of that resolution, the clerk of the board shall mail a copy of the resolution to the local area formation commission.

25213.6. (a) If a board desires to divest a county service area of the authority to provide a service or facility, the board shall adopt a resolution of intention. The resolution of intention shall:

(1) State the number or name of the county service area.

(2) Generally describe the territory within the county service area.

(3) Specify the services and facilities that the board proposes to terminate.

(4) Identify the public agency, if any, that would be required to provide a new or higher level of services and facilities if the board divests the power to provide those services and facilities.

(5) Fix the date, time, and place for a hearing on the question of divesting the power to provide those services and facilities. The hearing date shall be not less than 30 days nor more than 60 days from the adoption of the resolution of intention.

(b) The clerk of the board of supervisors shall publish notice of the hearing pursuant to Section 6061. The clerk of the board shall also mail the notice of the hearing at least 15 days before the hearing to the local agency formation commission and to any public agency that would be required to provide a new or higher level of services and facilities.

(c) At the hearing, the board shall consider all written and oral testimony. At the conclusion of the hearing, the board shall take one of the following actions:

(1) Adopt a resolution to abandon the proceedings.

(2) If the proposed divestiture would not require another public agency other than the county to provide a new or higher level of services or facilities, the board may adopt a resolution that divests the county service area of the power to provide those services or facilities.

(3) If the proposed divestiture would require another public agency to provide a new or higher level of services or facilities, the board shall first seek the approval of the local agency formation commission. To the extent feasible, the local agency formation commission shall proceed pursuant to Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3. After receiving the approval of the local agency formation commission, the board may adopt a resolution that divests the county service area of the power to provide those services or facilities.

(d) If the board adopts a resolution that divests a county service area of the power to provide a service or facility, the clerk of the board of supervisors shall mail a copy of that resolution to the local agency

formation commission within 30 days of the date of adoption of the resolution.

## Article 5. Finance

25214. (a) The board shall adopt an annual budget pursuant to Chapter 1 (commencing with Section 29000) of Division 3.

(b) A county service area shall be deemed to be a "special district whose affairs and finances are under the supervision and control of the board" within the meaning of Section 29002.

(c) The board shall provide for regular audits of the county service area's accounts and records pursuant to Section 26909.

(d) The board shall provide for the annual financial reports to the Controller pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5.

25214.1. (a) On or before July 1 of each year, the board shall adopt a resolution establishing the appropriations limit, if any, for each county service area and make other necessary determinations for the following fiscal year pursuant to Article XIII B of the California Constitution and Division 9 (commencing with Section 7900) of Title 1.

(b) Notwithstanding any other provision of this section or Division 9 (commencing with Section 7900) of Title 1, a board of supervisors may include the proceeds of taxes for all county service areas within the county's own appropriations limit.

(c) Pursuant to subdivision (c) of Section 9 of Article XIII B of the California Constitution, this section shall not apply to any of the following:

(1) A county service area which existed on January 1, 1978, and which did not as of the 1977–78 fiscal year levy an ad valorem tax on property in excess of twelve and one-half cents ($0.125) per one hundred dollars ($100) of assessed value.

(2) A county service area which existed on January 1, 1978, or was thereafter created by a vote of the people, and which is totally funded by other than the proceeds of taxes.

(d) This section shall not apply to any county service area that has previously transferred services and all of the property tax revenue allocation associated with those services to another local agency.

25214.2. (a) The board may accept any revenue, money, grants, goods, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the county service area.

(b) In addition to any other existing authority, the board may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840), Article

7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5.

25214.3. The board of supervisors may authorize expenditures from the county's general fund on behalf of a county service area and shall repay the county general fund from the funds of the county service area in the same fiscal year.

25214.4. (a) The board of supervisors may loan any available funds of the county to a county service area to pay for any lawful expenses of the county service area. The loan shall be repaid within the same fiscal year in which the board of supervisors loaned the funds at a rate of interest, if any, that the board of supervisors shall determine, provided that the interest rate shall not exceed the rate of interest that the county earns on its temporarily idle funds.

(b) Notwithstanding subdivision (a), the board of supervisors may extend, by a four-fifths vote, the repayment of a loan for a period that does not exceed three years from the end of the fiscal year in which the loan was made.

(c) Notwithstanding subdivision (a), if the board of supervisors finds that the repayment of the loan may result in an economic or fiscal hardship to the property owners or residents of the county service area, the board of supervisors may, by a four-fifths vote, waive the repayment in whole or in part.

25214.5. (a) The board of supervisors may appropriate up to two million dollars ($2,000,000) from any available funds of the county to a revolving fund to be used by county service areas for the acquisition or improvement of real or personal property, environmental studies, fiscal analyses, engineering services, supplies, or any other lawful expenses. The revolving fund shall be reimbursed within 10 years from the date of the disbursement at a rate of interest, if any, that the board of supervisors shall determine, provided that the interest rate shall not exceed the rate of interest that the county earns on its temporarily idle funds.

(b) Notwithstanding subdivision (a), if the board of supervisors finds that the reimbursement of the revolving fund may result in an economic or fiscal hardship to the property owners or residents of the county service area, the board of supervisors may, by a four-fifths vote, waive the reimbursement in whole or in part.

## Article 6. Revenues

25215. Whenever the board determines that the amount of revenue available to a county service area or any of its zones is inadequate to meet the costs of operating and maintaining the services and facilities

that the county service area provides, the board may raise revenues pursuant to this article or any other provision of law.

25215.1. The auditor shall allocate to each county service area its share of property tax revenue, if any, pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

25215.2. The board may levy special taxes pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5. The special taxes shall be applied uniformly to all taxpayers or all real property within the county service area, except that unimproved property may be taxed at a lower rate than improved property.

25215.3. The board may levy benefit assessments for operations and maintenance consistent with the requirements of Article XIII D of the California Constitution, including, but not limited to, benefit assessments levied pursuant to any of the following:

(a) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(b) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(c) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(d) The Landscaping and Lighting Assessment Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code, notwithstanding Section 22501 of the Streets and Highways Code).

(e) Any other statutory authorization enacted on or after January 1, 2009.

25215.4. The board may, by resolution or ordinance, do any of the following:

(a) Establish user fees, rates, or other charges, provided that they are not property-related fees and charges, for the services and facilities that are not property related that the county service area provides.

(b) Provide for the collection and enforcement of those user fees, rates, and other charges in the same manner that the county collects and enforces user fees, rates, and charges for the services and facilities that the county provides.

25215.5. The board may, by resolution or ordinance, do any of the following:

(a) Impose property-related fees and charges for the property-related services that the county service area provides, subject to the requirements of Article XIII D of the California Constitution. If new, increased, or extended property-related fees and charges are proposed, the board shall comply with Section 53755.

(b) Provide for the collection and enforcement of those property-related fees and charges in the same manner that the county collects and enforces property-related fees and charges for the property-related services that the county provides, including, but not limited to, Article 4 (commencing with Section 5470) of Chapter 6 of Part 3 of Division 5 of the Health and Safety Code.

25215.6. (a) The board may charge standby charges for water, sewer, or water and sewer services pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5).

(b) If the procedures set forth in the former Section 25210.77b as it read at the time a standby charge was established were followed, the board may, by resolution, continue to collect the charge in successive years at the same rate from the parcels within the county service area to which water or sewers are made available for any purpose by the county service area, whether the water or sewers are actually used or not. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753.

25215.7. Whenever a person installs any facilities including, but not limited to, facilities for sewer or water service, and the board determines that it is necessary that those facilities be constructed so that they can be used for the benefit of property within a county service area other than the property of the person installing the facilities, and the facilities are dedicated to the public or become the property of the county or the county service area, the board may by contract agree to reimburse that person for the cost of the installation of those facilities. This contract may provide that the board may collect a reasonable fee or charge from any person using those facilities for the benefit of property not owned by the person who installed the facilities.

## Article 7. Capital Financing

25216. Whenever the board determines that the amount of revenue available to a county service area is inadequate to acquire, construct, improve, rehabilitate, or replace the facilities authorized by this chapter, or to fund or to refund any outstanding indebtedness, the board may incur debt and raise revenues pursuant to this article or any other provision of law.

25216.1. (a) Whenever the board determines that it is necessary for a county service area to incur a general obligation bond indebtedness for the acquisition or improvement of real property, the board may proceed pursuant to Chapter 6 (commencing with Section 29900) of Division 3.

(b) The total amount of bonded indebtedness incurred pursuant to this section shall not at any time exceed 5 percent of the taxable property within the county service area as shown by the last equalized assessment roll.

25216.2. The board of supervisors may finance any enterprise and issue revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5), and a county service area shall be deemed a "local agency" for the purposes of that chapter.

25216.3. The board may levy benefit assessments to finance facilities consistent with the requirements of Article XIII D of the California Constitution including, but not limited to, benefit assessments levied pursuant to any of the following:

(a) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(b) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(c) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(d) The Landscaping and Lighting Assessment Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code), notwithstanding Section 22501 of the Streets and Highways Code.

(e) Any other statutory authorization enacted on or after January 1, 2009.

## Article 8. Zones

25217. (a) Whenever the board determines that it is in the public interest to provide different authorized services, provide different levels of service, provide different authorized facilities, or raise additional revenues within specific areas of a county service area, it may form one or more zones pursuant to this article.

(b) The board shall initiate proceedings for the formation of a new zone by adopting a resolution that does all of the following:

(1) States that the proposal is made pursuant to this article.

(2) Sets forth a description of the boundaries of the territory to be included in the zone.

(3) States the reasons for forming the zone.

(4) States the different authorized services, different levels of service, different authorized facilities, or additional revenues that the zone will provide.

(5) Sets forth the methods by which those authorized services, levels of service, or authorized facilities will be financed.

(6) Proposes a name or number for the zone.

(c) A proposal to form a new zone may also be initiated by a petition signed by not less than 10 percent of the registered voters residing within the proposed zone. The petition shall contain all of the matters required by subdivision (b).

(d) Upon the adoption of a resolution or the receipt of a valid petition, the board shall fix the date, time, and place for the public hearing on the formation of the zone. The clerk of the board of supervisors shall:

(1) Publish notice of the public hearing, including the information required by subdivision (b), pursuant to Section 6061.

(2) Mail the notice at least 20 days before the date of the hearing to all owners of property within the proposed zone.

(3) Mail the notice at least 20 days before the date of the hearing to each city and special district that contains, or whose sphere of influence contains, the proposed zone.

(4) Post the notice in at least three public places within the territory of the proposed zone.

25217.1. (a) At the public hearing, the board shall hear and consider any protests to the formation of the zone.

(b) (1) In the case of inhabited territory, if at the conclusion of the public hearing, the board determines that more than 50 percent of the total number of voters residing within the proposed zone have filed written objections to the formation, then the board shall determine that a majority protest exists and terminate the proceedings.

(2) In the case of uninhabited territory, if at the conclusion of the public hearing, the board determines that more than 50 percent of the property owners who own more than 50 percent of the assessed value of all taxable property in the proposed zone have filed written objections to the formation, then the board shall determine that a majority protest exists and terminate the proceedings.

(c) If, pursuant to subdivision (b), the board determines that a majority protest does not exist, then the board may proceed to form the zone.

(d) If the resolution or petition proposes that the zone use special taxes, benefit assessments, fees, standby charges, or bonds to finance its purposes, the board shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

25217.2. The board may change the boundaries of a zone or dissolve a zone by following the procedures in Sections 25217 and 25217.1, as appropriate.

25217.3. A local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to form a zone, a proposal to change the boundaries of a zone, or a proposal to dissolve a zone.

25217.4. (a) The board may provide any authorized service, any level of service, or any authorized facility within a zone that the board may provide in the county service area as a whole.

(b) As determined by the board and pursuant to the requirements of this chapter, the board may exercise any fiscal powers within a zone that the board may exercise in the county service area as a whole.

(c) Any special taxes, benefit assessments, fees, rates, charges, standby charges, or bonds which are intended solely for the support of services or facilities within a zone, shall be levied, assessed, and charged within the boundaries of the zone.

(d) The board shall not incur a general obligation bonded indebtedness for a zone pursuant to this section that exceeds 5 percent of the assessed value of the taxable property in the zone as shown by the last equalized assessment roll.

SEC. 3. Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code is repealed.

SEC. 4. Section 25643 of the Government Code is amended to read:

25643. The board of supervisors of a county shall determine each year such sum of money as the board of supervisors deems necessary for fire protection services within the county, excluding therefrom any city or district which is at such time providing fire protection services within such city or district. Except for the costs of forest, range, and watershed fire protection within state responsibility areas as defined in Part 2 (commencing with Section 4101) of Division 4 of the Public Resources Code, for which the county is not reimbursed by the state, the taxes for the costs of county fire protection services shall be levied only on property within the county served by and benefiting from county fire protection services, or such costs shall be paid from other nonproperty tax revenues collected within the unincorporated area of the county.

Every city or district which provides its own fire protection services, and which prior to March 1 of any year files with the board of supervisors of the county a resolution declaring that such city or district is providing fire protection services within its jurisdiction, shall not be assessed during the following fiscal year and any year thereafter for any portion of the costs of county fire protection services, except for the costs of forest, range, and watershed fire protection within state responsibility areas as defined in Part 2 (commencing with Section 4101) of Division 4 of the Public Resources Code, for which the county is not reimbursed by the state.

All property located within a county service area receiving structural fire protection services under Chapter 2.5 (commencing with Section 25210) of this part shall be exempt from any county tax imposed on property generally to finance structural fire protection, commencing with the 1972–73 fiscal year.

This section shall not apply to a county with a population of more than 1,000,000 but less than 6,000,000 according to the 1960 federal census.

SEC. 5. Section 50078.1 of the Government Code is amended to read:

50078.1. As used in this article, the following terms have the following meanings:

(a) "Legislative body" means the board of directors, trustees, governors, or any other governing body of a local agency specified in subdivision (b).

(b) "Local agency" means any city, county, or city and county, whether general law or chartered, or special district, including a county service area created pursuant to the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3).

(c) "Fire suppression" includes firefighting and fire prevention including, but not limited to, vegetation removal or management undertaken, in whole or in part, for the reduction of a fire hazard.

SEC. 6. Section 54251 of the Government Code is amended to read:

54251. (a) A local agency may, pursuant to this article, authorize, grant, or enter into one or more exclusive or nonexclusive franchise, license, or service agreements with a privatizer for the design, ownership, financing, construction, maintenance, or operation of a privatization project.

(b) A local agency may enact any measures necessary and convenient to carry out this article.

(c) Pursuant to Section 25215.6, within a county service area, a county board of supervisors may charge a standby charge for sewer service for a privatization project pursuant to this article. If the procedures set forth in this section as it read at the time a standby charge was established were followed, the county may, by resolution, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the county shall comply with the notice, protest, and hearing procedures in Section 53753.

SEC. 7. Section 56036 of the Government Code is amended to read:

56036. (a) "District" or "special district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited

boundaries. "District" or "special district" includes a county service area, but excludes all of the following:

(1) The state.

(2) A county.

(3) A city.

(4) A school district or a community college district.

(5) A special assessment district.

(6) An improvement district.

(7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).

(8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

(9) An air pollution control district or an air quality maintenance district.

(10) A zone of any special district including, but not limited to, the following:

(A) A fire protection district.

(B) A mosquito abatement and vector control district.

(C) A public cemetery district.

(D) A recreation and park district.

(E) A community services district.

(F) A county service area.

(b) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or a "special district" for the purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57176), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or a "special district":

(A) A unified or union high school library district.

(B) A bridge and highway district.

(C) A joint highway district.

(D) A transit or rapid transit district.

(E) A metropolitan water district.

(F) A separation of grade district.

(2) Any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

(c) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or "special district" for purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57176), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or "special district" if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district":

(A) A flood control district.

(B) A flood control and floodwater conservation district.

(C) A flood control and water conservation district.

(D) A conservation district.

(E) A water conservation district.

(F) A water replenishment district.

(G) The Orange County Water District.

(H) A California water storage district.

(I) A water agency.

(J) A county water authority or a water authority.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

SEC. 8. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission. A commission shall have the authority to initiate only a (1) consolidation of districts, as defined in Section 56036, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, (5) formation of a new district or districts, or (6) reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(2) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(3) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned. The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city

and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and prezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the prezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(*l*) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) 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 property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 8.5. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section

56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and prezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the prezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(*l*) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) 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 property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 9. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations or detachments, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002.

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory

if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 9.5. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 10. Section 5470 of the Health and Safety Code is amended to read:

5470. The following words wherever used in this article shall be construed as defined in this section, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words:

(a) Assessment Roll. "Assessment roll" refers to the assessment roll upon which general taxes of the entity are collected.

(b) Auditor. "Auditor" means the financial officer of the entity.

(c) Clerk. "Clerk" means the official clerk or secretary of the entity.

(d) Chambers. "Chambers" refers to the place where the regular meetings of the legislative body of the entity are held.

(e) Entity. "Entity" means and includes counties, cities and counties, cities, sanitary districts, county sanitation districts, county service areas, sewer maintenance districts, and other public corporations and districts authorized to acquire, construct, maintain and operate sanitary sewers and sewerage systems.

(f) Rates or Charges. "Rates or charges" shall mean fees, tolls, rates, rentals, or other charges for services and facilities furnished by an entity in connection with its sanitation or sewerage systems, including garbage and refuse collection.

(g) Real Estate. "Real estate" includes:

(1) The possession of, claim to, ownership of, or right to possession of land; and

(2) Improvements on land.

(h) Tax Collector. "Tax collector" means the officer who collects general taxes for the entity.

The amendment of this section made by the 1972 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 11. Section 20394.3 of the Public Contract Code is repealed.

SEC. 12. Section 5621 of the Public Resources Code is amended to read:

5621. As used in this chapter:

(a) "City" and "county" both include the City and County of San Francisco; "county" does not include a county service area, or zone therein, within the County of San Bernardino empowered to provide public park and recreation services pursuant to the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code).

(b) "Districts" means regional park districts formed under Article 3 (commencing with Section 5500) of Chapter 3; recreation and park districts formed under Chapter 4 (commencing with Section 5780); any public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; any community services district formed under Division 3 (commencing with Section 61000) of Title 6 of the Government Code in a nonurbanized area which is authorized to provide public recreation as specified in subdivision (e) of Section 61600 of the Government Code; any memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; the Malaga County Water District exercising powers authorized under Section 31133 of the Water Code; and any county service area, or zone therein, within the County of San Bernardino which is empowered to provide public park and recreation services pursuant to the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code), which is actually providing public park and recreation services, and which was reorganized prior to January 1, 1987, from a park and recreation district to a county service area or zone.

(c) "Urbanized area" consists of a central city or cities and surrounding closely settled territory, as determined by the Department of Finance on the basis of the most recent verifiable census data. "Urbanized county" means any county with a population of 200,000 or more, as determined by the Department of Finance on the basis of the most recent verifiable census data.

(d) "Heavily urbanized area" means a large city with a population of 300,000 or more and a large county or regional park district with a population of 1,000,000 or more, as determined by the Department of Finance on the basis of the most recent verifiable census data.

(e) "Nonurbanized area" means any city, county, or district which does not qualify as an urbanized area or urbanized county under the definitions in subdivision (c).

(f) "Block grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities.

(g) "Need basis grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities on a project-by-project basis, based upon need.

(h) "Account" means the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account in the General Fund.

(i) "Special major maintenance project" means a rehabilitation or refurbishing activity performed on an annual or more infrequent interval, excluding capital improvements and routinized or other regularly scheduled and performed tasks such as grounds mowing, hedge trimming, garbage removal, and watering. Special major maintenance project includes activities which will reduce energy requirements to operate recreational lands or facilities.

(j) "Innovative recreation program" means specially designed, creative social, cultural, and human service activities which by their nature are intended to respond to the unique and otherwise unmet recreation needs of special urban populations, including, but not limited to, senior citizens, physically or emotionally handicapped, chronic and "new" poor, single parents, "latchkey" children, and minorities. The term includes special transportation programs designed to facilitate access of these groups to parks and recreational programs and facilities.

SEC. 13. Section 13030 of the Public Resources Code is repealed.

SEC. 14. Section 13031 of the Public Resources Code is amended to read:

13031. The board of supervisors is the governing body of the district, and, unless otherwise provided in this division, the provisions of the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code) shall apply to the conduct of the business of the district.

SEC. 15. Section 13215 of the Public Resources Code is amended to read:

13215. The district may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, fix by ordinance or resolution, on or before the first day of July in each calendar year,

water or sewer standby or immediate availability charges. Each such charge shall not individually exceed twelve dollars ($12) per year for each acre of land, or eight dollars ($8) per year for each parcel of land of less than an acre within the district to which water or sewerage could be made available for any purpose by the district, whether the water or sewerage is actually used or not, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code). The district board may establish schedules varying the charges depending upon factors such as the uses to which the land is put, the cost of supplying such services to the land, and the amount of services used on the land. The district board may restrict the imposition of such charges to lands lying within one or more improvement districts within the district.

The limitations contained in this section shall not apply to any district which levied a standby charge pursuant to the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code) prior to January 1, 1977. Any such district shall be subject to Section 25215.6 of the Government Code.

SEC. 16. Section 97.41 of the Revenue and Taxation Code is amended to read:

97.41. (a) (1) Notwithstanding any other provision of this article, commencing with the 1995–96 fiscal year, the auditor shall allocate property tax revenue to a qualifying county service area, as defined in subdivision (b), in those amounts that would be determined if the amount of the reduction calculated for that county service area pursuant to subdivision (c) of Section 97.3 had been decreased by an amount that is equal to that fraction specified in paragraph (2) of the amount of revenue allocated to that county service area from the county's Special District Augmentation Fund for police protection activities in the 1992–93 fiscal year.

(2) For purposes of implementing paragraph (1), the applicable fractions are as follows:

(A) For the 1995–96 fiscal year, one-third.

(B) For the 1996–97 fiscal year, two-thirds.

(C) For the 1997–98 fiscal year and each fiscal year thereafter, the entire amount.

(b) For purposes of this section, "qualifying county service area" means a county service area that was formed prior to July 1, 1994, pursuant to the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code) and that is either of the following:

(1) A county service area, the governing board of which is the board of supervisors, that is engaged in police protection activities, as reported to the Controller for inclusion in the 1989–90 Edition of the Financial Transactions Report Concerning Special Districts under the heading of "Police Protection and Public Safety."

(2) A county service area, the sole purpose of which is to engage in police protection activities.

SEC. 17. Section 1179.5 of the Streets and Highways Code is amended to read:

1179.5. In lieu of, or in addition to, any special tax levied pursuant to Section 1178, the board may fix and collect parcel charges for any permanent road division pursuant to the assessment ballot procedures in Section 53753 of the Government Code.

SEC. 18. Section 22976 of the Water Code is amended to read:

22976. This section provides for an alternative procedure for forming an improvement district within the El Dorado Irrigation District:

(a) The El Dorado Irrigation District may form one or more districts in the same manner as county service areas form zones pursuant to the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code). An improvement district formed by the El Dorado Irrigation District shall have all of the powers and duties of a zone formed pursuant to the County Service Area Law.

(b) The application of, and the terms used in, those sections shall have the following meanings:

(1) "Board of supervisors" shall mean the board of directors of the district.

(2) "County service area" shall mean improvement district.

(3) "County services" shall mean El Dorado Irrigation District services.

(4) "County Service Area No. _____" shall mean "Improvement District No. _____."

(5) "Chapter" shall mean section.

(6) "Services" shall mean "services permitted El Dorado Irrigation District."

(7) "County taxes" shall mean El Dorado Irrigation District assessments.

(8) "County treasurer" shall mean El Dorado Irrigation District treasurer.

SEC. 19. Section 22981 of the Water Code is amended 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 Section 25216.1 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. 20. Section 22982 of the Water Code is amended to read:

22982. This section provides an alternative procedure for forming an improvement district within the district as follows:

(a) The district may form one or more improvement districts in the same manner as county service areas form zones pursuant to the County Service Area Law (Chapter 2.5 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code). An improvement district formed by the district shall have all of the powers and duties of a zone formed pursuant to the County Service Area Law.

(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 Service Area No. ____" means "Improvement District No. ____."

(5) "Chapter" means section.

(6) "Services" means services the district may perform.

(7) "County taxes" means district assessments.

(8) "County treasurer" means the district treasurer.

SEC. 21. This act is based on the recommendations of the Working Group on Revising the County Service Area Law, convened by the Senate Committee on Local Government.

SEC. 22. Section 8.5 of this bill incorporates amendments to Section 56375 of the Government Code proposed by both this bill and AB 1263. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 56375 of the Government Code, and (3) this bill is enacted after AB 1263, in which case Section 8 of this bill shall not become operative.

SEC. 23. Section 9.5 of this bill incorporates amendments to Section 57075 of the Government Code proposed by both this bill and AB 2484. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 57075 of the Government Code, and (3) this bill is enacted after AB 2484, in which case Section 9 of this bill shall not become operative.

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## CHAPTER 159

An act to amend Sections 5898.12, 5898.20, 5898.22, and 5898.30 of, and to add Sections 5898.14 and 5898.21 to, the Streets and Highways Code, relating to contractual assessments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2008. Filed with
Secretary of State July 21, 2008.]

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

SECTION 1. Section 5898.12 of the Streets and Highways Code is amended to read:

5898.12. (a) It is the intent of the Legislature that this chapter should be used to finance public improvements to lots or parcels which are developed and where the costs and time delays involved in creating an assessment district pursuant to other provisions of this division or any other law would be prohibitively large relative to the cost of the public improvements to be financed.

(b) It is also the intent of the Legislature that this chapter should be used to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property.

(c) This chapter shall not be used to finance facilities for parcels which are undergoing development.

(d) This chapter shall not be used to finance the purchase or installation of appliances that are not permanently fixed to residential, commercial, industrial, or other real property.

(e) Assessments may be levied pursuant to this chapter only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied.

SEC. 2. Section 5898.14 is added to the Streets and Highways Code, to read:

5898.14. (a) The Legislature finds all of the following:

(1) Energy conservation efforts, including the promotion of energy efficiency improvements to residential, commercial, industrial, or other real property are necessary to address the issue of global climate change.

(2) The upfront cost of making residential, commercial, industrial, or other real property more energy efficient prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, it is necessary to authorize an alternative procedure for authorizing assessments to finance the cost of energy efficiency improvements.

(b) The Legislature declares that a public purpose will be served by a contractual assessment program that provides the legislative body of any city with the authority to finance the installation of distributed generation renewable energy sources and energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property.

SEC. 3. Section 5898.20 of the Streets and Highways Code is amended to read:

5898.20. (a) (1) The legislative body of any city may determine that it would be convenient and advantageous to designate an area within the city, which may encompass the entire city or a lesser portion, within which authorized city officials and property owners may enter into contractual assessments for public improvements and to make financing arrangements pursuant to this chapter.

(2) The legislative body of any city may also determine that it would be convenient, advantageous, and in the public interest to designate an area within the city, which may encompass the entire city or a lesser portion, within which authorized city officials and property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property pursuant to this chapter.

(b) The legislative body shall make these determinations by adopting a resolution indicating its intention to do so. The resolution of intention shall include a statement that the city proposes to make contractual assessment financing available to property owners, shall identify the kinds of public works, distributed generation renewable energy sources, or energy efficiency improvements that may be financed, shall describe the boundaries of the area within which contractual assessments may be entered into, and shall briefly describe the proposed arrangements for financing the program. The resolution of intention shall state that it is in the public interest to finance the installation of distributed generation renewable energy sources or energy efficiency improvements, or both, pursuant to paragraph (2) of subdivision (a), if applicable. The resolution shall state that a public hearing should be held at which interested persons may object to or inquire about the proposed program or any of its particulars, and shall state the time and place of the hearing. The resolution shall direct an appropriate city official to prepare a report pursuant to Section 5898.22 and to enter into consultations with the county auditor's office or county controller's office in order to reach agreement on what additional fees, if any, will be charged to the city or county for incorporating the proposed contractual assessments into the assessments of the general taxes of the city or county on real property.

(c) As used in this chapter, each of the following terms has the following meaning:

(1) Notwithstanding Section 5005, "city" means a city, county, or city and county.

(2) "Legislative body" has the same meaning as defined in Section 5006.

SEC. 4. Section 5898.21 is added to the Streets and Highways Code, to read:

5898.21. Notwithstanding any other provision of this chapter, upon the written consent of an authorized city official, the proposed arrangements for financing the program pertaining to the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property may authorize the property owner to purchase directly the related equipment and materials for the installation of distributed generation renewable energy sources or energy efficiency improvements and to contract directly for the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to the property owner's residential, commercial, industrial, or other real property.

SEC. 5. Section 5898.22 of the Streets and Highways Code is amended to read:

5898.22. The report shall contain all of the following:

(a) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered.

(b) A draft contract specifying the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city.

(c) A statement of city policies concerning contractual assessments including all of the following:

(1) Identification of types of facilities, distributed generation renewable energy sources, or energy efficiency improvements that may be financed through the use of contractual assessments.

(2) Identification of a city official authorized to enter into contractual assessments on behalf of the city.

(3) A maximum aggregate dollar amount of contractual assessments.

(4) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.

(d) A plan for raising a capital amount required to pay for work performed pursuant to contractual assessments. The plan may include amounts to be advanced by the city through funds available to it from any source. The plan may include the sale of a bond or bonds or other financing relationship pursuant to Section 5898.28. The plan shall include a statement of or method for determining the interest rate and time period during which contracting property owners would pay any assessment. The plan shall provide for any reserve fund or funds. The plan shall provide for the apportionment of all or any portion of the costs incidental

to financing, administration, and collection of the contractual assessment program among the consenting property owners and the city.

(e) A report on the results of the consultations with the county auditor's office or county controller's office concerning the additional fees, if any, that will be charged to the city or county for incorporating the proposed contractual assessments into the assessments of the general taxes of the city or county on real property, and a plan for financing the payment of those fees.

SEC. 6. Section 5898.30 of the Streets and Highways Code is amended to read:

5898.30. Assessments levied pursuant to this chapter, and the interest and any penalties thereon shall constitute a lien against the lots and parcels of land on which they are made, until they are paid. Division 10 (commencing with Section 8500) applies to the levy and collection of assessments levied pursuant to this chapter, insofar as those provisions are not in conflict with the provisions of this chapter, including, but not limited to, the collection of assessments in the same manner and at the same time as the general taxes of the city on real property are payable and any penalties and remedies and lien priorities in the event of delinquency and default.

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 legislative bodies of cities and free and willing property owners to enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements and for the state to begin to experience the effects of these contractual assessments, such as saving millions of kilowatthours, as early as this summer when usage is the highest, it is necessary that this act take effect immediately.

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## CHAPTER 160

An act to amend Sections 18804 and 18808 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 18804 of the Revenue and Taxation Code is amended to read:

18804. (a) This article shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2016, deletes or extends that date.

(b) (1) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than the minimum contribution amount prescribed by paragraph (2), then this article is inoperative with respect to taxable years beginning on and after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(2) For purposes of this section, "minimum contribution amount" means two hundred fifty thousand dollars ($250,000) for any calendar year.

(c) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 2. Section 18808 of the Revenue and Taxation Code is amended to read:

18808. (a) This article shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2016, deletes that date.

(b) If the repeal date specified in subdivision (a) has been deleted, all of the following apply:

(1) By September 1 of the calendar year beginning after the effective date of the act deleting the repeal date and by September 1 of each subsequent calendar year that the California Peace Officer's Memorial Foundation Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the California Peace Officer Memorial Commission of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum

contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars ($250,000) for the first calendar year beginning after the effective date of the act that deleted the repeal date specified in subdivision (a), or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 2005, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

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## CHAPTER 161

An act to add Section 1980.5 to, and to add Chapter 5.5 (commencing with Section 1993) to Title 5 of Part 4 of Division 3 of, the Civil Code, relating to real property.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 1980.5 is added to the Civil Code, to read:

1980.5. Except as provided in Section 1993.01, the provisions of this chapter shall not apply to commercial real property, as defined in subdivision (d) of Section 1954.26. For purposes of this section, commercial real property shall not include self-storage units.

SEC. 2. Chapter 5.5 (commencing with Section 1993) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

## Chapter 5.5. Disposition of Property Remaining on Premises at Termination of Commercial Tenancy

1993. This chapter shall only apply to commercial real property. As used in this chapter:

(a) "Commercial real property" has the meaning specified in subdivision (d) of Section 1954.26. For purposes of this chapter, commercial real property shall not include self-storage units.

(b) "Landlord" means any operator, keeper, lessor, or sublessor of any furnished or unfurnished premises for hire, or his or her agent or successor in interest.

(c) "Owner" means any person other than the landlord who has any right, title, or interest in property.

(d) "Premises" includes any common areas associated therewith.

(e) "Reasonable belief" means the actual knowledge or belief a prudent person would have without making an investigation, including any investigation of public records, except that, if the landlord has specific information indicating that an investigation would more probably than not reveal pertinent information and the cost of an investigation would be reasonable in relation to the probable value of the property involved, "reasonable belief" includes the actual knowledge or belief a prudent person would have if an investigation were made.

(f) "Tenant" includes any lessee or sublessee of any commercial real property and its premises for hire.

1993.01. Notwithstanding Section 1980.5, the requirements of Sections 1982, 1987, and 1990 shall apply to property that is subject to this chapter.

1993.02. (a) This chapter provides an optional procedure for the disposition of property that remains on the premises after a tenancy of commercial real property has terminated and the premises have been vacated by the tenant.

(b) This chapter does not apply if Section 1862.5, 2080.8, 2080.9, or 2081 to 2081.6, inclusive, apply. This chapter does not apply to property

that exists for the purpose of providing utility services and is owned by a public utility, whether or not that property is actually in operation to provide those utility services.

(c) This chapter does not apply to any manufactured home, as defined in Section 18007 of the Health and Safety Code, any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, including attachments thereto or contents thereof, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

(d) This chapter does not apply to the disposition of animals to which Chapter 7 (commencing with Section 17001) of Part 1 of Division 9 of the Food and Agricultural Code applies, and those animals shall be disposed of in accordance with those provisions.

(e) This chapter does not apply to residential property or self-storage units.

(f) If the requirements of this chapter are not satisfied, nothing in this chapter affects the rights and liabilities of the landlord, former tenant, or any other person.

1993.03. (a) If property remains on the premises after a tenancy has terminated and the premises have been vacated by the tenant, the landlord shall give written notice to the tenant and to any other person the landlord reasonably believes to be the owner of the property.

(b) The notice shall describe the property in a manner reasonably adequate to permit the owner of the property to identify it. The notice may describe all or a portion of the property, but the limitation of liability provided by Section 1993.08 does not protect the landlord from any liability arising from the disposition of property not described in the notice, except that a trunk, valise, box, safe, vault, or other container that is locked, fastened, or tied in a manner that deters immediate access to its contents may be described as such without describing its contents. The notice shall advise the person to be notified that reasonable costs of storage may be charged before the property is returned, where the property may be claimed, and the date before which the claim must be made. The date specified in the notice shall be a date not less than 15 days after the notice is personally delivered or, if mailed, not less than 18 days after the notice is deposited in the mail.

(c) The notice shall be personally delivered to the person to be notified or sent by first-class mail, postage prepaid, to the person to be notified at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by that person, also to any other address known to the landlord where the person may reasonably be expected to receive the notice. If the notice is sent by mail to the

former tenant, one copy shall be sent to the premises vacated by the tenant.

1993.04. (a) A notice given to the former tenant that is in substantially the following form satisfies the requirements of Section 1993.03:

Notice of Right to Reclaim Abandoned Property

To: _____
(Name of Former tenant)

_____
(Address of former tenant)

When you vacated the premises at _____

_____ ,
(Address of premises, including room, if any)

the following personal property remained:

_____
(Insert description of the personal property)

You may claim this property at _____

_____ .
(Address where property may be claimed)

Unless you pay the reasonable cost of storage for all the above-described property, and take possession of the property which you claim, not later than _____ (insert date not less than 15 days after notice is personally delivered or, if mailed, not less than 18 days after notice is deposited in the mail) this property may be disposed of pursuant to Civil Code Section 1993.07.

(Insert here the statement required by subdivision (b) of this section)

Dated: _____ _____
(Signature of landlord)

_____
(Type or print name of landlord)

_____
(Telephone number)

_____
(Address)

(b) The notice set forth in subdivision (a) shall also contain one of the following statements:

(1) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the cost of storage, advertising, and sale is deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within one year after the county receives the money."

(2) "Because you were a commercial tenant and this property is believed to be worth less than the lesser of $750 or one dollar ($1) per square foot of the premises you occupied, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

1993.05. A notice in substantially the following form given to a person (other than the former tenant) the landlord reasonably believes to be the owner of personal property satisfies the requirements of Section 1993.03:

Notice of Right to Reclaim Abandoned Property

To: _____
(Name)

_____
(Address)

When _____ vacated the premises at
(Name of former tenant)

_____ ,
(Address of premises, including room, if any)

the following personal property remained:

_____
(Insert description of the personal property)

You may claim this property at _____

_____ .
(Address where property may be claimed)

Unless you pay the reasonable cost of storage for all the above-described property, and take possession of the property that you claim, not later than _____ (insert date not less than 15 days after notice is personally delivered or, if mailed, not less than 18 days after notice is deposited in the mail) this property may be disposed of pursuant to Civil Code Section 1993.07.

(Insert here the statement required by subdivision (b) of this section)

Dated: _____ _____
(Signature of landlord)

_____
(Type or print name of landlord)

_____
(Telephone number)

_____
(Address)

1993.06. The personal property described in the notice shall either be left on the vacated premises or be stored by the landlord in a place

of safekeeping until the landlord either releases the property pursuant to Section 1987 or disposes of the property pursuant to Section 1993.07. The landlord shall exercise reasonable care in storing the property, but he or she is not liable to the tenant or any other owner for any loss not caused by his or her deliberate or negligent act.

1993.07. (a) (1) If the property described in the notice is not released pursuant to Section 1987, it shall be sold at public sale by competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than the threshold amount, the landlord may retain the property for his or her own use or dispose of it in any manner. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale.

(2) For the purposes of this section, "threshold amount" means the lesser of seven hundred fifty dollars ($750) or one dollar ($1) per square foot of the premises occupied by the tenant.

(b) Notice of the time and place of the public sale shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation published in the county where the sale is to be held. The last publication shall be not less than five days before the sale is to be held. The notice of the sale shall not be published before the last of the dates specified for taking possession of the property in any notice given pursuant to Section 1993.03. The notice of the sale shall describe the property to be sold in a manner reasonably adequate to permit the owner of the property to identify it. The notice may describe all or a portion of the property, but the limitation of liability provided by Section 1993.08 does not protect the landlord from any liability arising from the disposition of property not described in the notice, except that a trunk, valise, box, safe, vault, or other container that is locked, fastened, or tied in a manner that deters immediate access to its contents may be described as such without describing its contents.

(c) After deduction of the costs of storage, advertising, and sale, any balance of the proceeds of the sale that is not claimed by the former tenant or an owner other than the tenant shall be paid into the treasury of the county in which the sale took place not later than 30 days after the date of sale. The former tenant or other owner may claim the balance within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays the balance or any part thereof to a claimant, neither the county nor any officer or employee thereof is liable to any other claimant as to the amount paid.

1993.08. (a) Notwithstanding subdivision (c) of Section 1993.02, if the landlord releases to the former tenant property that remains on the

premises after a tenancy is terminated, the landlord is not liable with respect to that property to any person.

(b) If the landlord releases property pursuant to Section 1987 to a person, other than the former tenant, who is reasonably believed by the landlord to be the owner of the property, the landlord is not liable with respect to that property to any of the following persons:

(1) A person to whom notice was given pursuant to Section 1993.03.

(2) A person to whom notice was not given pursuant to Section 1993.03 unless the person proves that, prior to releasing the property, the landlord believed or reasonably should have believed that the person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of the person.

(c) If property is disposed of pursuant to Section 1993.07, the landlord is not liable with respect to that property to any of the following persons:

(1) A person to whom notice was given pursuant to Section 1993.03.

(2) A person to whom notice was not given pursuant to Section 1993.03 unless the person proves that, prior to disposing of the property pursuant to Section 1993.07, the landlord believed or reasonably should have believed that the person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of the person.

1993.09. If a notice of belief of abandonment is given to a lessee pursuant to Section 1951.3, the notice to the former tenant given pursuant to Section 1993.03 may, but need not, be given at the same time as the notice of belief of abandonment, even though the tenancy is not terminated until the end of the period specified in the notice of belief of abandonment. If the notices are so given, the notices may, but need not, be combined in one notice that contains all the information required by the sections under which the notices are given.

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## CHAPTER 162

An act to amend Section 2889.5 of the Public Utilities Code, relating to telephone service.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 2889.5 of the Public Utilities Code is amended to read:

2889.5. (a) No telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until all of the following steps have been completed:

(1) The telephone corporation, its representatives or agents shall thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) The telephone corporation, its representatives or agents shall specifically establish whether the subscriber intends to make any change in his or her telephone service provider, and explain any charges associated with that change.

(3) For sales of residential service, the subscriber's decision to change his or her telephone service provider shall be confirmed by an independent third-party verification company, or as provided in paragraph (5). For purposes of this provision, the confirmation by a third-party verification company shall be made as follows:

(A) The third-party verification company shall meet each of the following criteria:

(i) Be independent from the telephone corporation that seeks to provide the subscriber's new service.

(ii) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by the telephone corporation that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the telephone corporation.

(iii) Operate from facilities physically separate from those of the telephone corporation that seeks to provide the subscriber's new service.

(iv) Not derive commissions or compensation based upon the number of sales confirmed.

(B) The telephone corporation seeking to verify the sale shall do so by connecting the subscriber by telephone to the third-party verification company or by arranging for the third-party verification company to call the subscriber to confirm the sale.

(C) The third-party verification company shall obtain the subscriber's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the subscriber upon request. Information obtained from the subscriber through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved subscriber against the telephone corporation or its employees who are responsible for the violation.

(D) Notwithstanding subparagraphs (A), (B), and (C), a service provider shall not be required to comply with these provisions when the customer directly calls the local service provider to make changes in service providers. However, a service provider shall not avoid the verification requirements by asking a subscribing customer to contact a local exchange service provider directly to make any change in the service provider. A local exchange service provider shall be required to comply with these verification requirements for its own competitive services. However, a local exchange service provider shall not be required to perform any verification requirements for any changes solicited by another telephone corporation.

(4) For a sale of residential service, the telephone corporation seeking to verify the change in service, in addition to the requirements of paragraph (3), shall notify the subscriber by United States Postal Service that the subscriber's telephone service provider has been changed. The service provider that initiated the change shall send that notice within 14 days of the date of the change. The notice shall provide the subscriber with clear, legible notice of the change in service provider, and shall include a customer service telephone number for the subscriber to call if the subscriber did not authorize the change in service.

(5) Confirmation of a sale of residential service may be made using an electronic means that complies with Section 64.1120 of Title 47 of the Code of Federal Regulations in effect as of June 17, 2008.

(6) For sales of all nonresidential services, the subscriber's decision to change his or her service provider shall be confirmed through any of the following means:

(A) Independent third-party verification, as set forth in paragraph (3) of subdivision (a).

(B) The telephone corporation shall mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation. The information package shall describe the new service and shall include a postage prepaid postcard or mailer that the subscriber can use to deny, cancel, or confirm a service order, as soon as possible, and wait 14 days after the information package is mailed before making the change in the telephone corporation. The telephone corporation shall make the change only if the subscriber does not cancel the change in service order.

(C) Verify the subscriber's change in his or her telephone service provider by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document whose sole purpose is to explain the nature and extent of the action.

(D) Obtain the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent.

(7) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. If a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action. If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

(8) The telephone corporation shall retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber, the Attorney General, or the commission upon request.

(b) If a residential or business subscriber that has not signed an authorization 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 initiated the change.

(c) For purposes of this section, competitive services are those services where subscribers have the ability to presubscribe to a telephone service provider.

(d) When a subscriber changes telephone service providers, the change shall be conspicuously noticed on the subscriber's bill. Notice in the following form is deemed to comply with this subdivision:

"NOTICE: Your local (or long distance) telephone service provider has been changed from (name of prior provider) to (name of current provider).

Cost of change: $ ____."

(e) Any telephone corporation that violates the verification procedures described in this section shall be liable to the telephone corporation previously selected by the subscriber in an amount equal to all charges paid by the subscriber after the violation.

(f) In addition to the liability described in subdivision (e), any telephone corporation that violates the verification procedures described in this section shall credit to a subscriber any charges paid by the subscriber in excess of the amount that the subscriber would have been

obligated to pay had the subscriber's telephone service not been changed. The commission shall adopt regulations to govern credits to subscribers pursuant to this subdivision.

(g) The remedies provided by this section are in addition to any other remedies available by law.

(h) As described in federal law, no telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber without having on file, or having instituted reasonable steps designed to obtain, signed, dated orders for service from the subscriber. All orders shall be in the form prescribed in federal law for letters of agency. As described in federal law, the telephone corporation is responsible for charges associated with disputed changes in telephone service for which it cannot produce a signed, dated order for service from the subscriber. This subdivision applies to all intrastate services for which competition has been authorized.

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## CHAPTER 163

An act to amend Section 1091 of the Government Code, relating to conflict of interest.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

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

1091. (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

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

(1) That of an officer or employee of a nonprofit entity exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)) or a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three years prior to the officer initially accepting his or her office and the officer owns less than 3 percent of the shares of stock of the contracting party; and the employee or agent is not an officer or director of the contracting party and did not directly participate in formulating the bid of the contracting party.

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

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

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

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

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

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

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

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

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

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

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

individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of 10 percent or more in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.

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

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

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

(10) Except as provided in subdivision (b) of Section 1091.5, that of a director of, or a person having an ownership interest of, 10 percent or more in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor or creditor.

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

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

(13) That of a person receiving salary, per diem, or reimbursement for expenses from a government entity.

(14) That of a person owning less than 3 percent of the shares of a contracting party that is a for-profit corporation, provided that the ownership of the shares derived from the person's employment with that corporation.

(15) That of a party to litigation involving the body or board of which the officer is a member in connection with an agreement in which all of the following apply:

(A) The agreement is entered into as part of a settlement of litigation in which the body or board is represented by legal counsel.

(B) After a review of the merits of the agreement and other relevant facts and circumstances, a court of competent jurisdiction finds that the agreement serves the public interest.

(C) The interested member has recused himself or herself from all participation, direct or indirect, in the making of the agreement on behalf of the body or board.

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

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

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## CHAPTER 164

An act to amend Sections 31458.3, 31458.4, 31459, 31522.5, 31529.9, 31663.25, 31663.26, 31664.15, 31664.65, and 31808.6 of, to add Section 31836.2 to, and to repeal Section 31639.4 of, the Government Code, relating to county employees' retirement.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 31458.3 of the Government Code is amended to read:

31458.3. (a) A member's ex-spouse who is receiving or is entitled to receive payments from the system, including a portion of the surviving spouse's allowance, pursuant to an order of the court dividing the community property interest in the member's retirement allowance may designate one or more beneficiaries who shall receive those payments following the death of the ex-spouse. If there is no designated beneficiary, payment shall be made to the estate of the ex-spouse. Those payments shall terminate upon the death of the member or the surviving spouse.

(b) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 2. Section 31458.4 of the Government Code is amended to read:

31458.4. (a) A member's ex-spouse who is receiving or is entitled to receive payments from the system, including a portion of the surviving spouse's allowance, pursuant to an order of the court dividing the community property interest in the member's retirement allowance may designate one or more beneficiaries who shall receive those payments following the death of the ex-spouse. If there is no designated beneficiary, payment shall be made to the estate of the ex-spouse. Those payments shall terminate upon the death of the member or the surviving spouse.

(b) This section shall not be operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

SEC. 3. Section 31459 of the Government Code is amended to read:

31459. (a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31588.1, 31589.1, 31591, 31592.3, 31594, 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31611, 31616, 31625, 31784, and 31872, "board" means a board of investments.

(2) As used in the first paragraph of Section 31592.2, "board" means a board of investments.

(3) Sections 31510.4, 31522, 31523, 31524, 31525, 31528, 31529, 31529.5, 31595, 31618, 31680, and 31680.1 apply to both the board of retirement and board of investments, and "board" means both "board of retirement" and "board of investments."

(b) In Article 17 (commencing with Section 31880), "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

SEC. 4. Section 31522.5 of the Government Code is amended to read:

31522.5. (a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint an administrator, an assistant administrator, a chief investment officer, senior management employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel.

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be

county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

(c) Except as otherwise provided by Sections 31529.9 and 31596.1, the compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable to any retirement system that elects to appoint personnel pursuant to this section.

(f) This section shall apply only in Orange County.

(g) This section shall apply to the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

SEC. 5. Section 31529.9 of the Government Code is amended to read:

31529.9. (a) In addition to the powers granted by Sections 31522.5, 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31522.5, 31529.5, and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section applies to any county of the 2nd class, 7th class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 28035, 28036, and 28037.

(d) This section shall also apply to any other county if the board of retirement, by resolution adopted by majority vote, makes this section applicable in the county.

SEC. 5.5. Section 31529.9 of the Government Code is amended to read:

31529.9. (a) In addition to the powers granted by Sections 31522.5, 31522.7, 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31522.5, 31522.7, 31529.5, and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section applies to any county of the 2nd class, 7th class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 28035, 28036, and 28037.

(d) This section shall also apply to any other county if the board of retirement, by resolution adopted by majority vote, makes this section applicable in the county.

SEC. 6. Section 31639.4 of the Government Code is repealed.

SEC. 7. Section 31663.25 of the Government Code is amended to read:

31663.25. Except as provided in Section 31663.26, any safety member who has reached the applicable compulsory age of retirement, if any, or any safety member who has completed 10 years of continuous service and who has reached the age of 50, or any safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which he or she desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

SEC. 8. Section 31663.26 of the Government Code is amended to read:

31663.26. Notwithstanding Section 31663.25, any safety member who has reached the applicable compulsory age of retirement, if any, or any safety member who is a full-time employee, has completed 10 years of service, has reached the age of 50, and has no service break which exceeds 12 months, or any safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which he or she desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make this section applicable in the county.

SEC. 9. Section 31664.15 of the Government Code is amended to read:

31664.15. Notwithstanding any other provisions of this chapter, a safety member who enters the system with credit for prior service and retires upon completion of 20 years of continuous service and a total of 25 years of service after attaining age 50 whose retirement allowance is less than one-half of his or her final compensation, his or her prior service pension shall be increased so as to cause his or her total retirement allowance to amount to one-half of that final compensation.

SEC. 10. Section 31664.65 of the Government Code is amended to read:

31664.65. If a member retires with credit for time during which he or she was not a safety member or a member of a system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200), he or she shall receive for that time:

(a) A retirement allowance calculated pursuant to Section 31664 for time during which he or she was employed principally in active law enforcement or active fire suppression as described in Section 31470.2 or Section 31470.4 by a county, or by a district or court organized or existing within such county, or was a member of a system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200), plus a retirement allowance calculated under either subdivision (b) or (c), whichever is applicable.

(b) A retirement allowance calculated pursuant to Section 31664 for all prior county service with such county, and for any public service credit for which the member has elected to receive pursuant to Section 31641.1 or 31641.5.

This subdivision shall apply only to a member who, when the board of supervisors pursuant to Section 31695.1 provides that provisions of this chapter relating to safety members shall apply to all employees of the county whose principal duties consist of active law enforcement or active fire suppression as defined in Section 31470.2 or 31470.4, was employed by the county principally in active law enforcement or active fire suppression as defined by such sections and who elected to be included within such safety member provisions at the time and in the manner prescribed by Section 31695.2.

(c) A retirement allowance calculated pursuant to Article 8 (commencing with Section 31670) for time during which he or she was not engaged principally in active law enforcement or active fire suppression as described in Section 31470.2 or 31470.4, nor a member of a system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200).

This subdivision shall apply to any member to whom subdivision (b) is not applicable.

The provisions of this section shall be applicable irrespective of whether a member is, at the time of retirement, a safety member or a general member.

SEC. 11. Section 31808.6 of the Government Code is amended to read:

31808.6. (a) Notwithstanding any other provision of law, in any county or district first subject to the provisions of Section 31676.1 or 31695.1 on or after July 1, 1969, having members performing the duties of safety members as defined in Sections 31470.2 and 31470.4, if the

board of supervisors adopts this section and as to those members adopts or has already adopted the provisions of this article, then the retirement allowance of those safety members shall be computed according to the applicable provisions of this subdivision, as selected by the board of supervisors.

(1) The retirement allowance shall be computed according to the provisions of Section 31664 or 31664.1, and federal old age and survivors' insurance coverage shall be on an additive or supplemental basis.

(2) If Section 31664 applies, the retirement allowance shall equal the total of both of the following:

(A) The retirement allowance for service rendered prior to the effective date of the resolution specified in Section 31800 shall be computed in accordance with the provisions of Section 31664.

(B) The retirement allowance for service performed after the effective date of the resolution shall equal the total of both of the following:

(i) The fraction of one seventy-fifth of the first three hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided in that section.

(ii) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(3) If Section 31664.1 applies, the retirement allowance shall equal the total of both of the following:

(A) The retirement allowance for service rendered prior to the effective date of the resolution specified in Section 31800 shall be computed in accordance with the provisions of Section 31664.1.

(B) The retirement allowance for service rendered after the effective date of the resolutions shall equal the total of both of the following:

(i) The fraction of one seventy-fifth of the first three hundred fifty dollars ($350) monthly of the member's final compensation set forth in the table appearing in Section 31664.1 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided in that section.

(ii) Three percent of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664.1 in the column applicable to his or her age at retirement taken to the preceding

completed quarter year multiplied by the number of years of creditable service.

(b) Notwithstanding any other provision of law, in counties which have adopted the provisions of this section and have voted to apply the provisions of this chapter relating to safety members as provided by Section 31695.1, the retirement benefits as well as the contributions of eligible members subject to this article who do not elect pursuant to Section 31695.2 to come under the safety member provisions of this chapter, shall be the same as the retirement benefits and contributions of members other than safety members in the county.

(c) The retirement allowance for any safety member who is not subject to this article shall be computed in accordance with the provisions of Section 31664.

(d) Any member who becomes a safety member after the effective date of the selection of the method of computing the retirement allowance by the board of supervisors shall be subject to that selection and to the provisions of this article.

(e) Any member subject to the selection described in subdivision (d) made by the board of supervisors may elect deferred retirement pursuant to Article 9 (commencing with Section 31700).

SEC. 12. Section 31836.2 is added to the Government Code, to read:

31836.2. (a) "Service," for the purpose of qualifying members for the discontinuance of contributions pursuant to Section 31664, 31664.1, or 31664.2 shall also include service as an employee of the state, a contracting agency under the Public Employees' Retirement System, another county having a retirement system established under this chapter, or any other public agency if the compensation for the service constitutes compensation earnable by a member under Section 31835.

(b) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971.

(c) This section is declaratory of existing law.

SEC. 13. Section 5.5 of this bill makes changes to Section 31529.9 of the Government Code to reference a section that AB 2666 proposes to add. Section 5.5 of this bill shall only become operative if (1) AB 2666 and this bill are both enacted and become effective on or before January 1, 2009, and (2) AB 2666 adds Section 31522.7 to the Government Code, in which case Section 5 of this bill shall not become operative.

## CHAPTER 165

An act to amend Section 6140 of, and to add and repeal Sections 6140.3 and 6140.36 of, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. Section 6140 of the Business and Professions Code is amended to read:

6140. (a) The board shall fix the annual membership fee for active members for 2009 at a sum not exceeding three hundred fifteen dollars ($315).

(b) The annual membership fee for active members is payable on or before the first day of February of each year. If the board finds it appropriate and feasible, it may provide by rule for payment of fees on an installment basis with interest, by credit card, or other means, and may charge members choosing any alternative method of payment an additional fee to defray costs incurred by that election.

(c) This section shall remain in effect only until January 1, 2010, and, as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 2. Section 6140.3 is added to the Business and Professions Code, to read:

6140.3. (a) The board may increase the annual membership fee fixed by Section 6140 and the annual membership fee specified in Section 6141 by an additional amount not exceeding ten dollars ($10). This additional amount may be used only for (1) the costs of financing, constructing, purchasing, or leasing facilities to house State Bar staff and (2) any major capital improvement projects related to facilities owned by the bar.

(b) Funds collected pursuant to subdivision (a) between January 1, 2009, and December 31, 2013, may only be used for the construction, purchase, or lease of a facility in southern California upon the expiration of the State Bar's existing lease of a facility in Los Angeles in January 2014. The board shall report to the Assembly Committee on Judiciary and the Senate Committee on Judiciary on or before April 1, 2009, and annually thereafter, on its preliminary plans for determining whether to construct, purchase, or lease a facility in southern California. At least 60 days, or 90 days if the 60th day would occur when the Legislature

has adjourned for the fall or final recess, prior to entering into any agreement for the purchase of a facility in southern California, the board shall submit its proposed decision and cost estimate for the facility to the Assembly Committee on Judiciary and the Senate Committee on Judiciary for review. If the board does not enter into an agreement to purchase a facility in southern California and the Legislature does not, by a later enacted statute, authorize use of the funds collected pursuant to this section to construct or lease a facility, those funds shall be applied as a one-time credit to each member's annual dues in the amount paid by that member.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. Section 6140.36 is added to the Business and Professions Code, to read:

6140.36. (a) The board shall report to the Assembly Committee on Judiciary and the Senate Committee on Judiciary on or before April 1, 2009, and on or before April 1 of the succeeding two years, on the use of the funds authorized pursuant to Section 6140.35.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

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## CHAPTER 166

An act to amend Section 1517 of the Probate Code, and to amend Section 349 of the Welfare and Institutions Code, relating to dependent children.

[Approved by Governor July 21, 2008. Filed with Secretary of State July 21, 2008.]

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

SECTION 1. It is the intent of the Legislature that all children who want to attend their juvenile court hearings be given the means and the opportunity to attend, that these hearings be set to accommodate children's schedules, and that courtrooms and waiting areas help facilitate their attendance and participation. It is also the intent of the Legislature that juvenile courts promote communication with, and the participation of, children in attendance at hearings of which they are the subject, and that children attending these hearings leave the hearing with a clear

understanding of what decisions the court made and why, and that the Administrative Office of the Courts help promote these objectives.

SEC. 2. Section 1517 of the Probate Code is amended to read:

1517. (a) This part does not apply to guardianships resulting from the selection and implementation of a permanent plan pursuant to Section 366.26 of the Welfare and Institutions Code. For those minors, Section 366.26 of the Welfare and Institutions Code and Division 3 (commencing with Rule 5.500) of Title Five of the California Rules of Court specify the exclusive procedures for establishing, modifying, and terminating legal guardianships. If no specific provision of the Welfare and Institutions Code or the California Rules of Court is applicable, the provisions applicable to the administration of estates under Part 4 (commencing with Section 2100) govern so far as they are applicable to like situations.

(b) This chapter shall not be construed to prevent a court that assumes jurisdiction of a minor child pursuant to Section 300 of the Welfare and Institutions Code, or a probate court, as appropriate, from issuing orders or making appointments, on motion of the child's counsel, consistent with Division 2 of the Welfare and Institutions Code or Divisions 4 to 6, inclusive, of the Probate Code necessary to ensure the appropriate administration of funds for the benefit of the child. Orders or appointments regarding those funds may continue after the court's jurisdiction is terminated pursuant to Section 391 of the Welfare and Institutions Code.

SEC. 3. Section 349 of the Welfare and Institutions Code is amended to read:

349. (a) A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Sections 290.1 and 290.2, is entitled to be present at the hearing.

(b) The minor and any person who is entitled to that notice has the right to be represented at the hearing by counsel of his or her own choice.

(c) If the minor is present at the hearing, the court shall allow the minor, if the minor so desires, to address the court and participate in the hearing.

(d) If the minor is 10 years of age or older and he or she is not present at the hearing, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire whether the minor was given an opportunity to attend. If that minor was not properly notified or if he or she wished to be present and was not given an opportunity to be present, the court shall continue the hearing to allow the minor to be present unless the court finds that it is in the best interest of the minor not to continue the hearing. The court shall continue the hearing only for that period of time necessary to provide notice and

secure the presence of the child. The court may issue any and all orders reasonably necessary to ensure that the child has an opportunity to attend.

(e) Nothing in this section shall prevent or limit any child's right to attend or participate in the hearing.

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## CHAPTER 167

An act to amend Sections 1014 and 1023 of the Military and Veterans Code, relating to veterans.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 1014 of the Military and Veterans Code is amended to read:

1014. The home shall be under the management and control of the department and subject to the policies adopted by the California Veterans Board.

SEC. 2. Section 1023 of the Military and Veterans Code is amended to read:

1023. (a) The department may sue and be sued in any of the courts of this state. All property held by the department for the home shall be held in trust for the state and for the use and benefit of the home. The administrator shall manage the home and administer its affairs, and, subject to the direction of the director, adopt rules and regulations for the government of the home in conformity, as nearly as possible, to the rules and regulations of the United States Veterans' Administration for their facilities.

(b) The Director of General Services may lease or let any real property held by the department for the home, and not needed for any direct or immediate purpose of the home, to any entity or person upon terms and conditions determined to be in the best interests of the home. In any leasing or letting, primary consideration shall be given to the use of real property for agricultural purposes, and except as provided in Section 1048, all money received in connection therein shall be deposited in the General Fund to the credit of, and shall augment the current appropriation for the support of, the home.

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# CHAPTER 168

An act to repeal and add Section 15212 of the Probate Code, relating to pet trusts.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 15212 of the Probate Code is repealed.

SEC. 2. Section 15212 is added to the Probate Code, to read:

15212. (a) Subject to the requirements of this section, a trust for the care of an animal is a trust for a lawful noncharitable purpose. Unless expressly provided in the trust, the trust terminates when no animal living on the date of the settlor's death remains alive. The governing instrument of the animal trust shall be liberally construed to bring the trust within this section, to presume against the merely precatory or honorary nature of the disposition, and to carry out the general intent of the settlor. Extrinsic evidence is admissible in determining the settlor's intent.

(b) A trust for the care of an animal is subject to the following requirements:

(1) Except as expressly provided otherwise in the trust instrument, the principal or income shall not be converted to the use of the trustee or to any use other than for the benefit of the animal.

(2) Upon termination of the trust, the trustee shall distribute the unexpended trust property in the following order:

(A) As directed in the trust instrument.

(B) If the trust was created in a nonresiduary clause in the settlor's will or in a codicil to the settlor's will, under the residuary clause in the settlor's will.

(C) If the application of subparagraph (A) or (B) does not result in distribution of unexpended trust property, to the settlor's heirs under Section 21114.

(3) For the purposes of Section 21110, the residuary clause described in subparagraph (B) of paragraph (2) shall be treated as creating a future interest under the terms of a trust.

(c) The intended use of the principal or income may be enforced by a person designated for that purpose in the trust instrument or, if none is designated, by a person appointed by a court. In addition to a person identified in subdivision (a) of Section 17200, any person interested in the welfare of the animal or any nonprofit charitable organization that has as its principal activity the care of animals may petition the court

regarding the trust as provided in Chapter 3 (commencing with Section 17200) of Part 5.

(d) If a trustee is not designated or no designated or successor trustee is willing or able to serve, a court shall name a trustee. A court may order the transfer of the trust property to a court-appointed trustee, if it is required to ensure that the intended use is carried out and if a successor trustee is not designated in the trust instrument or if no designated successor trustee agrees to serve or is able to serve. A court may also make all other orders and determinations as it shall deem advisable to carry out the intent of the settlor and the purpose of this section.

(e) The accountings required by Section 16062 shall be provided to the beneficiaries who would be entitled to distribution if the animal were then deceased and to any nonprofit charitable corporation that has as its principal activity the care of animals and that has requested these accountings in writing. However, if the value of the assets in the trust does not exceed forty thousand dollars ($40,000), no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or fee is required by reason of the existence of the fiduciary relationship of the trustee, unless ordered by the court or required by the trust instrument.

(f) Any beneficiary, any person designated by the trust instrument or the court to enforce the trust, or any nonprofit charitable corporation that has as its principal activity the care of animals may, upon reasonable request, inspect the animal, the premises where the animal is maintained, or the books and records of the trust.

(g) A trust governed by this section is not subject to termination pursuant to subdivision (b) of Section 15408.

(h) Section 15211 does not apply to a trust governed by this section.

(i) For purposes of this section, "animal" means a domestic or pet animal for the benefit of which a trust has been established.

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## CHAPTER 169

An act to amend Sections 203, 203.1, 204, 210, 215, 220, and 2699.5 of, and to add Section 201.3 to, the Labor Code, relating to employment.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 201.3 is added to the Labor Code, to read:

201.3. (a) For purposes of this section, the following definitions apply:

(1) "Temporary services employer" means an employing unit that contracts with clients or customers to supply workers to perform services for the clients or customers and that performs all of the following functions:

(A) Negotiates with clients and customers for matters such as the time and place where the services are to be provided, the type of work, the working conditions, and the quality and price of the services.

(B) Determines assignments or reassignments of workers, even if workers retain the right to refuse specific assignments.

(C) Retains the authority to assign or reassign a worker to another client or customer when the worker is determined unacceptable by a specific client or customer.

(D) Assigns or reassigns workers to perform services for clients or customers.

(E) Sets the rate of pay of workers, whether or not through negotiation.

(F) Pays workers from its own account or accounts.

(G) Retains the right to hire and terminate workers.

(2) "Temporary services employer" does not include any of the following:

(A) A bona fide nonprofit organization that provides temporary service employees to clients.

(B) A farm labor contractor, as defined in subdivision (b) of Section 1682.

(C) A garment manufacturing employer, which, for purposes of this section, has the same meaning as "contractor," as defined in subdivision (d) of Section 2671.

(3) "Employing unit" has the same meaning as defined in Section 135 of the Unemployment Insurance Code.

(4) "Client" and "customer" means the person with whom a temporary services employer has a contractual relationship to provide the services of one or more individuals employed by the temporary services employer.

(b) (1) Except as provided in paragraphs (2) to (5), inclusive, if an employee of a temporary services employer is assigned to work for a client, that employee's wages are due and payable no less frequently than weekly, regardless of when the assignment ends, and wages for work performed during any calendar week shall be due and payable not later than the regular payday of the following calendar week. A temporary services employer shall be deemed to have timely paid wages upon completion of an assignment if wages are paid in compliance with this subdivision.

(2) If an employee of a temporary services employer is assigned to work for a client on a day-to-day basis, that employee's wages are due and payable at the end of each day, regardless of when the assignment ends, if each of the following occurs:

(A) The employee reports to or assembles at the office of the temporary services employer or other location.

(B) The employee is dispatched to a client's worksite each day and returns to or reports to the office of the temporary services employer or other location upon completion of the assignment.

(C) The employee's work is not executive, administrative, or professional, as defined in the wage orders of the Industrial Welfare Commission, and is not clerical.

(3) If an employee of a temporary services employer is assigned to work for a client engaged in a trade dispute, that employee's wages are due and payable at the end of each day, regardless of when the assignment ends.

(4) If an employee of a temporary services employer is assigned to work for a client and is discharged by the temporary services employer or leasing employer, wages are due and payable as provided in Section 201.

(5) If an employee of a temporary services employer is assigned to work for a client and quits his or her employment with the temporary services employer, wages are due and payable as provided in Section 202.

(6) If an employee of a temporary services employer is assigned to work for a client for over 90 consecutive calendar days, this section shall not apply unless the temporary services employer pays the employee weekly in compliance with paragraph (1) of subdivision (b).

(c) A temporary services employer who violates this section shall be subject to the civil penalties provided for in Section 203, and to any other penalties available at law.

(d) Nothing in this section shall be interpreted to limit any rights or remedies otherwise available under state or federal law.

SEC. 2. Section 203 of the Labor Code is amended to read:

203. (a) If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to

any benefit under this section for the time during which he or she so avoids payment.

(b) Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

SEC. 3. Section 203.1 of the Labor Code is amended to read:

203.1. If an employer pays an employee in the regular course of employment or in accordance with Section 201, 201.3, 201.5, 201.7, or 202 any wages or fringe benefits, or both, by check, draft or voucher, which check, draft or voucher is subsequently refused payment because the employer or maker has no account with the bank, institution, or person on which the instrument is drawn, or has insufficient funds in the account upon which the instrument is drawn at the time of its presentation, so long as the same is presented within 30 days of receipt by the employee of the check, draft or voucher, those wages or fringe benefits, or both, shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced. However, those wages and fringe benefits shall not continue for more than 30 days and this penalty shall not apply if the employer can establish to the satisfaction of the Labor Commissioner or an appropriate court of law that the violation of this section was unintentional. This penalty also shall not apply in any case in which an employee recovers the service charge authorized by Section 1719 of the Civil Code in an action brought by the employee thereunder.

SEC. 4. Section 204 of the Labor Code is amended to read:

204. (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. However, salaries of executive, administrative, and professional employees of employers covered by the Fair Labor Standards Act, as set forth pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as amended through March 1, 1969, in Part 541 of Title 29 of the Code of Federal Regulations, as that part now reads or may be amended to read at any time hereafter, may be paid once a month on or before the 26th day of the month during which the labor was performed if the entire month's salaries, including the unearned portion between the date of payment and the last day of the month, are paid at that time.

(b) (1) Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

(2) An employer is in compliance with the requirements of subdivision (a) of Section 226 relating to total hours worked by the employee, if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

SEC. 5. Section 210 of the Labor Code is amended to read:

210. (a) In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows:

(1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee.

(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

(b) The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties pursuant to this chapter or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and the attorneys thereof may proceed and act for and on behalf of the people in bringing these actions. Twelve and one-half percent of the penalty recovered shall be paid into a fund within the Labor and Workforce Development Agency dedicated to educating employers about state labor laws, and the remainder shall be paid into the State Treasury to the credit of the General Fund.

SEC. 6. Section 215 of the Labor Code is amended to read:

215. Any person, or the agent, manager, superintendent or officer thereof, who violates any provision of Section 201.3, 204, 204b, 205, 207, 208, 209, or 212 is guilty of a misdemeanor. Any failure to keep

posted any notice required by Section 207 is prima facie evidence of a violation of these sections.

SEC. 7. Section 220 of the Labor Code is amended to read:

220. (a) Sections 201.3, 201.5, 201.7, 203.1, 203.5, 204, 204a, 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments are subject to these provisions.

SEC. 8. Section 2699.5 of the Labor Code is amended to read:

2699.5. The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 170

An act to amend Sections 798.34 and 799.9 of, and to add Sections 798.29.6 and 799.11 to, the Civil Code, relating to mobilehome parks.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 798.29.6 is added to the Civil Code, to read:

798.29.6. The management shall not prohibit a homeowner or resident from installing accommodations for the disabled on the home or the site, lot, or space on which the mobilehome is located, including, but not limited to, ramps or handrails on the outside of the home, as long as the installation of those facilities complies with code, as determined by an enforcement agency, and those facilities are installed pursuant to a permit, if required for the installation, issued by the enforcement agency. The management may require that the accommodations installed pursuant to this section be removed by the current homeowner at the time the mobilehome is removed from the park or pursuant to a written agreement between the current homeowner and the management prior to the completion of the resale of the mobilehome in place in the park. This section is not exclusive and shall not be construed to condition, affect, or supersede any other provision of law or regulation relating to accessibility or accommodations for the disabled.

SEC. 2. 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. A person who is a guest, as described in this subdivision, 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 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.

(d) A senior homeowner who resides in a mobilehome park that has implemented rules or regulations limiting residency based on age requirements for housing for older persons, pursuant to Section 798.76, may share his or her mobilehome with any person over 18 years of age if this person is a parent, sibling, child, or grandchild of the senior homeowner and requires live-in health care, live-in supportive care, or supervision pursuant to a written treatment plan prepared by a physician and surgeon. Management may not charge a fee for this person. Any agreement between the senior homeowner and this person shall not change the terms and conditions of the rental agreement between management and the senior homeowner. Unless otherwise agreed upon, park management shall not be required to manage, supervise, or provide for this person's care during his or her stay in the mobilehome park. This person shall have no rights of tenancy in the park, but shall comply with the rules and regulations of the mobilehome park. A violation of the mobilehome park rules and regulations by this person shall be deemed a violation of the rules and regulations by the homeowner pursuant to subdivision (d) of Section 798.56. As used in this subdivision, "senior homeowner" means a homeowner who is 55 years of age or older.

SEC. 3. Section 799.9 of the Civil Code is amended to read:

799.9. (a) A homeowner may share his or her mobilehome with any person 18 years of age or older if that person is providing live-in health care, live-in supportive care, or supervision to the homeowner pursuant to a written treatment plan prepared by a physician and surgeon. A fee shall not be charged by management for that person. That person shall have no rights of tenancy in, and shall comply with the rules and regulations of, the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park.

(b) A senior homeowner who resides in a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park, that has implemented rules or regulations limiting residency based on age requirements for housing for older persons, pursuant to Section

799.5, may share his or her mobilehome with any person 18 years of age or older if this person is a parent, sibling, child, or grandchild of the senior homeowner and requires live-in health care, live-in supportive care, or supervision pursuant to a written treatment plan prepared by a physician and surgeon. A fee shall not be charged by management for that person. Unless otherwise agreed upon, the management shall not be required to manage, supervise, or provide for this person's care during his or her stay in the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park. That person shall have no rights of tenancy in, and shall comply with the rules and regulations of, the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park. As used in this subdivision, "senior homeowner" means a homeowner or resident who is 55 years of age or older.

SEC. 4. Section 799.11 is added to the Civil Code, to read:

799.11. The ownership or management shall not prohibit a homeowner or resident from installing accommodations for the disabled on the home or the site, lot, or space on which the mobilehome is located, including, but not limited to, ramps or handrails on the outside of the home, as long as the installation of those facilities complies with code, as determined by an enforcement agency, and those facilities are installed pursuant to a permit, if required for the installation, issued by the enforcement agency. The management may require that the accommodations installed pursuant to this section be removed by the current homeowner at the time the mobilehome is removed from the park or pursuant to a written agreement between the current homeowner and the management prior to the completion of the resale of the mobilehome in place in the park. This section is not exclusive and shall not be construed to condition, affect, or supersede any other provision of law or regulation relating to accessibility or accommodation for the disabled.

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## CHAPTER 171

An act to amend Section 10235 of, and to add Section 10235.95 to, the Insurance Code, relating to insurance.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 10235 of the Insurance Code is amended to read:

10235. Except as provided in Section 10235.95, this article applies to all long-term care insurance policies delivered or issued for delivery in this state on or after January 1, 1990.

SEC. 2. Section 10235.95 is added to the Insurance Code, to read:

10235.95. (a) Notwithstanding Section 10235, this section applies to all long-term care policies in force, regardless of their dates of issuance.

(b) Interest shall accrue and shall be payable to the claimant at the rate of 10 percent per annum on the amount of any accepted claim beginning on the first calendar day after the day that the payment of the accepted claim is due pursuant to Section 2695.7 of Title 10 of the California Code of Regulations or any successor to that provision, provided that the claim is accepted on or after December 1, 2008.

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## CHAPTER 172

An act to add Sections 17922.12 and 18941.7 to the Health and Safety Code, and to amend Section 14877.1 of the Water Code, relating to building standards.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 17922.12 is added to the Health and Safety Code, to read:

17922.12. (a) For the purposes of this section, "graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers.

(b) Notwithstanding Chapter 22 (commencing with Section 14875) of Division 7 of the Water Code, at the next triennial building standards rulemaking cycle that commences on or after January 1, 2009, the

department shall adopt and submit for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 building standards for the construction, installation, and alteration of graywater systems for indoor and outdoor uses.

(c) In adopting building standards under this section, the department shall do all of the following:

(1) Convene and consult a stakeholder's group that includes members with expertise in public health, water quality, geology or soils, residential plumbing, home building, and environmental stewardship.

(2) Ensure protection of water quality in accordance with applicable provisions of state and federal water quality law.

(3) Consider existing research available on the environmental consequences to soil and groundwater of short-term and long-term graywater use for irrigation purposes, including, but not limited to, research sponsored by the Water Environment Research Foundation.

(4) Consider graywater use impacts on human health.

(5) Consider the circumstances under which the use of in-home graywater treatment systems is recommended.

(6) Consider the use and regulation of graywater in other jurisdictions within the United States and in other nations.

(d) The department may revise and update the standards adopted under this section at any time, and the department shall reconsider these standards at the next triennial rulemaking that commences after their adoption.

(e) The approval by the California Building Standards Commission of the standards for graywater systems adopted under this section shall terminate the authority of the Department of Water Resources to adopt and update standards for the installation, construction, and alteration of graywater systems in residential buildings pursuant to Chapter 22 (commencing with Section 14875) of Division 7 of the Water Code.

SEC. 2. Section 18941.7 is added to the Health and Safety Code, to read:

18941.7. A city, county, or other local agency may adopt, after a public hearing and enactment of an ordinance or resolution, building standards that prohibit entirely the use of graywater, or building standards that are more restrictive than the graywater building standards adopted by the department under Section 17922.12 and published in the California Building Standards Code.

SEC. 3. Section 14877.1 of the Water Code is amended to read:

14877.1. (a) The department, in consultation with the State Department of Public Health and the Center for Irrigation Technology at California State University, Fresno, shall adopt standards for the installation of graywater systems. In adopting these standards, the

department shall consider, among other resources, "Appendix J," as adopted on September 29, 1992, by the International Association of Plumbing and Mechanical Officials, the graywater standard proposed for the latest edition of the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the City of Los Angeles Graywater Pilot Project Final Report issued in November 1992, and the advice of the Center for Irrigation Technology at California State University, Fresno, on the installation depth for subsurface drip irrigation systems.

(b) The department shall include among the approved methods of subsurface irrigation, but shall not be limited to, drip systems.

(c) The department shall revise its graywater systems standards as needed.

(d) The authority of the department under this chapter to adopt standards for residential buildings shall terminate upon the approval by the California Building Standards Commission of the standards submitted to that commission pursuant to Section 17922.12 of the Health and Safety Code.

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## CHAPTER 173

An act to amend Section 14035.55 of the Government Code, relating to transportation.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 14035.55 of the Government Code is amended to read:

14035.55. (a) The Legislature finds and declares all of the following:

(1) Intercity passenger bus service provided by intercity bus companies on a regular-route basis is the only public mass transportation service in the state to provide surface transportation without public subsidy.

(2) The long-term maintenance of private sector intercity passenger service is of vital importance to the state.

(3) Intercity bus companies serve many communities throughout California, providing a network of connection points without equal by any other mode of public or private transportation.

(b) To the extent permitted by federal law, the department shall encourage Amtrak and motor carriers of passengers to do both of the following:

(1) Combine or package their respective services and facilities to the public as a means of improving services to the public.

(2) Coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(c) Except as authorized under subdivisions (e) and (f), the department may provide funding to Amtrak for the purpose of entering into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only if all of the following conditions are met:

(1) The motor carrier is not a public recipient of governmental assistance, as defined in Section 13902(b)(8)(A) of Title 49 of the United States Code, other than a recipient of funds under Section 5311(f) of that title and code. This paragraph does not apply if a local public motor carrier proposes to serve passengers only within its service area.

(2) Service is provided only for passengers on trips where the passengers have had prior movement by rail or will have subsequent movement by rail, evidenced by a combination rail and bus one-way or roundtrip ticket, or service is also provided on State Highway Route 50 between the City of Sacramento and the City of South Lake Tahoe and intermediate points or on State Highway Route 5 between the community of Lebec in Kern County and the City of Santa Clarita for passengers solely by bus if no other bus service is provided by a private intercity bus company.

(3) Vehicles of the motor carrier, when used to transport passengers pursuant to paragraph (2), are used exclusively for that purpose.

(4) The motor carrier is registered with the United States Department of Transportation (DOT) and operates in compliance with the federal motor carrier safety regulations, and provides service that is accessible to persons with disabilities in compliance with applicable DOT regulations pertaining to Amtrak services, in accordance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(d) The department shall incorporate the conditions specified in subdivision (c) into state-supported passenger rail feeder bus service agreements between Amtrak and motor carriers of passengers. The bus service agreements shall also provide that a breach of those conditions shall be grounds for termination of the agreements.

(e) Notwithstanding subdivisions (c) and (d), the department may provide funding to Amtrak for the purpose of entering into a contract with a motor carrier of passengers to transport Amtrak passengers on buses operated on a route, if the buses are operated by the motor carrier

as part of a regularly scheduled, daily bus service that has been operating consecutively without an Amtrak contract for 12 months immediately prior to contracting with Amtrak.

(f) Notwithstanding subdivisions (c) and (d), or any other provision of law, the department may enter into a contract, either directly with a public motor carrier in the County of Monterey, or indirectly with that carrier through a contract with Amtrak, to provide mixed-mode feeder bus service on the San Jose-Gilroy-Monterey route. The contract with a public motor carrier may only be entered into if the department determines that there is no private motor carrier providing scheduled bus service on the San Jose-Gilroy-Monterey route. However, the contract shall be terminated, within 120 days' notice to the public motor carrier, if a private motor carrier again operates a scheduled service on the San Jose-Gilroy-Monterey route.

(g) Pursuant to paragraph (2) of subdivision (c), the department may amend its contract with Amtrak to add a term to provide bus service to passengers traveling solely by bus on the Sacramento-South Lake Tahoe route and between Lebec and Santa Clarita on the Bakersfield-Santa Clarita route. A contract amendment with Amtrak may only be entered into if the department determines that there is no private motor carrier providing scheduled bus service on the route that is the subject of the contract amendment. However, the applicable contract amendment shall be terminated, within 120 days' notice to Amtrak, if a private carrier again operates a scheduled bus service on the Sacramento-South Lake Tahoe route, or within 60 days' notice to Amtrak, if a private carrier again operates a scheduled bus service between Lebec and Santa Clarita on the Bakersfield-Santa Clarita route.

(h) The department shall undertake a two-year study of patronage on the bus service operated between the City of Sacramento and the City of South Lake Tahoe and intermediate points pursuant to subdivision (g), identifying the number of passengers who are transferring to an Amtrak rail service and those who are traveling solely on the bus service. The study shall identify the revenue from each category of passengers and include other pertinent ridership information. The report shall be submitted to the transportation policy committees of the Legislature no later than March 1, 2010.

(i) For purposes of this section, the following terms have the following meanings:

(1) "Amtrak" means the National Railroad Passenger Corporation.

(2) "Department" means the Department of Transportation or the department's successor with respect to providing funds to subsidize Amtrak service.

(3) "Motor carrier of passengers" means a person or entity providing motor vehicle transportation of passengers for compensation.

(4) "Mixed-mode feeder bus service" means bus service carrying both passengers connecting to or from a rail service and passengers only using the bus service.

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## CHAPTER 174

An act to add Part 3 (commencing with Section 21310) to Division 11 of, and to repeal Part 3 (commencing with Section 21300) of Division 11 of, the Probate Code, relating to wills and trusts.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Part 3 (commencing with Section 21300) of Division 11 of the Probate Code is repealed.

SEC. 2. Part 3 (commencing with Section 21310) is added to Division 11 of the Probate Code, to read:

### PART 3. NO CONTEST CLAUSE

21310. As used in this part:

(a) "Contest" means a pleading filed with the court by a beneficiary that would result in a penalty under a no contest clause, if the no contest clause is enforced.

(b) "Direct contest" means a contest that alleges the invalidity of a protected instrument or one or more of its terms, based on one or more of the following grounds:

(1) Forgery.

(2) Lack of due execution.

(3) Lack of capacity.

(4) Menace, duress, fraud, or undue influence.

(5) Revocation of a will pursuant to Section 6120, revocation of a trust pursuant to Section 15401, or revocation of an instrument other than a will or trust pursuant to the procedure for revocation that is provided by statute or by the instrument.

(6) Disqualification of a beneficiary under Section 6112 or 21350.

(c) "No contest clause" means a provision in an otherwise valid instrument that, if enforced, would penalize a beneficiary for filing a pleading in any court.

(d) "Pleading" means a petition, complaint, cross-complaint, objection, answer, response, or claim.

(e) "Protected instrument" means all of the following instruments:

(1) The instrument that contains the no contest clause.

(2) An instrument that is in existence on the date that the instrument containing the no contest clause is executed and is expressly identified in the no contest clause, either individually or as part of an identifiable class of instruments, as being governed by the no contest clause.

21311. (a) A no contest clause shall only be enforced against the following types of contests:

(1) A direct contest that is brought without probable cause.

(2) A pleading to challenge a transfer of property on the grounds that it was not the transferor's property at the time of the transfer. A no contest clause shall only be enforced under this paragraph if the no contest clause expressly provides for that application.

(3) The filing of a creditor's claim or prosecution of an action based on it. A no contest clause shall only be enforced under this paragraph if the no contest clause expressly provides for that application.

(b) For the purposes of this section, probable cause exists if, at the time of filing a contest, the facts known to the contestant would cause a reasonable person to believe that there is a reasonable likelihood that the requested relief will be granted after an opportunity for further investigation or discovery.

21312. In determining the intent of the transferor, a no contest clause shall be strictly construed.

21313. This part is not intended as a complete codification of the law governing enforcement of a no contest clause. The common law governs enforcement of a no contest clause to the extent this part does not apply.

21314. This part applies notwithstanding a contrary provision in the instrument.

21315. (a) This part applies to any instrument, whenever executed, that became irrevocable on or after January 1, 2001.

(b) This part does not apply to an instrument that became irrevocable before January 1, 2001.

SEC. 3. This act shall become operative on January 1, 2010.

# CHAPTER 175

An act to amend Sections 66055.8 and 78261.3 of the Education Code, relating to nursing programs.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 66055.8 of the Education Code is amended to read:

66055.8. Notwithstanding any other provision of law, a campus of the California State University or the California Community Colleges that operates a registered nursing program shall not require a student who has been admitted to that registered nursing program and who has already earned a baccalaureate or higher degree from a regionally accredited institution of higher education to undertake any coursework other than the coursework that is unique and exclusively required to earn a nursing degree from that institution.

SEC. 2. Section 78261.3 of the Education Code is amended to read:

78261.3. Notwithstanding any other provision of law:

(a) Any community college district, irrespective of whether it participates in the program established by this article, may use any diagnostic assessment tool that is commonly used in registered nursing programs and is approved by the chancellor.

(b) If, after using an approved diagnostic assessment tool, a community college registered nursing program determines that the number of applicants to that program exceeds its capacity, the program is authorized to use additional multicriteria screening measures. This subdivision does not prohibit or prevent a community college registered nursing program from using an approved diagnostic assessment tool before or during a multicriteria screening process.

(c) A community college district may not do either of the following:

(1) Exclude an applicant to a registered nursing program on the basis that the applicant is not a resident of that district or has not completed prerequisite courses in that district.

(2) Implement policies, procedures, and systems, including, but not limited to, priority registration systems, that have the effect of excluding an applicant or student who is not a resident of that district from a registered nursing program of that district.

# CHAPTER 176

An act to amend Sections 25981, 25982, 25984, and 25985 of, to add Section 25982.1 to, and to repeal and add Section 25983 of, the Public Resources Code, relating to public resources.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 25981 of the Public Resources Code is amended to read:

25981. (a) As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, on the roof of a building, that is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system that makes use of solar energy for any or all of the following purposes:

(1) Water heating.

(2) Space heating or cooling.

(3) Power generation.

(b) Notwithstanding subdivision (a), for the purpose of this chapter, "solar collector" includes a fixed device, structure, or part of a device or structure that is used primarily to transform solar energy into thermal, chemical, or electrical energy and that is installed on the ground because a solar collector cannot be installed on the roof of the building receiving the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building.

(c) For the purposes of this chapter, "solar collector" does not include a solar collector that is designed and intended to offset more than the building's electricity demand.

(d) For purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and not less than 10 feet above the ground. A solar collector may be less than 10 feet in height only if, in addition to the five-foot setback, the solar collector is set back three times the amount lowered.

SEC. 2. Section 25982 of the Public Resources Code is amended to read:

25982. After the installation of a solar collector, a person owning or in control of another property shall not allow a tree or shrub to be placed or, if placed, to grow on that property so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector

surface at any one time between the hours of 10 a.m. and 2 p.m., local standard time.

SEC. 3. Section 25982.1 is added to the Public Resources Code, to read:

25982.1. (a) An owner of a building where a solar collector is proposed to be installed may provide written notice by certified mail to a person owning property that may be affected by the requirements of this chapter prior to the installation of the solar collector. If a notice is mailed, the notice shall be mailed no more than 60 days prior to installation of the solar collector and shall read as follows:

SOLAR SHADE CONTROL NOTICE

Under the Solar Shade Control Act (California Public Resources Code §25980 et seq.) a tree or shrub cannot cast a shadow greater than 10 percent of a solar collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m. local standard time if the tree or shrub is placed after installation of a solar collector. The owner of the building where a solar collector is proposed to be installed is providing this written notice to persons owning property that may be affected by the requirements of the act no more than 60 days prior to the installation of a solar collector. The building owner is providing the following information:

Name and address of building owner:
Telephone number of building owner:

Address of building and specific location where a solar collector will be installed (including street number and name, city/county, ZIP Code, and assessor's book, page, and parcel number):

Installation date of solar collector:

_____

Building Owner, Date

(b) If the owner of the building where a solar collector is proposed to be installed provided the notice pursuant to subdivision (a), and the installation date is later than the date specified in that notice, the later date shall be specified in a subsequent notice to persons receiving the initial notice.

(c) (1) A transferor of the building where the solar collector is installed may provide a record of persons receiving the notice pursuant to subdivision (a) to a transferee of the building.

(2) A transferor receiving a notice pursuant to subdivision (a) may provide the notice to a transferee of the property.

SEC. 4. Section 25983 of the Public Resources Code is repealed.

SEC. 5. Section 25983 is added to the Public Resources Code, to read:

25983. A tree or shrub that is maintained in violation of Section 25982 is a private nuisance, as defined in Section 3481 of the Civil Code, if the person who maintains or permits the tree or shrub to be maintained fails to remove or alter the tree or shrub after receiving a written notice from the owner or agent of the affected solar collector requesting compliance with the requirements of Section 25982.

SEC. 6. Section 25984 of the Public Resources Code is amended to read:

25984. This chapter does not apply to any of the following:

(a) A tree or shrub planted prior to the installation of a solar collector.

(b) A tree planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops.

(c) The replacement of a tree or shrub that had been growing prior to the installation of a solar collector and that, subsequent to the installation of the solar collector, dies, or is removed for the protection of public health, safety, or the environment.

(d) A tree or shrub that is subject to a city or county ordinance.

SEC. 7. Section 25985 of the Public Resources Code is amended to read:

25985. (a) A city, or for unincorporated areas, a county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of the ordinance shall not be subject to the California Environmental Quality Act (commencing with Section 21000).

(b) Notwithstanding the requirements of this chapter, a city or a county ordinance specifying requirements for tree preservation or solar shade control shall govern within the jurisdiction of the city or county that adopted the ordinance.

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## CHAPTER 177

An act to amend Section 1501 of the Corporations Code, relating to corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 1501 of the Corporations Code is amended to read:

1501. (a) (1) The board shall cause an annual report to be sent to the shareholders not later than 120 days after the close of the fiscal year, unless in the case of a corporation with less than 100 holders of record of its shares (determined as provided in Section 605) this requirement is expressly waived in the bylaws. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that report and any accompanying material sent pursuant to this section may be sent by electronic transmission by the corporation (Section 20). This report shall contain a balance sheet as of the end of that fiscal year and an income statement and a statement of cashflows for that fiscal year, accompanied by any report thereon of independent accountants or, if there is no report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the books and records of the corporation.

(2) Unless so waived, the report specified in paragraph (1) shall be sent to the shareholders at least 15 (or, if sent by third-class mail, 35) days prior to the annual meeting of shareholders to be held during the next fiscal year, but this requirement shall not limit the requirement for holding an annual meeting as required by Section 600.

(3) Notwithstanding Section 114, the financial statements of any corporation with fewer than 100 holders of record of its shares (determined as provided in Section 605) required to be furnished by this subdivision and subdivision (c) are not required to be prepared in conformity with generally accepted accounting principles if they reasonably set forth the assets and liabilities and the income and expense of the corporation and disclose the accounting basis used in their preparation.

(4) The requirements described in paragraphs (1) and (2) shall be satisfied if a corporation with an outstanding class of securities registered under Section 12 of the Securities Exchange Act of 1934 complies with Section 240.14a-16 of Title 17 of the Code of Federal Regulations, as it may be amended from time to time, with respect to the obligation of a corporation to furnish an annual report to shareholders pursuant to Section 240.14a-3(b) of Title 17 of the Code of Federal Regulations.

(b) In addition to the financial statements required by subdivision (a), the annual report of any corporation having 100 or more holders of record

of its shares (determined as provided in Section 605) either not subject to the reporting requirements of Section 13 of the Securities Exchange Act of 1934, or exempted from those reporting requirements by Section 12(g)(2) of that act, shall also describe briefly both of the following:

(1) Any transaction (excluding compensation of officers and directors) during the previous fiscal year involving an amount in excess of forty thousand dollars ($40,000) (other than contracts let at competitive bid or services rendered at prices regulated by law) to which the corporation or its parent or subsidiary was a party and in which any director or officer of the corporation or of a subsidiary or (if known to the corporation or its parent or subsidiary) any holder of more than 10 percent of the outstanding voting shares of the corporation had a direct or indirect material interest, naming the person and stating the person's relationship to the corporation, the nature of the person's interest in the transaction and, where practicable, the amount of the interest; provided that in the case of a transaction with a partnership of which the person is a partner, only the interest of the partnership need be stated; and provided further that no report need be made in the case of any transaction approved by the shareholders (Section 153).

(2) The amount and circumstances of any indemnification or advances aggregating more than ten thousand dollars ($10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 317; provided that no report need be made in the case of indemnification approved by the shareholders (Section 153) under paragraph (2) of subdivision (e) of Section 317.

(c) If no annual report for the last fiscal year has been sent to shareholders, the corporation shall, upon the written request of any shareholder made more than 120 days after the close of that fiscal year, deliver or mail to the person making the request within 30 days thereafter the financial statements required by subdivision (a) for that year. A shareholder or shareholders holding at least 5 percent of the outstanding shares of any class of a corporation may make a written request to the corporation for an income statement of the corporation for the three-month, six-month, or nine-month period of the current fiscal year ended more than 30 days prior to the date of the request and a balance sheet of the corporation as of the end of the period and, in addition, if no annual report for the last fiscal year has been sent to shareholders, the statements referred to in subdivision (a) for the last fiscal year. The statements shall be delivered or mailed to the person making the request within 30 days thereafter. A copy of the statements shall be kept on file in the principal office of the corporation for 12 months and it shall be exhibited at all reasonable times to any shareholder demanding an

examination of the statements or a copy shall be mailed to the shareholder.

(d) The quarterly income statements and balance sheets referred to in this section shall be accompanied by the report thereon, if any, of any independent accountants engaged by the corporation or the certificate of an authorized officer of the corporation that the financial statements were prepared without audit from the books and records of the corporation.

(e) In addition to the penalties provided for in Section 2200, the superior court of the proper county shall enforce the duty of making and mailing or delivering the information and financial statements required by this section and, for good cause shown, may extend the time therefor.

(f) In any action or proceeding under this section, if the court finds the failure of the corporation to comply with the requirements of this section to have been without justification, the court may award an amount sufficient to reimburse the shareholder for the reasonable expenses incurred by the shareholder, including attorney's fees, in connection with the action or proceeding.

(g) This section applies to any domestic corporation and also to a foreign corporation having its principal executive office in this state or customarily holding meetings of its board in this state.

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

In order for corporations in the State of California to take advantage of technological improvements and achieve the costs savings afforded by federal regulations as soon as possible, it is necessary that this act take effect immediately.

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## CHAPTER 178

An act to amend Section 76.3 of the Harbors and Navigation Code, relating to harbors and ports.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 76.3 of the Harbors and Navigation Code is amended to read:

76.3. (a) The department may make loans to private marina owners to develop a recreational marina. Loan funds from the department may be utilized for both of the following:

(1) Construction costs for berthing facilities, dredging, parking, public access facilities, restrooms, vessel pumpout facilities, oil recycling facilities, utilities, landscaping, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, and other incidental boating-related amenities.

(2) Collateral appraisals, permit fees, planning, engineering, and design expenses directly related to the items specified in paragraph (1).

(b) No loan made by the department to a private marina owner shall exceed 75 percent of the funds annually budgeted for purposes of this article.

(c) The department shall not make a loan to a recreational marina that restricts access or bars the public other than that which is consistent with general commercial business practices.

(d) Any private marina owner who purchases facilities previously developed with a department loan is eligible to apply for a new construction loan from the department.

(e) (1) The department may also make a loan to a recreational marina for the purpose of refinancing an existing loan, subject to the following conditions:

(A) Not more than 70 percent of the proceeds from the loan shall be used to refinance an existing loan.

(B) Not less than 30 percent of the loan proceeds shall be used for construction activity authorized under this section.

(C) The loan applicant shall provide documentation to the department proving to the satisfaction of the department that the existing loan prohibits the addition of a loan in second position.

(D) The loan applicant shall meet all other requirements under law for loan qualification and any other applicable term or condition of law.

(2) This subdivision does not prohibit a person from applying for a loan under subdivision (a).

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## CHAPTER 179

An act to amend Sections 108, 480, 490, 650, 1265.1, 1625.4, 3152, 3702, 4999.2, 4999.7, 5216.6, 5616, 5640, 6073, 6212, 6213, 7027.5, 7159, 8698.5, 14207, 14245, 16721.5, 17204, 17915, 17929, and 19596.2 of the Business and Professions Code, to amend Sections 56.10, 798.73, 1185, 1789.13, 1936, 1951.7, and 2938 of the Civil Code, to amend Sections 340.7 and 486.050 of the Code of Civil Procedure, to amend

Section 9526.5 of the Commercial Code, to amend Sections 8484, 8774, 17075.10, 33051, 33382, 35021.3, 46300, 47605, 48980, 49423.5, 49431.7, 51228, 52244, 52499.66, 52861, 52922, 56030, 56300, 56302, 56328, 56331, 56341.1, 56342.1, 56363.5, 56366.1, 56426.6, 56431, 56456, 56476, 56504, 56851, 66018.55, 69551, and 71095 of, and to amend the headings of Chapter 1 (commencing with Section 8006) of Part 6 of Division 1 of Title 1 of, Article 1 (commencing with Section 8006) of Chapter 1 of Part 6 of Division 1 of Title 1 of, and Part 40.5 (commencing with Section 67500) of Division 5 of Title 3 of, the Education Code, to amend Section 13001 of the Elections Code, to amend Sections 1520 and 50700 of the Financial Code, to amend Section 8235 of the Fish and Game Code, to amend Sections 3352, 3357, and 20755 of the Food and Agricultural Code, to amend Sections 3502.5, 3517.8, 3543, 7267.2, 7576, 7585, 8588.1, 8592.1, 8879.50, 8879.60, 11126, 11549.2, 11549.5, 11549.6, 11550, 13959, 14838, 15820.104, 15820.105, 19609, 27293, 27361, 31521.3, 31739.33, 53343.1, 53601, 56100.1, 56700.1, 57009, 65007, 65865.5, 65917.5, 65962, 66474.5, 66474.62, 66540.1, 66540.9, 66540.10, 66540.12, 66540.32, 66540.54, 69615, 70375, 70391, 76000, 76000.5, 76104.1, 76104.6, 77200, 77201.1, 95001, 95003, and 95020 of, and to amend and renumber Section 66540.34 of, the Government Code, to amend Sections 1180.1, 1250.8, 1348.8, 1357.03, 1367.07, 1417.2, 1538.5, 1568.09, 1569.145, 1728.8, 11752.1, 25210.9, 25270.2, 25299.57, 25299.58, 39625.02, 43869, 44125, 44272, 101317, 111071, 116033, 121530, 122354, 124900, 124991, 127400, 127405, 128735, and 131540 of the Health and Safety Code, to amend Sections 739.3, 1063.1, 1626, 1764.1, 1765, 1872.8, 1872.81, 1872.86, and 15031 of the Insurance Code, to amend Sections 77.7, 4604.5, and 4658.5 of the Labor Code, to amend Sections 293, 398, 903.2, 1170, 1369.1, and 11062 of the Penal Code, to amend Sections 4584, 5818.2, 25402.5.4, 25402.10, 30253, 30327.5, 30327.6, 31408, 35615, and 40117 of the Public Resources Code, to amend Sections 353.1, 399.12, 884.5, and 2829 of the Public Utilities Code, to amend Sections 107.7, 8352.6, 8352.8, 17053.5, 30182, 32258, 41007, 41011, 41021, 41030, and 41099 of the Revenue and Taxation Code, to amend Sections 118, 464, 25440, and 36622 of the Streets and Highways Code, to amend Section 2739 of the Unemployment Insurance Code, to amend Sections 1803, 2430.1, 4766, 5004.1, 9853.6, 11410, 13353.2, 21251, 22511.85, 24617, 27315, 40002, and 40240 of the Vehicle Code, to amend Sections 8201, 9602, 9610, 9614, 9625, 13478, and 13480 of, and to amend and repeal Section 8610.5 of, the Water Code, to amend Sections 707, 5348, 5352.1, 5777.7, 5806, 10830, 10960, 11322.5, 14043.1, 14043.26, 14045, 14154.3, 14407.1, 15657.3, 15660, 16522.1, and 19630.5 of the Welfare and Institutions Code, to amend Section 34

of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), to amend Section 1107 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991), to amend Section 1 of Chapter 58 of the Statutes of 1997, and to amend Sections 2 and 4 of Chapter 4, Section 2 of Chapter 26, and Section 2 of Chapter 451, of the Statutes of 2007, relating to maintenance of the codes.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 108 of the Business and Professions Code is amended to read:

108. Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as these powers are given by statute to each respective board.

SEC. 2. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

SEC. 3. Section 490 of the Business and Professions Code is amended to read:

490. A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

SEC. 4. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(*l*)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) (1) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, necessary and used solely to receive and transmit electronic prescription information in accordance with the standards set forth in Section 1860D-4(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) in the following situations:

(A) In the case of a hospital, by the hospital to members of its medical staff.

(B) In the case of a group medical practice, by the practice to prescribing health care professionals that are members of the practice.

(C) In the case of Medicare prescription drug plan sponsors or Medicare Advantage organizations, by the sponsor or organization to pharmacists and pharmacies participating in the network of the sponsor or organization and to prescribing health care professionals.

(2) The exceptions set forth in this subdivision are adopted to conform state law with the provisions of Section 1860D-4(e)(6) of the Medicare

Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) and are limited to drugs covered under Part D of the federal Medicare Program that are prescribed to Part D eligible individuals (42 U.S.C. Sec. 1395w-101).

(3) The exceptions set forth in this subdivision shall not be operative until the regulations required to be adopted by the Secretary of the United States Department of Health and Human Services, pursuant to Section 1860D-4(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) are effective. If the California Health and Human Services Agency determines that regulations are necessary to ensure that implementation of the provisions of paragraph (1) is consistent with the regulations adopted by the Secretary of the United States Department of Health and Human Services, it shall adopt emergency regulations to that effect.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison or by imprisonment in the state prison and a fine of fifty thousand dollars ($50,000).

SEC. 5. Section 1265.1 of the Business and Professions Code is amended to read:

1265.1. (a) A primary care clinic that submits an application to the State Department of Public Health for clinic licensure pursuant to subdivision (a) of Section 1204 of the Health and Safety Code may submit prior to that submission, or concurrent therewith, an application for licensure or registration of a clinical laboratory to be operated by the clinic.

(b) An application for licensure of a clinical laboratory submitted pursuant to this section shall be subject to all applicable laboratory licensing laws and regulations, including, but not limited to, any statutory or regulatory timelines and processes for review of a clinical laboratory application.

SEC. 6. Section 1625.4 of the Business and Professions Code is amended to read:

1625.4. (a) Where the dental practice of an incapacitated or deceased dentist is a sole proprietorship or where an incapacitated or deceased

dentist is the sole shareholder of a professional dental corporation, a person identified in subdivision (a) of Section 1625.3 may enter into a contract with one or more dentists licensed in the state to continue the operations of the incapacitated or deceased dentist's dental practice for a period of no more than 12 months from the date of death or incapacity, or until the practice is sold or otherwise disposed of, whichever occurs first, if all of the following conditions are met:

(1) The person identified in subdivision (a) of Section 1625.3 delivers to the board a notification of death or incapacity that includes all of the following information:

(A) The name and license number of the deceased or incapacitated dentist.

(B) The name and address of the dental practice.

(C) If the dentist is deceased, the name, address, and tax identification number of the estate or trust.

(D) The name and license number of each dentist who will operate the dental practice.

(E) A statement that the information provided is true and correct, and that the person identified in subdivision (a) of Section 1625.3 understands that any interference by the person or by his or her assignee with the contracting dentist's or dentists' practice of dentistry or professional judgment is grounds for immediate termination of the operations of the dental practice without a hearing. The statement shall also provide that if the person required to make this notification willfully states as true any material fact that he or she knows to be false, he or she shall be subject to a civil penalty of up to ten thousand dollars ($10,000) in an action brought by any public prosecutor. A civil penalty imposed under this subparagraph shall be enforced as a civil judgment.

(2) The dentist or dentists who will operate the practice shall be licensed by the board and that license shall be current, valid, and shall not be suspended, restricted, or otherwise the subject of discipline.

(3) Within 30 days after the death or incapacity of a dentist, the person identified in subdivision (a) of Section 1625.3 or the contracting dentist or dentists shall send notification of the death or incapacity by mail to the last known address of each current patient of record with an explanation of how copies of the patient's records may be obtained. This notice may also contain any other relevant information concerning the continuation of the dental practice. The failure to comply with the notification requirement within the 30-day period shall be grounds for terminating the operation of the dental practice under subdivision (b). The contracting dentist or dentists shall obtain a form signed by the patient, or the patient's guardian or legal representative, that releases

the patient's confidential dental records to the contracting dentist or dentists prior to use of those records.

(b) The board may order the termination of the operations of a dental practice operating pursuant to this section if the board determines that the practice is operating in violation of this section. The board shall provide written notification at the address provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a). If the board does not receive a written appeal of the determination that the practice is operating in violation of this section within 10 days of receipt of the notice, the determination to terminate the operations of the dental practice shall take effect immediately. If an appeal is received in a timely manner by the board, the executive officer of the board, or his or her designee, shall conduct an informal hearing. The decision of the executive officer or his or her designee shall be mailed to the practice no later than 10 days after the informal hearing, is the final decision in the matter, and is not subject to appeal under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (b), if the board finds evidence that the person identified in subdivision (a) of Section 1625.3, or his or her assignee, has interfered with the practice or professional judgment of the contracting dentist or dentists or otherwise finds evidence that a violation of this section constitutes an immediate threat to the public health, safety, or welfare, the board may immediately order the termination of the operations of the dental practice without an informal hearing.

(d) A notice of an order of immediate termination of the dental practice without an informal hearing, as referenced in subdivision (b), shall be served by certified mail on the person identified in subdivision (a) of Section 1625.3 at the address provided pursuant to subparagraph (B) or (C) of paragraph (1) of subdivision (a), as appropriate, and on the contracting dentist or dentists at the address of the dental practice provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(e) A person receiving notice of an order of immediate termination pursuant to subdivision (d) may petition the board within 30 days of the date of service of the notice for an informal hearing before the executive officer or his or her designee, which shall take place within 30 days of the filing of the petition.

(f) A notice of the decision of the executive officer or his or her designee following an informal hearing held pursuant to subdivision (b) shall be served by certified mail on the person identified in subdivision (a) of Section 1625.3 at the address provided pursuant to subparagraph

(B) or (C) of paragraph (1) of subdivision (a), as appropriate, and on the contracting dentist or dentists at the address of the dental practice provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(g) The board may require the submission to the board of any additional information necessary for the administration of this section.

SEC. 7. Section 3152 of the Business and Professions Code is amended to read:

3152. The amounts of fees and penalties prescribed by this chapter shall be established by the board in amounts not greater than those specified in the following schedule:

(a) The fee for applicants applying for a license shall not exceed two hundred seventy-five dollars ($275).

(b) The fee for renewal of an optometric license shall not exceed five hundred dollars ($500).

(c) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars ($75).

(d) The fee for a branch office license shall not exceed seventy-five dollars ($75).

(e) The penalty for failure to pay the annual fee for renewal of a branch office license shall not exceed twenty-five dollars ($25).

(f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars ($25).

(g) The delinquency fee for renewal of an optometric license shall not exceed fifty dollars ($50).

(h) The application fee for a certificate to treat lacrimal irrigation and dilation shall not exceed fifty dollars ($50).

(i) The application fee for a certificate to treat primary open-angle glaucoma shall not exceed fifty dollars ($50).

(j) The fee for approval of a continuing education course shall not exceed one hundred dollars ($100).

(k) The fee for issuance of a statement of licensure shall not exceed forty dollars ($40).

(*l*) The fee for biennial renewal of a statement of licensure shall not exceed forty dollars ($40).

(m) The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars ($20).

(n) The application fee for a fictitious name permit shall not exceed fifty dollars ($50).

(o) The renewal fee for a fictitious name permit shall not exceed fifty dollars ($50).

(p) The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars ($25).

SEC. 8. Section 3702 of the Business and Professions Code is amended to read:

3702. Respiratory care as a practice means a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions, and includes all of the following:

(a) Direct and indirect pulmonary care services that are safe, aseptic, preventive, and restorative to the patient.

(b) Direct and indirect respiratory care services, including, but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician and surgeon.

(c) Observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and (1) determination of whether such signs, symptoms, reactions, behavior, or general response exhibits abnormal characteristics; (2) implementation based on observed abnormalities of appropriate reporting or referral or respiratory care protocols, or changes in treatment regimen, pursuant to a prescription by a physician and surgeon or the initiation of emergency procedures.

(d) The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician and surgeon: administration of medical gases, exclusive of general anesthesia; aerosols; humidification; environmental control systems and baromedical therapy; pharmacologic agents related to respiratory care procedures; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airways; insertion without cutting tissues and maintenance of artificial airways; diagnostic and testing techniques required for implementation of respiratory care protocols; collection of specimens of blood; collection of specimens from the respiratory tract; analysis of blood gases and respiratory secretions.

(e) The transcription and implementation of the written and verbal orders of a physician and surgeon pertaining to the practice of respiratory care.

"Respiratory care protocols" as used in this section means policies and protocols developed by a licensed health facility through collaboration, when appropriate, with administrators, physicians and

surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care practitioners.

SEC. 9. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist pursuant to Chapter 4 (commencing with Section 1600), as a dental hygienist pursuant to Sections 1760 to 1775, inclusive, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals, as identified in subparagraph (A), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that all registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter are licensed pursuant to Chapter 6 (commencing with Section 2700).

(3) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(4) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(5) Ensuring that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(6) Complying with all directions and requests for information made by the department.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

SEC. 10. Section 4999.7 of the Business and Professions Code is amended to read:

4999.7. (a) This section does not limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For purposes of this chapter, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

(c) For purposes of this chapter, "health care professional" is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a dentist pursuant to Chapter 4 (commencing with Section 1600), as a dental hygienist pursuant to Sections 1760 to 1775, inclusive, as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 11. Section 5216.6 of the Business and Professions Code is amended to read:

5216.6. (a) "Officially designated scenic highway or scenic byway" is any state highway that has been officially designated and maintained

as a state scenic highway pursuant to Sections 260, 261, 262, and 262.5 of the Streets and Highways Code or that has been officially designated a scenic byway as referred to in Section 131(s) of Title 23 of the United States Code.

(b) "Officially designated scenic highway or scenic byway" does not include routes listed as part of the State Scenic Highway system, Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, unless those routes, or segments of those routes, have been designated as officially designated state scenic highways.

SEC. 12. Section 5616 of the Business and Professions Code is amended to read:

5616. (a) A landscape architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by the landscape architect and the client, or their representatives, prior to the landscape architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of services to be provided by the landscape architect to the client.

(2) A description of any basis of compensation applicable to the contract, including the total price that is required to complete the contract, and the method of payment agreed upon by both parties.

(3) A notice that reads:

"Landscape architects are licensed by the State of California."

(4) The name, address, and license number of the landscape architect and the name and address of the client.

(5) A description of the procedure that the landscape architect and client will use to accommodate additional services.

(6) A description of the procedure to be used by either party to terminate the contract.

(b) This section shall not apply if the client knowingly states in writing after full disclosure of this section that a contract that complies with this section is not required.

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

(1) Professional services rendered by a landscape architect for which the client will not pay compensation.

(2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the landscape architect's services are of the same general kind that the landscape architect has previously rendered to, and received payment for from, the same client.

(3) Professional services rendered by a landscape architect to any of the following:

(A) A landscape architect licensed under this chapter.

(B) An architect licensed under Chapter 3 (commencing with Section 5500).

(C) A professional engineer licensed under Chapter 7 (commencing with Section 6700).

(D) A contractor licensed under Chapter 9 (commencing with Section 7000).

(E) A geologist or geophysicist licensed under Chapter 12.5 (commencing with Section 7800).

(F) A professional land surveyor licensed under Chapter 15 (commencing with Section 8700).

(G) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are provided in connection with, or incidental to, the products, systems, or services of that corporation or its affiliates.

(H) A public agency.

(d) As used in this section, "written contract" includes a contract that is in electronic form.

SEC. 13. Section 5640 of the Business and Professions Code is amended to read:

5640. It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment, for a person to do any of the following without possessing a valid, unrevoked license as provided in this chapter:

(a) Engage in the practice of landscape architecture.

(b) Use the title or term "landscape architect," "landscape architecture," "landscape architectural," or any other titles, words, or abbreviations that would imply or indicate that he or she is a landscape architect as defined in Section 5615.

(c) Use the stamp of a licensed landscape architect, as provided in Section 5659.

(d) Advertise or put out a sign, card, or other device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in the practice of landscape architecture.

SEC. 14. Section 6073 of the Business and Professions Code is amended to read:

6073. It has been the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer. Every lawyer authorized and privileged to practice law in California is expected to make a

contribution. In some circumstances, it may not be feasible for a lawyer to directly provide pro bono services. In those circumstances, a lawyer may instead fulfill his or her individual pro bono ethical commitment, in part, by providing financial support to organizations providing free legal services to persons of limited means. In deciding to provide that financial support, the lawyer should, at minimum, approximate the value of the hours of pro bono legal service that he or she would otherwise have provided. In some circumstances, pro bono contributions may be measured collectively, as by a firm's aggregate pro bono activities or financial contributions. Lawyers also make invaluable contributions through their other voluntary public service activities that increase access to justice or improve the law and the legal system. In view of their expertise in areas that critically affect the lives and well-being of members of the public, lawyers are uniquely situated to provide invaluable assistance in order to benefit those who might otherwise be unable to assert or protect their interests, and to support those legal organizations that advance these goals.

SEC. 15. Section 6212 of the Business and Professions Code is amended to read:

6212. An attorney who, or a law firm that, establishes an IOLTA account pursuant to subdivision (a) of Section 6211 shall comply with all of the following provisions:

(a) The IOLTA account shall be established and maintained with an eligible institution offering or making available an IOLTA account that meets the requirements of this article. The IOLTA account shall be established and maintained consistent with the attorney's or law firm's duties of professional responsibility. An eligible financial institution shall have no responsibility for selecting the deposit or investment product chosen for the IOLTA account.

(b) Except as provided in subdivision (e), the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to nonattorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. In determining the interest rate or dividend payable on any IOLTA account, an eligible institution may consider, in addition to the balance in the IOLTA account, risk or other factors customarily considered by the eligible institution when setting the interest rate or dividends for its non-IOLTA accounts, provided that the factors do not discriminate between IOLTA customers and non-IOLTA customers and that these factors do not include the fact that the account is an IOLTA account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers. Nothing

in this article shall preclude an eligible institution from paying a higher interest rate or dividend on an IOLTA account or from electing to waive any fees and service charges on an IOLTA account.

(c) Reasonable fees may be deducted from the interest or dividends remitted on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No other fees or service charges may be deducted from the interest or dividends earned on an IOLTA account. Unless and until the State Bar enacts regulations exempting from compliance with subdivision (a) of Section 6211 those accounts for which maintenance fees exceed the interest or dividends paid, an eligible institution may deduct the fees and service charges in excess of the interest or dividends paid on an IOLTA account from the aggregate interest and dividends remitted to the State Bar. Fees and service charges other than reasonable fees shall be the sole responsibility of, and may only be charged to, the attorney or law firm maintaining the IOLTA account. Fees and charges shall not be assessed against or deducted from the principal of any IOLTA account. It is the intent of the Legislature that the State Bar develop policies so that eligible institutions do not incur uncompensated administrative costs in adapting their systems to comply with the provisions of Chapter 422 of the Statutes of 2007 or in making investment products available to IOLTA members.

(d) The eligible institution shall be directed to do all of the following:

(1) To remit interest or dividends on the IOLTA account, less reasonable fees, to the State Bar, at least quarterly.

(2) To transmit to the State Bar with each remittance a statement showing the name of the attorney or law firm for which the remittance is sent, for each account the rate of interest applied or dividend paid, the amount and type of fees deducted, if any, and the average balance for each account for each month of the period for which the report is made.

(3) To transmit to the attorney or law firm customer at the same time a report showing the amount paid to the State Bar for that period, the rate of interest or dividend applied, the amount of fees and service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.

(e) An eligible institution has no affirmative duty to offer or make investment products available to IOLTA customers. However, if an eligible institution offers or makes investment products available to non-IOLTA customers, in order to remain an IOLTA-eligible institution, it shall make those products available to IOLTA customers or pay an interest rate on the IOLTA deposit account that is comparable to the rate of return or the dividends generally paid on that investment product for similar customers meeting the same minimum balance and other

requirements applicable to the investment product. If the eligible institution elects to pay that higher interest rate, the eligible institution may subject the IOLTA deposit account to equivalent fees and charges assessable against the investment product.

SEC. 16. Section 6213 of the Business and Professions Code is amended to read:

6213. As used in this article:

(a) "Qualified legal services project" means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons and which has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California which meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars ($20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.

(d) "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project that provides free services of attorneys in private practice without compensation, "indigent person" also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) "Fee generating case" means a case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act, as amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with

Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

(1) An interest-bearing checking account.

(2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money-market fund.

(3) An investment product authorized by California Supreme Court rule or order.

A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money-market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money-market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars ($250,000,000).

(k) "Eligible institution" means a bank or any other type of financial institution authorized by the Supreme Court.

SEC. 17. Section 7027.5 of the Business and Professions Code is amended to read:

7027.5. (a) A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor.

(b) Notwithstanding any other provision of this chapter, a landscape contractor working within the classification for which the license is issued may enter into a prime contract for the construction of any of the following:

(1) A swimming pool, spa, or hot tub, provided that the improvements are included within the landscape project that the landscape contractor is supervising and the construction of any swimming pool, spa, or hot tub is subcontracted to a single licensed contractor holding a Swimming Pool (C-53) classification, as set forth in Section 832.53 of Title 16 of the California Code of Regulations, or performed by the landscape contractor if the landscape contractor also holds a Swimming Pool (C-53) classification. The contractor constructing the swimming pool, spa, or

hot tub may subcontract with other appropriately licensed contractors for the completion of individual components of the construction.

(2) An outdoor cooking center, provided that the improvements are included within a residential landscape project that the contractor is supervising. For purposes of this subdivision, "outdoor cooking center" means an unenclosed area within a landscape that is used for the cooking or preparation of food or beverages.

(3) An outdoor fireplace, provided that it is included within a residential landscape project that the contractor is supervising and is not attached to a dwelling.

(c) Work performed in connection with a residential landscape project specified in paragraph (2) or (3) of subdivision (b) that is outside of the field and scope of activities authorized to be performed under the Landscape Contractor classification (C-27), as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may only be performed by a landscape contractor if the landscape contractor also either holds an appropriate specialty license classification to perform the work or is licensed as a general building contractor. If the landscape contractor neither holds an appropriate specialty license classification to perform the work nor is licensed as a general building contractor, the work shall be performed by a specialty contractor holding the appropriate license classification or by a general building contractor performing work in accordance with the requirements of subdivision (b) of Section 7057.

(d) A violation of this section shall be cause for disciplinary action.

SEC. 18. Section 7159 of the Business and Professions Code is amended to read:

7159. (a) (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.

(2) This section does not apply to service and repair contracts that are subject to Section 7159.10, if the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.

(3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1, if all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars ($500), and the licensee complies with the requirements set forth in Section 7159.9.

(4) This section does not apply to any costs associated with monitoring a burglar or fire alarm system.

(5) Failure by the licensee, his or her agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified

information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

(b) For purposes of this section, "home improvement contract" means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement, as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder, if the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500). "Home improvement contract" also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not he or she is a home improvement salesperson, and an owner or a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or his or her agent or salesperson shall comply with all of the following:

(1) The writing shall be legible.

(2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(3) (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer's receipt of the copy of the contract initiates the buyer's rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

(B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:

(i) The date the buyer signed the contract.

(ii) The name and address of the contractor to which the applicable "Notice of Cancellation" is to be mailed, immediately preceded by a statement advising the buyer that the "Notice of Cancellation" may be sent to the contractor at the address noted on the contract.

(4) A statement that, upon satisfactory payment being made for any portion of the work performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of the work for which payment has been made.

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

(6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(7) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(8) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(d) A home improvement contract and any changes to the contract shall be in writing and signed by the parties to the contract prior to the commencement of work covered by the contract or an applicable change order and, except as provided in paragraph (8) of subdivision (a) of Section 7159.5, shall include or comply with all of the following:

(1) The name, business address, and license number of the contractor.

(2) If applicable, the name and registration number of the home improvement salesperson that solicited or negotiated the contract.

(3) The following heading on the contract form that identifies the type of contract in at least 10-point boldface type: "Home Improvement."

(4) The following statement in at least 12-point boldface type: "You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started."

(5) The heading: "Contract Price," followed by the amount of the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: "Finance Charge," followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(7) The heading: "Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed," followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools, the project description required under this paragraph also shall include

a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

(8) If a downpayment will be charged, the details of the downpayment shall be expressed in substantially the following form, and shall include the text of the notice as specified in subparagraph (C):

(A) The heading: "Downpayment."

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:

"THE DOWNPAYMENT MAY NOT EXCEED $1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS."

(9) If payments, other than the downpayment, are to be made before the project is completed, the details of these payments, known as progress payments, shall be expressed in substantially the following form, and shall include the text of the statement as specified in subparagraph (C):

(A) A schedule of progress payments shall be preceded by the heading: "Schedule of Progress Payments."

(B) Each progress payment shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and materials and equipment to be supplied.

(C) The section of the contract reserved for the progress payments shall include the following statement in at least 12-point boldface type:

"The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT."

(10) The contract shall address the commencement of work to be performed in substantially the following form:

(A) A statement that describes what constitutes substantial commencement of work under the contract.

(B) The heading: "Approximate Start Date."

(C) The approximate date on which work will be commenced.

(11) The estimated completion date of the work shall be referenced in the contract in substantially the following form:

(A) The heading: "Approximate Completion Date."

(B) The approximate date of completion.

(12) If applicable, the heading: "List of Documents to be Incorporated into the Contract," followed by the list of documents incorporated into the contract.

(13) The heading: "Note about Extra Work and Change Orders," followed by the following statement:

"Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments."

(e) Except as provided in paragraph (8) of subdivision (a) of Section 7159.5, all of the following notices shall be provided to the owner as part of the contract form as specified or, if otherwise authorized under this subdivision, may be provided as an attachment to the contract:

(1) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the following statement: "A notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)," followed by whichever of the following statements is both relevant and correct:

(A) "(The name on the license or 'This contractor') does not carry commercial general liability insurance."

(B) "(The name on the license or 'This contractor') carries commercial general liability insurance written by (the insurance company). You may call (the insurance company) at _____ to check the contractor's insurance coverage."

(C) "(The name on the license or 'This contractor') is self-insured."

(2) A notice concerning workers' compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement: "A notice concerning workers' compensation insurance is attached to this contract." The notice shall include the heading "Workers' Compensation Insurance" followed by whichever of the following statements is correct:

(A) "(The name on the license or 'This contractor') has no employees and is exempt from workers' compensation requirements."

(B) "(The name on the license or 'This contractor') carries workers' compensation insurance for all employees."

(3) A notice that provides the buyer with the following information about the performance of extra or change-order work:

(A) A statement that the buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of work covered by the new change order.

(B) A statement informing the buyer that extra work or a change order is not enforceable against a buyer unless the change order also identifies

all of the following in writing prior to the commencement of work covered by the new change order:

(i) The scope of work encompassed by the order.

(ii) The amount to be added or subtracted from the contract.

(iii) The effect the order will make in the progress payments or the completion date.

(C) A statement informing the buyer that the contractor's failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(4) A notice with the heading "Mechanics' Lien Warning" written as follows:

"MECHANICS' LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a '20-day Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a

Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Internet Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe."

(5) The following notice shall be provided in at least 12-point typeface:

"Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Internet Web site at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," shall be provided to the buyer unless the contract is:

(i) Negotiated at the contractor's place of business.

(ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (7).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B) "Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your

name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(C) The "Three-Day Right to Cancel" notice required by this paragraph shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Three-Day Right to Cancel.' "

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which also shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain 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)

(7) (A) The following notice entitled "Seven-Day Right to Cancel" shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

"Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(B) The "Seven-Day Right to Cancel" notice required by this subdivision shall comply with all of the following:

(i) The text of the notice is at least 12-point boldface type.

(ii) The notice is in immediate proximity to a space reserved for the owner's signature.

(iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.

(iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.

(v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Seven-Day Right to Cancel.' "

(vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain 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 seven 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)

SEC. 19. Section 8698.5 of the Business and Professions Code is amended to read:

8698.5. Funds collected pursuant to this chapter shall be paid to the county and used for the sole purpose of funding enforcement and training activities directly related to the structural fumigation program created pursuant to Section 8698. The fees collected under this chapter shall be in addition to, and shall not be used to supplant, other funds provided to the county agricultural commissioner pursuant to Section 12844 of the Food and Agricultural Code.

SEC. 20. Section 14207 of the Business and Professions Code is amended to read:

14207. (a) Subject to the limitations set forth in this chapter, a person who uses a mark may file with the secretary, on a form prescribed by the secretary, an application for registration of that mark setting forth, but not limited to, the following information:

(1) The name and business address of the person applying for the registration and, if that person is a corporation or partnership, the state of incorporation or the state in which the partnership is organized and the names of the general partners, as specified by the secretary.

(2) The goods or services on or in connection with which the mark is used, the mode or manner in which the mark is used on or in connection with the goods or services, and the class in which the goods or services fall.

(3) The date on which the mark was first used anywhere and the date when it was first used in this state by the applicant or a predecessor in interest.

(4) A statement that the applicant is the owner of the mark, that the mark is in use, and that, to the knowledge of the person verifying the application, no other person has registered in this state or has the right to use the mark, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of the other person, to cause confusion, to cause mistake, or to deceive.

(b) The secretary may also require a statement as to whether an application to register the mark, or portions or a composite thereof, has been filed by the applicant or a predecessor in interest with the United States Patent and Trademark Office and, if so, the applicant shall provide full particulars with respect thereto, including the filing date and serial number of each application, the status thereof, and, if any application was finally refused registration or has otherwise not resulted in a registration, the reasons for the refusal or result.

(c) The secretary may also require that a drawing of the mark, complying with requirements specified by the secretary, accompany the application.

(d) The application shall include a declaration of accuracy signed by the applicant, by a member of the firm or an officer of the corporation or association making application, or by a general partner of the partnership making application. If the person signing the declaration willfully states as true in the declaration a material fact that he or she knows to be false, he or she shall be subject to a civil penalty of not more than ten thousand dollars ($10,000). An action for that penalty may be brought by a public prosecutor. The person signing the declaration shall be informed of this penalty in writing.

(e) The application shall be accompanied by three specimens showing the mark as actually used.

(f) The application shall be accompanied by the application fee payable to the secretary as set forth in subdivision (a) of Section 12193 of the Government Code.

(g) If the mark or any part of the mark is in any language other than English, the application shall be accompanied by a certified translation in English.

SEC. 21. Section 14245 of the Business and Professions Code is amended to read:

14245. (a) A person who does any of the following shall be subject to a civil action by the owner of the registered mark, and the remedies provided in Section 14250:

(1) Uses, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter in connection with the sale, distribution, offering for sale, or advertising of goods or services on or in connection with which the use is likely to cause confusion or mistake, or to deceive as to the source of origin of the goods or services.

(2) Reproduces, counterfeits, copies, or colorably imitates the mark and applies the reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale or other distribution in this state of goods or services. The registrant shall not be entitled under this paragraph to recover profits or damages unless the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake, or to deceive.

(3) Knowingly facilitate, enable, or otherwise assist a person to manufacture, use, distribute, display, or sell goods or services bearing a reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter, without the consent of the registrant. An action by a person is presumed to have been taken knowingly following delivery to that person by personal delivery, courier, or certified mail return receipt requested, of a written demand to cease and desist that is accompanied by all of the following:

(A) A copy of the certificate of registration and of a claimed reproduction, counterfeit, copy, or colorable imitation of the registered mark.

(B) A statement, made under penalty of perjury, by the owner of the registered mark, by an officer of the corporation that owns the registered mark, or by legal counsel for the owner of the registered mark, that includes all of the following:

(i) The name or description of the infringer.

(ii) The product or service and mark being or to be infringed.

(iii) The dates of the infringement.

(iv) Other reasonable information to assist the recipient to identify the infringer.

(4) The presumption created by paragraph (3) does not affect the owner's burden of showing that there was a violation of this chapter.

(5) Paragraph (3) is applicable to a landlord or property owner who provides, rents, leases, or licenses the use of real property where goods or services bearing a reproduction, counterfeit, copy, or colorable imitation of a mark registered pursuant to this chapter are sold, offered for sale, or advertised, where the landlord or property owner had control of the property and knew, or had reason to know, of the infringing activity.

(b) Notwithstanding any other provision of this chapter, the remedies given to the owner of the right infringed pursuant to this section are limited as follows:

(1) If an infringer or violator is engaged solely in the business of printing the mark or violating matter for others and establishes that he or she was an innocent infringer or innocent violator, the owner of the right infringed is entitled only to an injunction against future printing of the mark by the innocent infringer or innocent violator.

(2) If the infringement complained of is contained in, or is part of, paid advertising matter in a newspaper, magazine, or other similar periodical, or in an electronic communication as defined in subsection (12) of Section 2510 of Title 18 of the United States Code, the remedies of the owner of the right infringed against the publisher or distributor of the newspaper, magazine, or other similar periodical or electronic communication shall be confined to an injunction against the presentation of the advertising matter in future issues of the newspapers, magazines, or other similar periodicals or in further transmissions of the electronic communication. The limitation of this subdivision shall apply only to innocent infringers and innocent violators.

(3) Injunctive relief is not available to the owner of the right infringed with respect to an issue of a newspaper, magazine, or other similar periodical or electronic communication containing infringing matter if restraining the dissemination of the infringing matter in a particular issue of the periodical or in an electronic communication would delay the delivery of the issue or transmission of the electronic communication after the regular time for delivery and the delay would be due to the method by which publication and distribution of the periodical or transmission of the electronic communication is customarily conducted in accordance with sound business practice, and not to a method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to the infringing matter.

(c) An innocent infringer or innocent violator is a person whose acts were committed without knowledge that the mark was intended to be used to cause confusion, mistake, or to deceive.

SEC. 22. Section 16721.5 of the Business and Professions Code is amended to read:

16721.5. (a) It is an unlawful trust and an unlawful restraint of trade for a person to do the following:

(1) Grant or accept a letter of credit, or other document that evidences the transfer of funds or credit, or enter into a contract for the exchange of goods or services, if the letter of credit, contract, or other document contains a provision that requires a person to discriminate against, or to certify that he, she, or it has not dealt with, another person on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, or on the basis of a person's lawful business associations.

(2) To refuse to grant or accept a letter of credit, or other document that evidences the transfer of funds or credit, or to refuse to enter into a contract for the exchange of goods or services, on the ground that the letter, contract, or document does not contain a discriminatory provision or certification.

(b) This section shall not apply to a letter of credit, contract, or other document that contains a provision pertaining to a labor dispute or an unfair labor practice if the other provisions of that letter of credit, contract, or other document otherwise do not violate this section.

(c) For purposes of this section, the prohibition against discrimination on the basis of a person's business associations does not include the requiring of association with particular employment or a particular group as a prerequisite to obtaining group rates or discounts on insurance, recreational activities, or other similar benefits.

(d) For purposes of this section, "person" shall include, but not be limited to, individuals, firms, partnerships, associations, corporations, and governmental agencies.

SEC. 23. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for Injunctions by Attorney General, District Attorney, County Counsel, and City Attorneys

Actions for relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or a district attorney or by a county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person,

corporation, or association, or by a person who has suffered injury in fact and has lost money or property as a result of the unfair competition.

SEC. 24. Section 17915 of the Business and Professions Code is amended to read:

17915. A fictitious business name statement shall be filed with the clerk of the county in which the registrant has his or her principal place of business in this state or, if the registrant has no place of business in this state, with the Clerk of Sacramento County. This chapter does not preclude a person from filing a fictitious business name statement in a county other than that where the principal place of business is located, as long as the requirements of this section are also met.

SEC. 25. Section 17929 of the Business and Professions Code is amended to read:

17929. (a) The fee for filing a fictitious business name statement is ten dollars ($10) for the first fictitious business name and owner and two dollars ($2) for each additional fictitious business name or owner filed on the same statement and doing business at the same location. This fee covers the cost of filing and indexing the statement (and any affidavit of publication), the cost of furnishing one certified copy of the statement to the person filing the statement, and the cost for notifying registrants of the pending expiration of their fictitious business name statement.

(b) The fee for filing a statement of abandonment of use of a fictitious business name is five dollars ($5). This fee covers the cost of filing and indexing the statement, the cost of any affidavit of publication, and the cost of furnishing one certified copy of the statement to the person filing the statement.

(c) The fee for filing a statement of withdrawal from partnership operating under a fictitious business name is five dollars ($5). This fee covers the cost of filing and indexing the statement, the cost of any affidavit of publication, and the cost of furnishing one certified copy of the statement to the person filing the statement.

(d) All of the provisions of this section are subject to Section 54985 of the Government Code.

SEC. 26. Section 19596.2 of the Business and Professions Code is amended to read:

19596.2. (a) Notwithstanding any other provision of law and except as provided in Section 19596.4, a thoroughbred racing association or fair may distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races conducted in the United States during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen and horsewomen participating in the race meeting and without

regard to the amount of purses, provided that the total number of thoroughbred races on which wagers are accepted statewide in a given year does not exceed the total number of thoroughbred races on which wagers were accepted in 1998. Further, the total number of thoroughbred races imported by associations or fairs on a statewide basis under this section shall not exceed 23 per day on days when live thoroughbred or fair racing is being conducted in the state. The limitation of 23 imported races per day does not apply to any of the following:

(1) Races imported for wagering purposes pursuant to subdivision (c).

(2) Races imported that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers Stakes, the Breeders' Cup, the Dubai Cup, or the Haskell Invitational.

(3) Races imported into the northern zone when there is no live thoroughbred or fair racing being conducted in the northern zone.

(4) Races imported into the combined central and southern zones when there is no live thoroughbred or fair racing being conducted in the combined central and southern zones.

(b) A thoroughbred association or fair accepting wagers pursuant to subdivision (a) shall conduct the wagering in accordance with the applicable provisions of Sections 19601, 19616, 19616.1, and 19616.2.

(c) No thoroughbred association or fair may accept wagers pursuant to this section on out-of-state races commencing after 7 p.m., Pacific Standard Time, without the consent of the harness or quarter horse racing association that is then conducting a live racing meeting in Orange or Sacramento County.

SEC. 27. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor 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 another 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) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, 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 or other means 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, contractor, 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 of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, information so disclosed shall not be further disclosed by the recipient in a way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, 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 a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in a way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies,

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 a way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan 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 that:

(A) Is relevant in a lawsuit, 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 that information 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 of health care or health care service plan 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 that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan 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 health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information shall not otherwise be disclosed by a health care service plan except in accordance with this part.

(11) This part does not prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Chapter 1 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 of the requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition, care, and treatment provided may be disclosed to a probate court investigator in the course of an investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, 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 existing guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, "tissue bank" and "tissue" have the same meanings as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state-recognized or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in a way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. This paragraph does not require physician authorization for the care or treatment of the adherents of a

well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by a patient or enrollee or subscriber or as provided by subdivisions (b) and (c), a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall not intentionally share, sell, use for marketing, or otherwise use medical information for a purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by a patient or enrollee or subscriber or as provided by subdivisions (b) and (c), a contractor or corporation and its subsidiaries and affiliates shall not further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to a person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 28. Section 798.73 of the Civil Code is amended to read:

798.73. The management shall not require the removal of a mobilehome from the park in the event of the sale of the mobilehome to a third party during the term of the homeowner's rental agreement or in the 60 days following the initial notice required by paragraph (1) of subdivision (b) of Section 798.55. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is not a "mobilehome" within the meaning of Section 798.3.

(b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or more, and the mobilehome does not comply with the health and safety standards provided in Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(c) The mobilehome is more than 17 years old, or more than 25 years old if manufactured after September 15, 1971, and is less than 20 feet wide, and the mobilehome does not comply with the construction and safety standards under Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(d) It is in a significantly rundown condition or in disrepair, as determined by the general condition of the mobilehome and its acceptability to the health and safety of the occupants and to the public, exclusive of its age. The management shall use reasonable discretion in determining the general condition of the mobilehome and its accessory structures. The management shall bear the burden of demonstrating that the mobilehome is in a significantly rundown condition or in disrepair. The management of the park may not require repairs or improvements to the park space or property owned by the management, except for damage caused by the actions or negligence of the homeowner or an agent of the homeowner.

(e) The management shall not require a mobilehome to be removed from the park, pursuant to this section, unless the management has provided to the homeowner notice particularly specifying the condition that permits the removal of the mobilehome.

SEC. 29. Section 1185 of the Civil Code is amended to read:

1185. (a) The acknowledgment of an instrument shall not be taken unless the officer taking it has satisfactory evidence that the person making the acknowledgment is the individual who is described in and who executed the instrument.

(b) For purposes of this section, "satisfactory evidence" means the absence of information, evidence, or other circumstances that would lead a reasonable person to believe that the person making the acknowledgment is not the individual he or she claims to be and any one of the following:

(1) (A) The oath or affirmation of a credible witness personally known to the officer, whose identity is proven to the officer upon presentation of a document satisfying the requirements of paragraph (3) or (4), that

the person making the acknowledgment is personally known to the witness and that each of the following are true:

(i) The person making the acknowledgment is the person named in the document.

(ii) The person making the acknowledgment is personally known to the witness.

(iii) That it is the reasonable belief of the witness that the circumstances of the person making the acknowledgment are such that it would be very difficult or impossible for that person to obtain another form of identification.

(iv) The person making the acknowledgment does not possess any of the identification documents named in paragraphs (3) and (4).

(v) The witness does not have a financial interest in the document being acknowledged and is not named in the document.

(B) A notary public who violates this section by failing to obtain the satisfactory evidence required by subparagraph (A) shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). An action to impose this civil penalty may be brought by the Secretary of State in an administrative proceeding or a public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this subparagraph.

(2) The oath or affirmation under penalty of perjury of two credible witnesses, whose identities are proven to the officer upon the presentation of a document satisfying the requirements of paragraph (3) or (4), that each statement in paragraph (1) is true.

(3) Reasonable reliance on the presentation to the officer of any one of the following, if the document is current or has been issued within five years:

(A) An identification card or driver's license issued by the Department of Motor Vehicles.

(B) A passport issued by the Department of State of the United States.

(4) Reasonable reliance on the presentation of any one of the following, provided that a document specified in subparagraphs (A) to (E), inclusive, shall either be current or have been issued within five years and shall contain a photograph and description of the person named on it, shall be signed by the person, shall bear a serial or other identifying number, and, in the event that the document is a passport, shall have been stamped by the United States Citizenship and Immigration Services of the Department of Homeland Security:

(A) A passport issued by a foreign government.

(B) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue driver's licenses.

(C) An identification card issued by a state other than California.

(D) An identification card issued by any branch of the Armed Forces of the United States.

(E) An inmate identification card issued on or after January 1, 1988, by the Department of Corrections and Rehabilitation, if the inmate is in custody.

(F) An inmate identification card issued prior to January 1, 1988, by the Department of Corrections and Rehabilitation, if the inmate is in custody.

(c) An officer who has taken an acknowledgment pursuant to this section shall be presumed to have operated in accordance with the provisions of law.

(d) A party who files an action for damages based on the failure of the officer to establish the proper identity of the person making the acknowledgment shall have the burden of proof in establishing the negligence or misconduct of the officer.

(e) A person convicted of perjury under this section shall forfeit any financial interest in the document.

SEC. 30. Section 1789.13 of the Civil Code is amended to read:

1789.13. A credit services organization and its salespersons, agents, representatives, and independent contractors who sell or attempt to sell the services of a credit services organization shall not do any of the following:

(a) Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for or on behalf of the buyer.

(b) Fail to perform the agreed services within six months following the date the buyer signs the contract for those services.

(c) Charge or receive any money or other valuable consideration for referral of the buyer to a retail seller or other credit grantor who will or may extend credit to the buyer, if either of the following apply:

(1) The credit that is or will be extended to the buyer (A) is upon substantially the same terms as those available to the general public or (B) is upon substantially the same terms that would have been extended to the buyer without the assistance of the credit services organization.

(2) The money or consideration is paid by the credit grantor or is derived from the buyer's payments to the credit grantor for costs, fees, finance charges, or principal.

(d) Make, or counsel or advise a buyer to make, a statement that is untrue or misleading and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading, to a consumer credit reporting agency or to a person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit,

such as statements concerning a buyer's identification, home address, creditworthiness, credit standing, or credit capacity.

(e) Remove, or assist or advise the buyer to remove, adverse information from the buyer's credit record which is accurate and not obsolete.

(f) Create, or assist or advise the buyer to create, a new credit record by using a different name, address, social security number, or employee identification number.

(g) Make or use untrue or misleading representations in the offer or sale of the services of a credit services organization, including either of the following:

(1) Guaranteeing or otherwise stating that the organization is able to delete an adverse credit history, unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, that this can be done only if the credit history is inaccurate or obsolete and is not claimed to be accurate by the creditor who submitted the information.

(2) Guaranteeing or otherwise stating that the organization is able to obtain an extension of credit, regardless of the buyer's previous credit problems or credit history, unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, the eligibility requirements for obtaining an extension of credit.

(h) Engage, directly or indirectly, in an act, practice, or course of business that operates or would operate as a fraud or deception upon a person in connection with the offer or sale of the services of a credit services organization.

(i) Advertise or cause to be advertised, in any manner, the services of the credit services organization, without being registered with the Department of Justice.

(j) Fail to maintain an agent for service of process in this state.

(k) Transfer or assign its certificate of registration.

(*l*) Submit a buyer's dispute to a consumer credit reporting agency without the buyer's knowledge.

(m) Use a consumer credit reporting agency's telephone system or toll-free telephone number to represent the caller as the buyer in submitting a dispute of a buyer or requesting disclosure without prior authorization of the buyer.

(n) Directly or indirectly extend credit to a buyer.

(o) Refer a buyer to a credit grantor that is related to the credit services organization by a common ownership, management, or control, including a common owner, director, or officer.

(p) Refer a buyer to a credit grantor for which the credit services organization provides, or arranges for a third party to provide, services

related to the extension of credit such as underwriting, billing, payment processing, or debt collection.

(q) Provide a credit grantor with an assurance that a portion of an extension of credit to a buyer referred by the credit services organization will be repaid, including providing a guaranty, letter of credit, or agreement to acquire a part of the credit grantor's financial interest in the extension of credit.

(r) Use a scheme, device, or contrivance to evade the prohibitions contained in this section.

SEC. 31. Section 1936 of the Civil Code is amended to read:

1936. (a) For the purpose of this section, the following definitions shall apply:

(1) "Rental company" means a person or entity in the business of renting passenger vehicles to the public.

(2) "Renter" means a person in any manner obligated under a contract for the lease or hire of a passenger vehicle from a rental company for a period of less than 30 days.

(3) "Authorized driver" means (A) the renter, (B) the renter's spouse if that person is a licensed driver and satisfies the rental company's minimum age requirement, (C) the renter's employer or coworker if he or she is engaged in business activity with the renter, is a licensed driver, and satisfies the rental company's minimum age requirement, and (D) a person expressly listed by the rental company on the renter's contract as an authorized driver.

(4) (A) "Customer facility charge" means a fee required by an airport to be collected by a rental company from a renter for any of the following purposes:

(i) To finance, design, and construct consolidated airport car rental facilities.

(ii) To finance, design, construct, and provide common use transportation systems that move passengers between airport terminals and those consolidated car rental facilities.

(B) The aggregate amount to be collected shall not exceed the reasonable costs, as determined by an independent audit paid for by the airport, to finance, design, and construct those facilities. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing. In the case of a transportation system, the audit also shall consider the reasonable costs of providing the transit system or busing network. At the Burbank Airport, and at all other airports, the fees designated as a customer facility charge shall not be used to pay for terminal expansion, gate expansion, runway expansion,

changes in hours of operation, or changes in the number of flights arriving or departing from the airport.

(C) The authorization given pursuant to this section for an airport to impose a customer facility charge shall become inoperative when the bonds used for financing are paid.

(5) "Damage waiver" means a rental company's agreement not to hold a renter liable for all or any portion of any damage or loss related to the rented vehicle, any loss of use of the rented vehicle, or any storage, impound, towing, or administrative charges.

(6) "Electronic surveillance technology" means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. "Electronic surveillance technology" does not include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used either:

(A) For the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the rental vehicle.

(B) As part of the vehicle's airbag sensing and diagnostic system in order to capture safety systems-related data for retrieval after a crash has occurred or in the event that the collision sensors are activated to prepare the decisionmaking computer to make the determination to deploy or not to deploy the airbag.

(7) "Estimated time for replacement" means the number of hours of labor, or fraction thereof, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as "crash books."

(8) "Estimated time for repair" means a good faith estimate of the reasonable number of hours of labor, or fraction thereof, needed to repair damaged vehicle parts.

(9) "Membership program" means a service offered by a rental company that permits customers to bypass the rental counter and go directly to the car previously reserved. A membership program shall meet all of the following requirements:

(A) The renter initiates enrollment by completing an application on which the renter can specify a preference for type of vehicle and acceptance or declination of optional services.

(B) The rental company fully discloses, prior to the enrollee's first rental as a participant in the program, all terms and conditions of the rental agreement as well as all required disclosures.

(C) The renter may terminate enrollment at any time.

(D) The rental company fully explains to the renter that designated preferences, as well as acceptance or declination of optional services, may be changed by the renter at any time for the next and future rentals.

(E) An employee designated to receive the form specified in subparagraph (C) of paragraph (1) of subdivision (t) is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(10) "Passenger vehicle" means a passenger vehicle as defined in Section 465 of the Vehicle Code.

(b) Except as limited by subdivision (c), a rental company and a renter may agree that the renter will be responsible for no more than all of the following:

(1) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from collision regardless of the cause of the damage.

(2) Loss due to theft of the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, provided that the rental company establishes by clear and convincing evidence that the renter or the authorized driver failed to exercise ordinary care while in possession of the vehicle. In addition, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

(3) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the renter shall have no liability for any damage due to vandalism if the renter would have no liability for theft pursuant to paragraph (2).

(4) Physical damage to the rented vehicle up to a total of five hundred dollars ($500) resulting from vandalism unrelated to the theft of the rented vehicle.

(5) Actual charges for towing, storage, and impound fees paid by the rental company if the renter is liable for damage or loss.

(6) An administrative charge, which shall include the cost of appraisal and all other costs and expenses incident to the damage, loss, repair, or replacement of the rented vehicle.

(c) The total amount of the renter's liability to the rental company resulting from damage to the rented vehicle shall not exceed the sum of the following:

(1) The estimated cost of parts which the rental company would have to pay to replace damaged vehicle parts. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(2) The estimated cost of labor to replace damaged vehicle parts, which shall not exceed the product of (A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged and (B) the estimated time for replacement. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(3) (A) The estimated cost of labor to repair damaged vehicle parts, which may not exceed the lesser of the following:

(i) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(ii) The sum of the estimated labor and parts costs determined under paragraphs (1) and (2) to replace the same vehicle parts.

(B) All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(4) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(6) The administrative charge described in paragraph (6) of subdivision (b) may not exceed (A) fifty dollars ($50) if the total estimated cost for parts and labor is more than one hundred dollars ($100) up to and including five hundred dollars ($500), (B) one hundred dollars ($100) if the total estimated cost for parts and labor exceeds five hundred dollars ($500) up to and including one thousand five hundred dollars ($1,500), and (C) one hundred fifty dollars ($150) if the total estimated cost for

parts and labor exceeds one thousand five hundred dollars ($1,500). An administrative charge shall not be imposed if the total estimated cost of parts and labor is one hundred dollars ($100) or less.

(d) (1) The total amount of an authorized driver's liability to the rental company, if any, for damage occurring during the authorized driver's operation of the rented vehicle shall not exceed the amount of the renter's liability under subdivision (c).

(2) A rental company shall not recover from the renter or other authorized driver an amount exceeding the renter's liability under subdivision (c).

(3) A claim against a renter resulting from damage or loss, excluding loss of use, to a rental vehicle shall be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and shall not assert or collect a claim for physical damage which exceeds the actual costs of the repairs performed or the estimated cost of repairs, if the rental company chooses not to repair the vehicle, including all discounts and price reductions. However, if the vehicle is a total loss vehicle, the claim shall not exceed the total loss vehicle value established in accordance with procedures that are customarily used by insurance companies when paying claims on total loss vehicles, less the proceeds from salvaging the vehicle, if those proceeds are retained by the rental company.

(4) If insurance coverage exists under the renter's applicable personal or business insurance policy and the coverage is confirmed during regular business hours, the renter may require that the rental company submit any claims to the renter's applicable personal or business insurance carrier. The rental company shall not make any written or oral representations that it will not present claims or negotiate with the renter's insurance carrier. For purposes of this paragraph, confirmation of coverage includes telephone confirmation from insurance company representatives during regular business hours. Upon request of the renter and after confirmation of coverage, the amount of claim shall be resolved between the insurance carrier and the rental company. The renter shall remain responsible for payment to the rental car company for any loss sustained that the renter's applicable personal or business insurance policy does not cover.

(5) A rental company shall not recover from the renter or other authorized driver for an item described in subdivision (b) to the extent the rental company obtains recovery from another person.

(6) This section applies only to the maximum liability of a renter or other authorized driver to the rental company resulting from damage to the rented vehicle and not to the liability of another person.

(e) (1) Except as provided in subdivision (f), a damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for a damage, loss, loss of use, or a cost or expense incident thereto.

(2) Except as provided in subdivision (f), every limitation, exception, or exclusion to a damage waiver is void and unenforceable.

(f) A rental company may provide in the rental contract that a damage waiver does not apply under any of the following circumstances:

(1) Damage or loss results from an authorized driver's (A) intentional, willful, wanton, or reckless conduct, (B) operation of the vehicle under the influence of drugs or alcohol in violation of Section 23152 of the Vehicle Code, (C) towing or pushing anything, or (D) operation of the vehicle on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

(2) Damage or loss occurs while the vehicle is (A) used for commercial hire, (B) used in connection with conduct that could be properly charged as a felony, (C) involved in a speed test or contest or in driver training activity, (D) operated by a person other than an authorized driver, or (E) operated outside the United States.

(3) An authorized driver who has (A) provided fraudulent information to the rental company, or (B) provided false information and the rental company would not have rented the vehicle if it had instead received true information.

(g) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the place, such as the counter, where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign that shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental cars are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved car: (A) the nature of the renter's liability, e.g., liability for all collision damage regardless of cause, (B) the extent of the renter's liability, e.g., liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company

expressly lists that are permitted under subdivision (f), and (F) the range of charges for the damage waiver.

(2) In addition to the requirements of paragraph (1), a rental company that offers or provides a damage waiver shall orally disclose to all renters, except those who are participants in the rental company's membership program, that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. The renter's receipt of the oral disclosure shall be demonstrated through the renter's acknowledging receipt of the oral disclosure near that part of the contract where the renter indicates, by the renter's own initials, his or her acceptance or declination of the damage waiver. Adjacent to that same part, the contract also shall state that the damage waiver is optional. Further, the contract for these renters shall include a clear and conspicuous written disclosure that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance.

(3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the car rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions).

(A) When the above notice is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

"The cost of an optional damage waiver is $____ for every (day or week)."

(B) When the above notice appears on a sign, the following shall appear immediately adjacent to the notice:

"The cost of an optional damage waiver is $____ to $____ for every (day or week), depending upon the vehicle rented."

(h) Notwithstanding any other provision of law, a rental company may sell a damage waiver subject to the following rate limitations for each full or partial 24-hour rental day for the damage waiver.

(1) For rental vehicles that the rental company designates as an "economy car," "subcompact car," "compact car," or another term having similar meaning when offered for rental, or another vehicle having a manufacturer's suggested retail price of nineteen thousand dollars ($19,000) or less, the rate shall not exceed nine dollars ($9).

(2) For rental vehicles that have a manufacturer's suggested retail price from nineteen thousand one dollars ($19,001) to thirty-four thousand nine hundred ninety-nine dollars ($34,999), inclusive, and that are also either vehicles of next year's model, or not older than the previous year's model, the rate may not exceed fifteen dollars ($15). For those rental vehicles older than the previous year's model year, the rate shall not exceed nine dollars ($9).

(i) On or after January 1, 2003, the manufacturer's suggested retail prices described in subdivision (h) shall be adjusted annually to reflect changes from the previous year in the Consumer Price Index. For the purposes of this section, "Consumer Price Index" means the United States Consumer Price Index for All Urban Consumers, for all items.

(j) A rental company that disseminates in this state an advertisement containing a rental rate shall include in that advertisement a clearly readable statement of the charge for a damage waiver and a statement that a damage waiver is optional.

(k) (1) A rental company shall not require the purchase of a damage waiver, optional insurance, or another optional good or service.

(2) A rental company shall not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or another optional good or service, including conduct such as, but not limited to, refusing to honor the renter's reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter's credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or another optional good or service.

(*l*) (1) In the absence of express permission granted by the renter subsequent to damage to, or loss of, the vehicle, a rental company shall not seek to recover any portion of a claim arising out of damage to, or

loss of, the rented vehicle by processing a credit card charge or causing a debit or block to be placed on the renter's credit card account.

(2) A rental company shall not engage in any unfair, deceptive, or coercive tactics in attempting to recover or in recovering on any claim arising out of damage to, or loss of, the rented vehicle.

(m) (1) A customer facility charge may be collected by a rental company under the following circumstances:

(A) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, or a special district.

(B) The fee is calculated on a per-contract basis.

(C) The fee is a user fee, not a tax imposed upon real property or an incidence of property ownership under Article XIII D of the California Constitution.

(D) Except as otherwise provided in subparagraph (E), the fee shall be ten dollars ($10) per contract.

(E) If the fee imposed by the airport is for both a consolidated rental car facility and a common-use transportation system, the fee collected from customers of on-airport rental car companies shall be ten dollars ($10), but the fee imposed on customers of off-airport rental car companies who are transported on the common-use transportation system is proportionate to the costs of the common-use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers, provided the airport requires off-airport customers to use the common-use transportation system.

(F) Revenues collected from the fee do not exceed the reasonable costs of financing, designing, constructing, or operating the facility or services and shall not be used for any other purpose.

(G) The fee is separately identified on the rental agreement.

(H) This paragraph does not apply to airports the fees of which are governed by Section 50474.1 of the Government Code or Section 57.5 of the San Diego Unified Port District Act.

(2) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

(n) (1) A rental company shall only advertise, quote, and charge a rental rate that includes the entire amount except taxes, a customer facility charge, if any, and a mileage charge, if any, which a renter must pay to hire or lease the vehicle for the period of time to which the rental rate

applies. A rental company shall not charge in addition to the rental rate, taxes, a customer facility charge, if any, and a mileage charge, if any, any fee that is required to be paid by the renter as a condition of hiring or leasing the vehicle, including, but not limited to, required fuel or airport surcharges other than customer facility charges, nor a fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.

(2) In addition to the rental rate, taxes, customer facility charges, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

(3) A rental company shall not charge a fee for authorized drivers in addition to the rental charge for an individual renter.

(4) If a rental company states a rental rate in print advertisement or in a telephonic, in-person, or computer-transmitted quotation, the rental company shall disclose clearly in that advertisement or quotation the terms of mileage conditions relating to the advertised or quoted rental rate, including, but not limited to, to the extent applicable, the amount of mileage and gas charges, the number of miles for which no charges will be imposed, and a description of geographic driving limitations within the United States and Canada.

(5) (A) When a rental rate is stated in an advertisement, quotation, or reservation in connection with a car rental at an airport where a customer facility charge is imposed, the rental company shall disclose clearly the existence and amount of the customer facility charge. For purposes of this subparagraph, advertisements include radio, television, other electronic media, and print advertisements. For purposes of this subparagraph, quotations and reservations include those that are telephonic, in-person, and computer-transmitted. If the rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of fees may be stated in the advertisement. However, all rate advertisements that include car rentals at airport destinations shall clearly and conspicuously include a toll-free

telephone number whereby a customer can be told the specific amount of the customer facility charge to which the customer will be obligated.

(B) If a person or entity other than a rental car company, including a passenger carrier or a seller of travel services, advertises or quotes a rate for a car rental at an airport where a customer facility charge is imposed, that person or entity shall, provided that he, she, or it is provided with information about the existence and amount of the fee, to the extent not specifically prohibited by federal law, clearly disclose the existence and amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car. If a rental car company provides the person or entity with rate and customer facility charge information, the rental car company is not responsible for the failure of that person or entity to comply with this subparagraph when quoting or confirming a rate to a third person or entity.

(6) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(o) A rental company shall not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in the following circumstances:

(1) (A) When the equipment is used by the rental company only for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following:

(i) The renter or law enforcement has informed the rental company that the vehicle has been stolen, abandoned, or missing.

(ii) The rental vehicle has not been returned following one week after the contracted return date, or by one week following the end of an extension of that return date.

(iii) The rental company discovers the rental vehicle has been stolen or abandoned, and, if stolen, it shall report the vehicle stolen to law enforcement by filing a stolen vehicle report, unless law enforcement has already informed the rental company that the vehicle has been stolen, abandoned, or is missing.

(B) If electronic surveillance technology is activated pursuant to subparagraph (A), a rental company shall maintain a record, in either electronic or written form, of information relevant to the activation of

that technology. That information shall include the rental agreement, including the return date, and the date and time the electronic surveillance technology was activated. The record shall also include, if relevant, a record of written or other communication with the renter, including communications regarding extensions of the rental, police reports, or other written communication with law enforcement officials. The record shall be maintained for a period of at least 12 months from the time the record is created and shall be made available upon the renter's request. The rental company shall maintain and furnish explanatory codes necessary to read the record. A rental company shall not be required to maintain a record if electronic surveillance technology is activated to recover a rental vehicle that is stolen or missing at a time other than during a rental period.

(2) In response to a specific request from law enforcement pursuant to a subpoena or search warrant.

(3) This subdivision does not prohibit a rental company from equipping rental vehicles with GPS-based technology that provides navigation assistance to the occupants of the rental vehicle, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except for the purposes of discovering or repairing a defect in the technology and the information may then be used only for that purpose.

(4) This subdivision does not prohibit a rental company from equipping rental vehicles with electronic surveillance technology that allows for the remote locking or unlocking of the vehicle at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except as necessary to lock or unlock the vehicle.

(5) This subdivision does not prohibit a rental company from equipping rental vehicles with electronic surveillance technology that allows the company to provide roadside assistance, such as towing, flat tire, or fuel services, at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology except as necessary to provide the requested roadside assistance.

(6) This subdivision does not prohibit a rental company from obtaining, accessing, or using information from electronic surveillance technology for the sole purpose of determining the date and time the vehicle is returned to the rental company, and the total mileage driven and the vehicle fuel level of the returned vehicle. This paragraph, however, shall apply only after the renter has returned the vehicle to the

rental company, and the information shall only be used for the purpose described in this paragraph.

(p) A rental company shall not use electronic surveillance technology to track a renter in order to impose fines or surcharges relating to the renter's use of the rental vehicle.

(q) A renter may bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of this section. The prevailing party shall be entitled to recover reasonable attorney's fees and costs.

(r) A rental company that brings an action against a renter for loss due to theft of the vehicle shall bring the action in the county in which the renter resides or, if the renter is not a resident of this state, in the jurisdiction in which the renter resides.

(s) A waiver of any of the provisions of this section shall be void and unenforceable as contrary to public policy.

(t) (1) A rental company's disclosure requirements shall be satisfied for renters who are enrolled in the rental company's membership program if all of the following conditions are met:

(A) Prior to the enrollee's first rental as a participant in the program, the renter receives, in writing, the following:

(i) All of the disclosures required by paragraph (1) of subdivision (g), including the terms and conditions of the rental agreement then in effect.

(ii) An Internet Web site address, as well as a contact number or address, where the enrollee can learn of changes to the rental agreement or to the laws of this state governing rental agreements since the effective date of the rental company's most recent restatement of the rental agreement and distribution of that restatement to its members.

(B) At the commencement of each rental period, the renter is provided, on the rental record or the folder in which it is inserted, with a printed notice stating that he or she had either previously selected or declined an optional damage waiver and that the renter has the right to change preferences.

(C) At the commencement of each rental period, the rental company provides, on the rearview mirror, a hanger on which a statement is printed, in a box, in at least 12-point boldface type, notifying the renter that the collision damage waiver offered by the rental company may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. If it is not feasible to hang the statement from the rearview mirror, it shall be hung from the steering wheel.

The hanger shall provide the renter a box to initial if he or she (not his or her employer) has previously accepted or declined the collision

damage waiver and that he or she now wishes to change his or her decision to accept or decline the collision damage waiver, as follows:

"□ If I previously accepted the collision damage waiver, I now decline it.

□ If I previously declined the collision damage waiver, I now accept it."

The hanger shall also provide a box for the enrollee to indicate whether this change applies to this rental transaction only or to all future rental transactions. The hanger shall also notify the renter that he or she may make that change, prior to leaving the lot, by returning the form to an employee designated to receive the form who is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(2) (A) This subdivision is not effective unless the employee designated pursuant to subparagraph (E) of paragraph (8) of subdivision (a) is actually present at the required location.

(B) This subdivision does not relieve the rental company from the disclosures required to be made within the text of a contract or holder in which the contract is placed; in or on an advertisement containing a rental rate; or in a telephonic, in-person, or computer-transmitted quotation or reservation.

(u) The amendments made to this section during the 2001–02 Regular Session of the Legislature do not affect litigation pending on or before January 1, 2003, alleging a violation of Section 22325 of the Business and Professions Code as it read at the time the action was commenced.

SEC. 32. Section 1951.7 of the Civil Code is amended to read:

1951.7. (a) As used in this section, "advance payment" means moneys paid to the lessor of real property as prepayment of rent, or as a deposit to secure faithful performance of the terms of the lease, or another payment that is the substantial equivalent of either of these. A payment that is not in excess of the amount of one month's rent is not an advance payment for purposes of this section.

(b) The notice provided by subdivision (c) is required to be given only if all of the following apply:

(1) The lessee has made an advance payment.

(2) The lease is terminated pursuant to Section 1951.2.

(3) The lessee has made a request, in writing, to the lessor that he or she be given notice under subdivision (c).

(c) Upon the initial reletting of the property, the lessor shall send a written notice to the lessee stating that the property has been relet, the name and address of the new lessee, and the length of the new lease and the amount of the rent. The notice shall be delivered to the lessee personally, or be sent by regular mail to the lessee at the address shown

on the request, not later than 30 days after the new lessee takes possession of the property. Notice is not required if the amount of the rent due and unpaid at the time of termination exceeds the amount of the advance payment.

SEC. 33. Section 2938 of the Civil Code is amended to read:

2938. (a) A written assignment of an interest in leases, rents, issues, or profits of real property made in connection with an obligation secured by real property, irrespective of whether the assignment is denoted as absolute, absolute conditioned upon default, additional security for an obligation, or otherwise, shall, upon execution and delivery by the assignor, be effective to create a present security interest in existing and future leases, rents, issues, or profits of that real property. As used in this section, "leases, rents, issues, and profits of real property" includes the cash proceeds thereof. "Cash proceeds" means cash, checks, deposit accounts, and the like.

(b) An assignment of an interest in leases, rents, issues, or profits of real property may be recorded in the records of the county recorder in the county in which the underlying real property is located in the same manner as any other conveyance of an interest in real property, whether the assignment is in a separate document or part of a mortgage or deed of trust, and when so duly recorded in accordance with the methods, procedures, and requirements for recordation of conveyances of other interests in real property, (1) the assignment shall be deemed to give constructive notice of the content of the assignment with the same force and effect as any other duly recorded conveyance of an interest in real property and (2) the interest granted by the assignment shall be deemed fully perfected as of the time of recordation with the same force and effect as any other duly recorded conveyance of an interest in real property, notwithstanding a provision of the assignment or a provision of law that would otherwise preclude or defer enforcement of the rights granted the assignee under the assignment until the occurrence of a subsequent event, including, but not limited to, a subsequent default of the assignor, or the assignee's obtaining possession of the real property or the appointment of a receiver.

(c) Upon default of the assignor under the obligation secured by the assignment of leases, rents, issues, and profits, the assignee shall be entitled to enforce the assignment in accordance with this section. On and after the date the assignee takes one or more of the enforcement steps described in this subdivision, the assignee shall be entitled to collect and receive all rents, issues, and profits that have accrued but remain unpaid and uncollected by the assignor or its agent or for the assignor's benefit on that date, and all rents, issues, and profits that accrue on or

after the date. The assignment shall be enforced by one or more of the following:

(1) The appointment of a receiver.

(2) Obtaining possession of the rents, issues, or profits.

(3) Delivery to any one or more of the tenants of a written demand for turnover of rents, issues, and profits in the form specified in subdivision (k), a copy of which demand shall also be delivered to the assignor; and a copy of which shall be mailed to all other assignees of record of the leases, rents, issues, and profits of the real property at the address for notices provided in the assignment or, if none, to the address to which the recorded assignment was to be mailed after recording.

(4) Delivery to the assignor of a written demand for the rents, issues, or profits, a copy of which shall be mailed to all other assignees of record of the leases, rents, issues, and profits of the real property at the address for notices provided in the assignment or, if none, to the address to which the recorded assignment was to be mailed after recording.

Moneys received by the assignee pursuant to this subdivision, net of amounts paid pursuant to subdivision (g), if any, shall be applied by the assignee to the debt or otherwise in accordance with the assignment or the promissory note, deed of trust, or other instrument evidencing the obligation, provided, however, that neither the application nor the failure to so apply the rents, issues, or profits shall result in a loss of any lien or security interest that the assignee may have in the underlying real property or any other collateral, render the obligation unenforceable, constitute a violation of Section 726 of the Code of Civil Procedure, or otherwise limit a right available to the assignee with respect to its security.

(d) If an assignee elects to take the action provided for under paragraph (3) of subdivision (c), the demand provided for therein shall be signed under penalty of perjury by the assignee or an authorized agent of the assignee and shall be effective as against the tenant when actually received by the tenant at the address for notices provided under the lease or other contractual agreement under which the tenant occupies the property or, if no address for notices is so provided, at the property. Upon receipt of this demand, the tenant shall be obligated to pay to the assignee all rents, issues, and profits that are past due and payable on the date of receipt of the demand, and all rents, issues, and profits coming due under the lease following the date of receipt of the demand, unless either of the following occurs:

(1) The tenant has previously received a demand that is valid on its face from another assignee of the leases, issues, rents, and profits sent by the other assignee in accordance with this subdivision and subdivision (c).

(2) The tenant, in good faith and in a manner that is not inconsistent with the lease, has previously paid, or within 10 days following receipt of the demand notice pays, the rent to the assignor.

Payment of rent to an assignee following a demand under an assignment of leases, rents, issues, and profits shall satisfy the tenant's obligation to pay the amounts under the lease. If a tenant pays rent to the assignor after receipt of a demand other than under the circumstances described in this subdivision, the tenant shall not be discharged of the obligation to pay rent to the assignee, unless the tenant occupies the property for residential purposes. The obligation of a tenant to pay rent pursuant to this subdivision and subdivision (c) shall continue until receipt by the tenant of a written notice from a court directing the tenant to pay the rent in a different manner or receipt by the tenant of a written notice from the assignee from whom the demand was received canceling the demand, whichever occurs first. This subdivision does not affect the entitlement to rents, issues, or profits as between assignees as set forth in subdivision (h).

(e) An enforcement action of the type authorized by subdivision (c), and a collection, distribution, or application of rents, issues, or profits by the assignee following an enforcement action of the type authorized by subdivision (c), shall not do any of the following:

(1) Make the assignee a mortgagee in possession of the property, except if the assignee obtains actual possession of the real property, or an agent of the assignor.

(2) Constitute an action, render the obligation unenforceable, violate Section 726 of the Code of Civil Procedure, or, other than with respect to marshaling requirements, otherwise limit any rights available to the assignee with respect to its security.

(3) Be deemed to create a bar to a deficiency judgment pursuant to a provision of law governing or relating to deficiency judgments following the enforcement of any encumbrance, lien, or security interest, notwithstanding that the action, collection, distribution, or application may reduce the indebtedness secured by the assignment or by a deed of trust or other security instrument.

The application of rents, issues, or profits to the secured obligation shall satisfy the secured obligation to the extent of those rents, issues, or profits, and, notwithstanding any provisions of the assignment or other loan documents to the contrary, shall be credited against any amounts necessary to cure any monetary default for purposes of reinstatement under Section 2924c.

(f) If cash proceeds of rents, issues, or profits to which the assignee is entitled following enforcement as set forth in subdivision (c) are received by the assignor or its agent for collection or by another person

who has collected such rents, issues, or profits for the assignor's benefit, or for the benefit of a subsequent assignee under the circumstances described in subdivision (h), following the taking by the assignee of either of the enforcement actions authorized in paragraph (3) or (4) of subdivision (c), and the assignee has not authorized the assignor's disposition of the cash proceeds in a writing signed by the assignee, the rights to the cash proceeds and to the recovery of the cash proceeds shall be determined by the following:

(1) The assignee shall be entitled to an immediate turnover of the cash proceeds received by the assignor or its agent for collection or any other person who has collected the rents, issues, or profits for the assignor's benefit, or for the benefit of a subsequent assignee under the circumstances described in subdivision (h), and the assignor or other described party in possession of those cash proceeds shall turn over the full amount of cash proceeds to the assignee, less any amount representing payment of expenses authorized by the assignee in writing. The assignee shall have a right to bring an action for recovery of the cash proceeds, and to recover the cash proceeds, without the necessity of bringing an action to foreclose a security interest that it may have in the real property. This action shall not violate Section 726 of the Code of Civil Procedure or otherwise limit a right available to the assignee with respect to its security.

(2) As between an assignee with an interest in cash proceeds perfected in the manner set forth in subdivision (b) and enforced in accordance with paragraph (3) or (4) of subdivision (c) and another person claiming an interest in the cash proceeds, other than the assignor or its agent for collection or one collecting rents, issues, and profits for the benefit of the assignor, and subject to subdivision (h), the assignee shall have a continuously perfected security interest in the cash proceeds to the extent that the cash proceeds are identifiable. For purposes hereof, cash proceeds are identifiable if they are either (A) segregated or (B) if commingled with other funds of the assignor or its agent or one acting on its behalf, can be traced using the lowest intermediate balance principle, unless the assignor or other party claiming an interest in proceeds shows that some other method of tracing would better serve the interests of justice and equity under the circumstances of the case. The provisions of this paragraph are subject to any generally applicable law with respect to payments made in the operation of the assignor's business.

(g) (1) If the assignee enforces the assignment under subdivision (c) by means other than the appointment of a receiver and receives rents, issues, or profits pursuant to this enforcement, the assignor or another assignee of the affected real property may make written demand upon the assignee to pay the reasonable costs of protecting and preserving the

property, including payment of taxes and insurance and compliance with building and housing codes, if any.

(2) On and after the date of receipt of the demand, the assignee shall pay for the reasonable costs of protecting and preserving the real property to the extent of any rents, issues, or profits actually received by the assignee, provided, however, that no such acts by the assignee shall cause the assignee to become a mortgagee in possession and the assignee's duties under this subdivision, upon receipt of a demand from the assignor or any other assignee of the leases, rents, issues, and profits pursuant to paragraph (1), shall not be construed to require the assignee to operate or manage the property, which obligation shall remain that of the assignor.

(3) The obligation of the assignee hereunder shall continue until the earlier of (A) the date on which the assignee obtains the appointment of a receiver for the real property pursuant to application to a court of competent jurisdiction, or (B) the date on which the assignee ceases to enforce the assignment.

(4) This subdivision does not supersede or diminish the right of the assignee to the appointment of a receiver.

(h) The lien priorities, rights, and interests among creditors concerning rents, issues, or profits collected before the enforcement by the assignee shall be governed by subdivisions (a) and (b). Without limiting the generality of the foregoing, if an assignee who has recorded its interest in leases, rents, issues, and profits prior to the recordation of that interest by a subsequent assignee seeks to enforce its interest in those rents, issues, or profits in accordance with this section after any enforcement action has been taken by a subsequent assignee, the prior assignee shall be entitled only to the rents, issues, and profits that are accrued and unpaid as of the date of its enforcement action and unpaid rents, issues, and profits accruing thereafter. The prior assignee shall have no right to rents, issues, or profits paid prior to the date of the enforcement action, whether in the hands of the assignor or any subsequent assignee. Upon receipt of notice that the prior assignee has enforced its interest in the rents, issues, and profits, the subsequent assignee shall immediately send a notice to any tenant to whom it has given notice under subdivision (c). The notice shall inform the tenant that the subsequent assignee cancels its demand that the tenant pay rent to the subsequent assignee.

(i) (1) This section shall apply to contracts entered into on or after January 1, 1997.

(2) Sections 2938 and 2938.1, as these sections were in effect prior to January 1, 1997, shall govern contracts entered into prior to January 1, 1997, and shall govern actions and proceedings initiated on the basis of these contracts.

(j) "Real property," as used in this section, means real property or any estate or interest therein.

(k) The demand required by paragraph (3) of subdivision (c) shall be in the following form:

DEMAND TO PAY RENT TO
PARTY OTHER THAN LANDLORD
(SECTION 2938 OF THE CIVIL CODE)

Tenant: [Name of Tenant]

Property Occupied by Tenant: [Address]

Landlord: [Name of Landlord]

Secured Party: [Name of Secured Party]

Address: [Address for Payment of Rent to Secured Party and for Further Information]:

The secured party named above is the assignee of leases, rents, issues, and profits under [name of document] dated _____, and recorded at [recording information] in the official records of _____ County, California. You may request a copy of the assignment from the secured party at ____ (address).

THIS NOTICE AFFECTS YOUR LEASE OR RENTAL AGREEMENT RIGHTS AND OBLIGATIONS. YOU ARE THEREFORE ADVISED TO CONSULT AN ATTORNEY CONCERNING THOSE RIGHTS AND OBLIGATIONS IF YOU HAVE ANY QUESTIONS REGARDING YOUR RIGHTS AND OBLIGATIONS UNDER THIS NOTICE.

IN ACCORDANCE WITH SUBDIVISION (C) OF SECTION 2938 OF THE CIVIL CODE, YOU ARE HEREBY DIRECTED TO PAY TO THE SECURED PARTY, ____ (NAME OF SECURED PARTY) AT ____ (ADDRESS), ALL RENTS UNDER YOUR LEASE OR OTHER RENTAL AGREEMENT WITH THE LANDLORD OR PREDECESSOR IN INTEREST OF LANDLORD, FOR THE OCCUPANCY OF THE PROPERTY AT ____ (ADDRESS OF RENTAL PREMISES) WHICH ARE PAST DUE AND PAYABLE ON THE DATE YOU RECEIVE THIS DEMAND, AND ALL RENTS COMING DUE UNDER THE LEASE OR OTHER RENTAL

AGREEMENT FOLLOWING THE DATE YOU RECEIVE THIS DEMAND UNLESS YOU HAVE ALREADY PAID THIS RENT TO THE LANDLORD IN GOOD FAITH AND IN A MANNER NOT INCONSISTENT WITH THE AGREEMENT BETWEEN YOU AND THE LANDLORD. IN THIS CASE, THIS DEMAND NOTICE SHALL REQUIRE YOU TO PAY TO THE SECURED PARTY, ____ (NAME OF THE SECURED PARTY), ALL RENTS THAT COME DUE FOLLOWING THE DATE OF THE PAYMENT TO THE LANDLORD.

IF YOU PAY THE RENT TO THE UNDERSIGNED SECURED PARTY, ____ (NAME OF SECURED PARTY), IN ACCORDANCE WITH THIS NOTICE, YOU DO NOT HAVE TO PAY THE RENT TO THE LANDLORD. YOU WILL NOT BE SUBJECT TO DAMAGES OR OBLIGATED TO PAY RENT TO THE SECURED PARTY IF YOU HAVE PREVIOUSLY RECEIVED A DEMAND OF THIS TYPE FROM A DIFFERENT SECURED PARTY.

[For other than residential tenants] IF YOU PAY RENT TO THE LANDLORD THAT BY THE TERMS OF THIS DEMAND YOU ARE REQUIRED TO PAY TO THE SECURED PARTY, YOU MAY BE SUBJECT TO DAMAGES INCURRED BY THE SECURED PARTY BY REASON OF YOUR FAILURE TO COMPLY WITH THIS DEMAND, AND YOU MAY NOT BE DISCHARGED FROM YOUR OBLIGATION TO PAY THAT RENT TO THE SECURED PARTY. YOU WILL NOT BE SUBJECT TO THOSE DAMAGES OR OBLIGATED TO PAY THAT RENT TO THE SECURED PARTY IF YOU HAVE PREVIOUSLY RECEIVED A DEMAND OF THIS TYPE FROM A DIFFERENT ASSIGNEE.

Your obligation to pay rent under this demand shall continue until you receive either (1) a written notice from a court directing you to pay the rent in a manner provided therein, or (2) a written notice from the secured party named above canceling this demand.

The undersigned hereby certifies, under penalty of perjury, that the undersigned is an authorized officer or agent of the secured party and that the secured party is the assignee, or the current successor to the assignee, under an assignment of leases, rents, issues, or profits executed by the landlord, or a predecessor in interest, that is being enforced pursuant to and in accordance with Section 2938 of the Civil Code.

Executed at _____, California, this ____ day of _____, _____.

[Secured Party]
Name: _____

Title: _____

SEC. 34. Section 340.7 of the Code of Civil Procedure is amended to read:

340.7. (a) Notwithstanding Section 335.1, a civil action brought by, or on behalf of, a Dalkon Shield victim against the Dalkon Shield Claimants' Trust, shall be brought in accordance with the procedures established by A.H. Robins Company, Inc. Plan of Reorganization, and shall be brought within 15 years of the date on which the victim's injury occurred, except that the statute shall be tolled from August 21, 1985, the date on which the A.H. Robins Company filed for Chapter 11 Reorganization in Richmond, Virginia.

(b) This section applies regardless of when the action or claim shall have accrued or been filed and regardless of whether it might have lapsed or otherwise be barred by time under California law. However, this section shall only apply to victims who, prior to January 1, 1990, filed a civil action, a timely claim, or a claim that is declared to be timely under the sixth Amended and Restated Disclosure Statement filed pursuant to Section 1125 of the Federal Bankruptcy Code in re: A.H. Robins Company, Inc., dated March 28, 1988, U.S. Bankruptcy Court, Eastern District of Virginia (case number 85-01307-R).

SEC. 35. Section 486.050 of the Code of Civil Procedure is amended to read:

486.050. (a) Except as otherwise provided in Section 486.040, the temporary protective order may prohibit a transfer by the defendant of any of the defendant's property in this state subject to the levy of the writ of attachment. The temporary protective order shall describe the property in a manner adequate to permit the defendant to identify the property subject to the temporary protective order.

(b) Notwithstanding subdivision (a), if the property is farm products held for sale or is inventory, the temporary protective order shall not prohibit the defendant from transferring the property in the ordinary course of business, but the temporary protective order may impose appropriate restrictions on the disposition of the proceeds from that type of transfer.

SEC. 36. Section 9526.5 of the Commercial Code is amended to read:

9526.5. (a) For purposes of this section, the following terms have the following meanings:

(1) "Official filing" means the permanent archival filing of all instruments, papers, records, and attachments as accepted for filing by a filing office.

(2) "Public filing" means a filing that is an exact copy of an official filing except that any social security number contained in the copied filing is truncated. The public filing shall have the same legal force and effect as the official filing.

(3) "Truncate" means to redact at least the first five digits of a social security number.

(4) "Truncated social security number" means a social security number that displays no more than the last four digits of the number.

(b) For every filing containing an untruncated social security number filed before August 1, 2007, a filing office shall create a public filing.

(c) A filing office shall post a notice on its Internet Web site informing filers not to include social security numbers in any portion of their filings. A filing office's online filing system shall not contain a field requesting a social security number.

(d) Beginning August 1, 2007, for every filing containing an untruncated social security number filed by means other than the filing office's Internet Web site, a filing office shall create a public filing.

(e) When a public filing version of an official filing exists, both of the following shall apply:

(1) Upon a request for inspection, copying, or other public disclosure of an official filing that is not exempt from disclosure, a filing office shall make available only the public filing version of that filing.

(2) A filing office shall publicly disclose an official filing only in response to a subpoena or order of a court of competent jurisdiction.

(3) This article does not restrict, delay, or modify access to an official filing, or modify existing agreements regarding access to an official filing, prior to the creation and availability of a public filing version of that official filing.

(f) A filing office shall be deemed to be in compliance with the requirements of this section and shall not be liable for failure to truncate a social security number if the office uses due diligence to locate social security numbers in official records and truncate the social security numbers in the public filing version of those official filings. The use of an automated program with a high rate of accuracy shall be deemed to be due diligence.

(g) In the event that a filing office fails to truncate a social security number contained in a record pursuant to subdivision (b) or (d), a person may request that the filing office truncate the social security number contained in that record. Notwithstanding that a filing office may be deemed to be in compliance with this section pursuant to subdivision

(f), a filing office that receives a request that identifies the exact location of an untruncated social security number that is required to be truncated pursuant to subdivision (b) or (d) within a specifically identified record, shall truncate that number within 10 business days of receiving the request. The public filing with the truncated social security number shall replace the record with the untruncated number.

(h) The Secretary of State shall not produce or make available financing statements in the form and format described in Section 9521 that provide a space identified for the disclosure of the social security number of an individual.

(i) The Secretary of State shall produce and make available financing statements in the form and format described in Section 9521, except that the financing statements shall not provide a space identified for the disclosure of the social security number of an individual.

(j) This section does not apply to a county recorder.

SEC. 37. The heading of Chapter 1 (commencing with Section 8006) of Part 6 of Division 1 of Title 1 of the Education Code is amended to read:

CHAPTER 1. CAREER TECHNICAL EDUCATION

SEC. 38. The heading of Article 1 (commencing with Section 8006) of Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code is amended to read:

Article 1. Career Technical Education Staff and Reports

SEC. 39. Section 8484 of the Education Code is amended to read:

8484. (a) As required by the department, programs established pursuant to this article shall submit annual outcome-based data for evaluation, including research-based indicators and measurable pupil outcomes for academic performance, attendance, and positive behavioral changes. The department may consider these outcomes when determining eligibility for grant renewal.

(1) To demonstrate program effectiveness, grantees shall submit both of the following:

(A) Schoolday attendance on an annual basis.

(B) Program attendance.

(2) To demonstrate program effectiveness based upon individual program focus, programs shall submit one or more of the following measures annually:

(A) Positive behavioral changes, as reported by schoolday teachers or after school staff who directly supervise pupils.

(B) Pupil Standardized Testing and Reporting (STAR) Program test scores.

(C) Homework completion rates as reported by schoolday teachers or after school staff who directly supervise pupils.

(D) Skill development as reported by schoolday teachers or after school staff who directly supervise pupils.

(E) The department may develop additional measures for this paragraph. Any additions shall be developed in consultation with the evaluation committee of the advisory committee.

(3) Programs shall submit information adopted through the process outlined in subdivision (c).

(b) (1) If a program consistently fails to demonstrate measurable program outcomes for three consecutive years, the department may terminate the program as described in subdivision (a) of Section 8483.7. The department shall consider multiple outcomes and not rely on one outcome in isolation.

(2) For purposes of this section, "consistently fails to demonstrate measurable program outcomes" means failure to meet program effectiveness requirements pursuant to the criteria in paragraphs (1) and (2) of subdivision (a).

(3) Measurable program outcomes may be demonstrated by, but are not limited to, the following methods:

(A) Comparing pupils participating in the program to nonparticipating pupils at the same schoolsite.

(B) Pupils participating in the program demonstrate improvement on one or more indicators collected by the program pursuant to this paragraph.

(4) For purposes of subparagraph (B) of paragraph (2) of subdivision (a), program effectiveness may be demonstrated using performance levels from the STAR Program by any of the following:

(A) The grantee documents that the percentage of pupils performing at the far below basic level declined.

(B) The grantee documents that the percentage of pupils performing above the far below basic and below basic levels increased.

(C) The grantee documents that the percentage of pupils who performed at or above the basic level increased.

(D) The grantee documents that pupils participating in the program performed better in a year-to-year comparison of the results of the STAR Program than their peers who were not participating in the program.

(c) The department shall develop standardized procedures and tools to collect the indicators in paragraphs (1) and (2) of subdivision (a). The department shall consult with the evaluation committee of the Advisory

Committee on Before and After School Programs pursuant to Section 8484.9.

SEC. 40. Section 8774 of the Education Code is amended to read:

8774. (a) A residential outdoor science program shall be eligible for funding pursuant to this section if it meets both of the following conditions:

(1) It is operated by a school district or county office of education pursuant to this article.

(2) It meets the standards of the Residential Outdoor Science School (ROSS) Guide and maintains current department ROSS certification.

(b) An eligible residential outdoor science program may claim apportionment for any pupil who meets all of the following conditions:

(1) The pupil is enrolled in a California public school.

(2) The pupil is enrolled in grade 5 or 6.

(3) The applicant has not previously received funding for the pupil pursuant to this section.

(4) The pupil participates in a minimum four-day and three-night program.

(5) The pupil is economically disadvantaged and meets the criteria of Section 49552.

(c) The Superintendent shall, subject to appropriation of funds for this purpose, apportion to each school district or county office of education that operates a residential outdoor science program pursuant to this article an amount equal to ten dollars ($10) per eligible participating pupil, multiplied by the total number of days of participation, up to a maximum of five days.

SEC. 41. Section 17075.10 of the Education Code is amended to read:

17075.10. (a) A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.

(b) A school district applying for hardship state funding under this article shall comply with either paragraph (1) or (2).

(1) Demonstrate both of the following:

(A) That due to extreme financial, disaster-related, or other hardship the school district has unmet need for pupil housing.

(B) That the school district is not financially capable of providing the matching funds otherwise required for state participation, that the district has made all reasonable efforts to impose all levels of local debt capacity

and development fees, and that the school district is, therefore, unable to participate in the program pursuant to this chapter except as set forth in this article.

(2) Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities. Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the board on a 50-percent state share basis from funds reserved for that purpose in any bond approved by the voters after January 1, 2006. If the board determines that the seismic mitigation work of a school building would require funding that is greater than 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter.

(c) The board shall review the increased costs that may be uniquely associated with urban construction and shall adjust the per-pupil grant for new construction or modernization hardship applications as necessary to accommodate those costs. The board shall adopt regulations setting forth the standards, methodology, and a schedule of allowable adjustments, for the urban adjustment factor established pursuant to this subdivision.

SEC. 42. Section 33051 of the Education Code is amended to read:

33051. (a) The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following:

(1) The educational needs of the pupils are not adequately addressed.

(2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request.

(3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees.

(4) Pupil or school personnel protections are jeopardized.

(5) Guarantees of parental involvement are jeopardized.

(6) The request would substantially increase state costs.

(7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

(b) The governing board of a school district that has requested and received a general waiver under this article for two consecutive years for the same general waiver is not required to reapply annually if the information contained on the request remains current. The state board may require updated information for the request whenever it determines

that information to be necessary. This section does not prevent the state board from rescinding a waiver if additional information supporting a rescission is made available to the board. This waiver process shall not apply to waivers pertaining to teacher credentialing, which shall be submitted to the state board annually.

SEC. 43. Section 33382 of the Education Code is amended to read:

33382. The state board, upon the advice and recommendations of the Superintendent, shall approve revised guidelines for the selection and administration of California American Indian education centers. The Superintendent shall request input from the American Indian Education Oversight Committee on amendments and updates to the 1975 guidelines and the committee may provide input to the Superintendent prior to the submission of the guidelines to the state board.

SEC. 44. Section 35021.3 of the Education Code is amended to read:

35021.3. (a) A school district or a county office of education may establish a registry of volunteer after school physical recreation instructors and other before and after school program volunteers.

(b) (1) To be included on a registry established pursuant to this section, a prospective registrant shall submit to a criminal background check pursuant to Section 45125. The prospective registrant shall also submit current contact information to the school district or county office maintaining the registry and shall update that information whenever the information changes.

(2) A school, school district, or county office of education may contribute funds to pay for all or part of the cost of a criminal background check required of a prospective registrant pursuant to paragraph (1).

(c) A school district or county office maintaining a registry may impose other requirements on prospective registrants, including, but not limited to, certification in cardiopulmonary resuscitation.

(d) Upon approval of the person acting as the coordinator of, or overseeing, the after school activities of the school, a school under the jurisdiction of a school district or county office of education maintaining a registry may allow a volunteer registered with the school district or county office to provide instruction in physical recreation to pupils after school hours or provide other services.

(e) This section does not require a school district or county office of education to establish or maintain a registry and does not require a school to use a volunteer from a registry to provide instruction in physical recreation to pupils after school hours or provide other services.

(f) Instruction in physical recreation provided to a pupil by a volunteer pursuant to subdivision (d) shall not be counted toward satisfaction of either the physical education course requirements for graduation from high school pursuant to Section 51225.3 or the number of minutes of

instruction in physical education required pursuant to Section 51210, 51222, or 51223, as applicable.

SEC. 45. Section 46300 of the Education Code is amended to read:

46300. (a) In computing average daily attendance of a school district or county office of education, there shall be included the attendance of pupils while engaged in educational activities required of those pupils and under the immediate supervision and control of an employee of the district or county office who possessed a valid certification document, registered as required by law.

(b) (1) For purposes of a work experience education program in a secondary school that meets the standards of the California State Plan for Career Technical Education, "immediate supervision," in the context of off-campus work training stations, means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision.

(2) The pupil-teacher ratio in a work experience program shall not exceed 125 pupils per full-time equivalent certificated teacher coordinator. This ratio may be waived by the state board pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 of Division 2 under criteria developed by the state board.

(3) A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time pupil enrolled in regular classes that meet the requirements of Section 46141 or 46144.

(c) (1) For purposes of the rehabilitative schools, classes, or programs described in Section 48917 that require immediate supervision, "immediate supervision" means that the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district.

(2) A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per calendar day.

(d) (1) For purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school pupils who are also enrolled in a regional occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities that are less than the minimum schoolday, pursuant to regulations adopted by the state board; however, none of that attendance shall be counted for purposes of computing attendance pursuant to Section 52324.

(2) A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for a pupil in attendance for less than 145 minutes each day.

(3) The divisor for computing proportional average daily attendance pursuant to this subdivision is 240, except that, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor is 180.

(4) Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

(e) (1) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in independent study conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 for five or more consecutive schooldays.

(2) A pupil participating in independent study shall not be credited with more than one day of attendance per calendar day.

(f) For purposes of cooperative career technical education programs and community classrooms described in Section 52372.1, "immediate supervision" means pupil participation in paid and unpaid on-the-job experiences, as outlined under a training agreement and individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

(g) In computing the average daily attendance of a school district, there shall be included the attendance of pupils in kindergarten after they have completed one school year in kindergarten only if the school district has on file for each of those pupils an agreement made pursuant to Section 48011, approved in form and content by the department and signed by the pupil's parent or guardian, that the pupil may continue in kindergarten for not more than one additional school year.

SEC. 46. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, as long as each location is identified in the charter school petition. The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:

(A) The petition has been signed by a number of parents or legal guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision (b) of Section 41365 may be circulated by one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

(5) A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.

(6) Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that is not

served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility

of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(P) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall, on a regular basis, consult with their parents, legal guardians, and teachers regarding the school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and

in no event shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

(e) The governing board of a school district shall not require any employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require any pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032 as it read prior to July 19, 2006.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the applicable county superintendent of schools, the department, and the state board.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment

of a charter school with the state board, and the state board may approve the petition, in accordance with subdivision (b). A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering agency, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b) and shall define "reasonably comprehensive" as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny a petition shall, thereafter, be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisorial and oversight responsibilities for a charter school approved by the state board to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local educational agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the state board.

(3) A charter school that has been granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing

board of the school district that initially denied the charter. If the governing board of the school district denies the school's petition for renewal, the school may petition the state board for renewal of its charter.

(*l*) Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and are subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

SEC. 47. 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 a minor pupil regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, and 51938 and Chapter 2.3 (commencing with Section 32255) of Part 19 of Division 1 of Title 1.

(b) The notification also shall 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 also shall advise the parents and guardians of all pupils attending a school within the school district of the schedule of minimum days and pupil-free staff development days, and if minimum or pupil-free staff development days are scheduled thereafter, the governing board of the district shall notify parents and guardians of the affected pupils as early as possible, but not later than one month before the scheduled minimum or pupil-free day.

(d) The notification also may 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.

(e) The notification shall advise the parent or guardian of the pupil that each pupil completing grade 12 is required to successfully pass the high school exit examination administered pursuant to Chapter 9 (commencing with Section 60850) of Part 33. The notification shall include, at a minimum, the date of the examination, the requirements for passing the examination, and shall inform the parents and guardians regarding the consequences of not passing the examination and shall inform parents and guardians that passing the examination is a condition of graduation.

(f) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) of Chapter 3 of Part 19 of Division 1 of Title 1 shall inform parents or guardians of the program as specified in Section 32390.

(g) The notification also shall include a copy of the written policy of the school district on sexual harassment established pursuant to Section 231.5, as it relates to pupils.

(h) The notification shall advise the parent or guardian of all existing statutory attendance options and local attendance options available in the school district. This notification component shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. This notification component also shall include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification component also shall include an explanation of the existing statutory attendance options, including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part 26, and subdivision (b) of Section 48204. The department shall produce this portion of the notification and shall distribute it to all school districts.

(i) It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within its district and that the districts strive to make available enrollment options that meet the diverse needs, potential, and interests of the pupils of California.

(j) The notification shall advise the parent or guardian that a pupil shall not have his or her grade reduced or lose academic credit for any absence or absences excused pursuant to Section 48205 if missed assignments and tests that can reasonably be provided are satisfactorily

completed within a reasonable period of time, and shall include the full text of Section 48205.

(k) The notification shall advise the parent or guardian of the availability of state funds to cover the costs of advanced placement examination fees pursuant to Section 52244.

(*l*) The notification to the parent or guardian of a minor pupil enrolled in any of grades 9 to 12, inclusive, also shall include the information required pursuant to Section 51229.

SEC. 48. Section 49423.5 of the Education Code is amended to read:

49423.5. (a) Notwithstanding Section 49422, an individual with exceptional needs who requires specialized physical health care services, during the regular schoolday, may be assisted by any of the following individuals:

(1) Qualified persons who possess an appropriate credential issued pursuant to Section 44267 or 44267.5, or hold a valid certificate of public health nursing issued by the Board of Registered Nursing.

(2) Qualified designated school personnel trained in the administration of specialized physical health care if they perform those services under the supervision, as defined by Section 3051.12 of Title 5 of the California Code of Regulations, of a credentialed school nurse, public health nurse, or licensed physician and surgeon and the services are determined by the credentialed school nurse or licensed physician and surgeon, in consultation with the physician treating the pupil, to be all of the following:

(A) Routine for the pupil.

(B) Pose little potential harm for the pupil.

(C) Performed with predictable outcomes, as defined in the individualized education program of the pupil.

(D) Do not require a nursing assessment, interpretation, or decisionmaking by the designated school personnel.

(b) Specialized health care or other services that require medically related training shall be provided pursuant to the procedures prescribed by Section 49423.

(c) Persons providing specialized physical health care services shall also demonstrate competence in basic cardiopulmonary resuscitation and shall be knowledgeable of the emergency medical resources available in the community in which the services are performed.

(d) "Specialized physical health care services," as used in this section, includes catheterization, gastric tube feeding, suctioning, or other services that require medically related training.

(e) Regulations necessary to implement this section shall be developed jointly by the State Department of Education and the State Department of Health Care Services, and adopted by the state board.

(f) This section does not diminish or weaken any federal requirement for serving individuals with exceptional needs under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and its implementing regulations, and under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and its implementing regulations.

(g) This section does not affect current state law or regulation regarding medication administration.

(h) It is the intent of the Legislature that this section not cause individuals with exceptional needs to be placed at schoolsites other than those they would attend but for their needs for specialized physical health care services.

SEC. 49. Section 49431.7 of the Education Code is amended to read:

49431.7. (a) Commencing on July 1, 2009, a school or school district, through a vending machine or school food service establishment during school hours and one-half of an hour before and after school hours, shall not make available to pupils enrolled in kindergarten, or any of grades 1 to 12, inclusive, food containing artificial trans fat, as defined in subdivision (b), or use food containing artificial trans fat in the preparation of a food item served to those pupils.

(b) For purposes of this section, a food contains artificial trans fat if a food contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 grams of trans fat per serving.

(c) For purposes of this section, "school food service establishment" means a place that regularly sells or serves a food item or meal on a school campus.

(d) This section does not apply to food provided as part of a USDA meal program.

SEC. 50. Section 51228 of the Education Code is amended to read:

51228. (a) Each school district maintaining any of grades 7 to 12, inclusive, shall offer to all otherwise qualified pupils in those grades a course of study fulfilling the requirements and prerequisites for admission to the California public institutions of postsecondary education and shall provide a timely opportunity to each of those pupils to enroll within a four-year period in each course necessary to fulfill those requirements and prerequisites prior to graduation from high school.

(b) Each school district maintaining any of grades 7 to 12, inclusive, shall offer to all otherwise qualified pupils in those grades a course of study that provides an opportunity for those pupils to attain entry-level employment skills in business or industry upon graduation from high school. Districts are encouraged to provide all pupils with a rigorous

academic curriculum that integrates academic and career skills, incorporates applied learning in all disciplines, and prepares all pupils for high school graduation and career entry.

(c) A school district that adopts a required curriculum that meets or exceeds the model standards developed and adopted by the state board pursuant to Section 51226 shall be deemed to have fulfilled its responsibilities pursuant to subdivision (b).

(d) A school district that adopts a required curriculum pursuant to subdivision (c) that meets or exceeds the model standards developed by the state board pursuant to Section 51226, or that adopts alternative means for pupils to complete the prescribed course of study pursuant to subdivision (b) of Section 51225.3, may substitute pupil demonstration of competence in the prescribed subjects through a practical demonstration of these skills in a regional occupational center or program, work experience, interdisciplinary study, independent study, credit earned at a postsecondary institution, or other outside school experience, as prescribed by Section 51225.3.

SEC. 51. Section 52244 of the Education Code is amended to read:

52244. (a) There is hereby established a grant program for the purpose of awarding grants to cover the costs of advanced placement fees or International Baccalaureate examination fees, or both, for eligible economically disadvantaged high school pupils. The department shall administer this program.

(b) An "eligible economically disadvantaged high school pupil" means a pupil who is either from a family whose annual household income is below 200 percent of the federal poverty level or a pupil who is eligible for a federal free or reduced-price meal program.

(c) A school district may apply to the department for grant funding pursuant to this section, based on the number of economically disadvantaged pupils in the district enrolled in advanced placement courses who will take the next offered advanced placement examinations. A school district that applies to the department for this purpose shall designate school district staff to whom pupils may submit applications for grants and shall institute a plan to notify pupils of the availability of financial assistance pursuant to this section. Grants shall be expended only to pay the fees required of eligible economically disadvantaged high school pupils to take an advanced placement or International Baccalaureate examination, or both.

(d) An eligible economically disadvantaged high school pupil who is enrolled in an advanced placement or International Baccalaureate course, or both, may apply to the designated school district staff for a grant pursuant to this section. A pupil who receives a grant shall pay five dollars ($5) of the examination fee.

(e) School districts and county superintendents of schools may join together and form collaboratives or consortia in order to participate in the grant program established by this section.

(f) Grants provided pursuant to this section may not be used to supplant fee waivers available to low-income pupils who take advanced placement or International Baccalaureate examinations.

(g) If the total school district applications exceed the total funds available pursuant to this section, the department shall prorate the grants based upon the ratio of the total amount requested to the total amount budgeted by the state for this purpose. Funding priority shall be given to advanced placement examination fees if there is insufficient funding allocated for the grant program in a given fiscal year.

(h) To facilitate program administration and school district reimbursement, the department may enter into a contract with the provider of advanced placement or International Baccalaureate examinations. For purposes of the contract authorized pursuant to this subdivision, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(i) The department shall make every effort to obtain and allocate federal funding for the purposes of this program prior to expending any state funds. All state and federal funds obtained by the department for the purposes of this program shall be expended for these purposes only and are prohibited from being used to fund any other program.

(j) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 52. Section 52499.66 of the Education Code is amended to read:

52499.66. (a) The department shall be responsible for the creation, as set forth in subdivision (b), of comprehensive, easy to access, user-friendly Internet Web site pages with information about opportunities and programs available in the state on career technical education in elementary and secondary schools.

(b) (1) By July 1, 2008, the department shall select, on a competitive basis, an elementary or secondary school career technical education program for pupils to develop the Internet Web site pages as part of a career technical education course of study related to technology and Internet Web site development. The program may be part of a school district or regional occupational center or program course of study.

(2) The department shall establish criteria and parameters for the content of the Internet Web site pages and shall provide guidance to the

selected career technical education design process. The department periodically shall review the work of the design process to ensure that all the criteria and legal considerations are being met. By July 1, 2009, the selected program shall complete the Internet Web site pages development project.

(3) By January 1, 2010, the Internet Web site pages on career technical education required to be created pursuant to this section shall be incorporated into the department's Internet Web site as an integral part of the existing department Internet Web site.

(4) The department shall establish criteria for the posting of information and links on the Internet Web site and shall provide ongoing Internet Web site administration and maintenance in keeping with department policies. The department Internet Web site may provide links to local and state public agencies, school districts, regional occupational centers and programs, adult education programs, and related career technical education programs in order for pupils, parents, teachers, and the public to easily access information.

(c) The career technical education Internet Web site pages created pursuant to this section should provide pupils, parents, guardians, teachers, counselors, administrators, business and industry, and professional and trades representatives with information regarding all of the following:

(1) Career technical education programs, possible course offerings, and graduation requirements.

(2) High school career technical education skill certificates and related postsecondary education, skill certificates, and apprenticeship requirements and admissions information.

(3) Best practices in elementary and secondary school career technical education programs and examples of successful curriculum and programs, including career technical education programs in high schools and regional occupational centers and programs.

(4) State and federal workforce statistical data and how-to-use data tips for educators and advisory committees on career technical education.

(5) Access to information regarding business and industry programs that may offer pupils and teachers support and internships or summer work experience.

(6) Professional and trades organizations that may be available to offer pupils and teachers support and internships or summer work experience.

(7) Links to related resources.

(8) Career technical education model curriculum standards to assist local educational agencies in the development of sequences of courses, skills certificates, and assessment tools.

(9) Funding sources and ongoing state and federal program guidelines, regulations, and funding opportunities.

(d) The career technical education Internet Web site pages created pursuant to this section shall allow for redirection to school district and public career technical education program Internet Web sites for more specific information about the availability of elementary and secondary school programs for pupils and teachers and to community college and other postsecondary opportunities.

SEC. 53. Section 52861 of the Education Code is amended to read:

52861. If a school district and school choose to include within the provisions of this article funds allocated pursuant to Article 4 (commencing with Section 8750) of Chapter 4 of Part 6 of Division 1 of Title 1, Article 5 (commencing with Section 44520) of Chapter 3 of Part 25 of Division 3 of this title, Article 15 (commencing with Section 51870) of Chapter 5 of this part, and Article 2 (commencing with Section 52340) of Chapter 9 of this part, and Chapter 1 (commencing with Section 500) of Part 2 of Division 2 of the Military and Veterans Code, the district shall determine the portion of the district's grants, pursuant to those provisions, which shall be allocated to the school for inclusion in the school budget developed pursuant to subdivision (f) of Section 52853.

SEC. 54. Section 52922 of the Education Code is amended to read:

52922. (a) From funds appropriated for the purpose of this chapter, the Superintendent shall annually allocate to each school district, on behalf of each high school or middle school within the district that offers an International Baccalaureate Diploma Program, the amount of up to twenty-five thousand dollars ($25,000) for each participating high school and middle school to cover the ongoing costs of professional development required by the program and to help pay the test fees for low- and middle-income pupils in need of financial assistance, in accordance with criteria adopted by the Superintendent.

(b) The amount provided in subdivision (a) shall be increased annually by a cost-of-living adjustment, based on the same percentage increase that is provided to the revenue limits of unified school districts with 2,501 or more units of average daily attendance.

(c) The total amount allocated pursuant to subdivision (a) shall not exceed the total amount of the funds appropriated for those purposes in the annual Budget Act or another statute. If funds are insufficient to fully fund all grants authorized, annual grants shall first be allocated pursuant to subdivision (a) to those schools that were funded in the prior fiscal year and in the amount of the prior fiscal year grant with second priority given to high schools and middle schools that have the highest percentage of pupils from low-income families.

SEC. 55. Section 56030 of the Education Code is amended to read:

56030. "Responsible local agency" means the school district or county office of education designated in the local plan as the administrative entity the duties of which shall include, but are not limited to, receiving and distributing regionalized services funds, providing administrative support, and coordinating the implementation of the plan.

SEC. 56. Section 56300 of the Education Code is amended to read:

56300. A local educational agency shall actively and systematically seek out all individuals with exceptional needs, from birth to 21 years of age, inclusive, including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a special education local plan area or a county office of education.

SEC. 57. Section 56302 of the Education Code is amended to read:

56302. A local educational agency shall provide for the identification and assessment of the exceptional needs of an individual, and the planning of an instructional program to meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with schoolsite procedures for referral of pupils with needs that cannot be met with modification of the regular instructional program.

SEC. 58. Section 56328 of the Education Code is amended to read:

56328. Notwithstanding the provisions of this chapter, a special education local plan area may utilize a schoolsite level and a regional level service, as provided for under Section 56336.2 as it read prior to July 28, 1980, to provide the services required by this chapter.

SEC. 59. Section 56331 of the Education Code is amended to read:

56331. (a) A pupil who is suspected of needing mental health services may be referred to a community mental health service in accordance with Section 7576 of the Government Code.

(b) Prior to referring a pupil to a county mental health agency for services, the local educational agency shall follow the procedures set forth in Section 56320 and conduct an assessment in accordance with Sections 300.301 to 300.306, inclusive, of Title 34 of the Code of Federal Regulations. If an individual with exceptional needs is identified as potentially requiring mental health services, the local educational agency shall request the participation of the county mental health agency in the individualized education program. A local educational agency shall provide any specially designed instruction required by an individualized education program, including related services such as counseling services, parent counseling and training, psychological services, or social work services in schools as defined in Section 300.34 of Title 34 of the Code

of Federal Regulations. If the individualized education program of an individual with exceptional needs includes a functional behavioral assessment and behavior intervention plan, in accordance with Section 300.530 of Title 34 of the Code of Federal Regulations, the local educational agency shall provide documentation upon referral to a county mental health agency. Local educational agencies shall provide related services, by qualified personnel, unless the individualized education program team designates a more appropriate agency for the provision of services. Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service agency in determining the need for mental health services and the level of services needed.

SEC. 60. Section 56341.1 of the Education Code is amended to read:

56341.1. (a) When developing each pupil's individualized education program, the individualized education program team shall consider the following:

(1) The strengths of the pupil.

(2) The concerns of the parents or guardians for enhancing the education of the pupil.

(3) The results of the initial assessment or most recent assessment of the pupil.

(4) The academic, developmental, and functional needs of the child.

(b) The individualized education program team shall do the following:

(1) In the case of a pupil whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

(2) In the case of a pupil with limited English proficiency, consider the language needs of the pupil as those needs relate to the pupil's individualized education program.

(3) In the case of a pupil who is blind or visually impaired, provide for instruction in braille, and the use of braille, unless the individualized education program team determines, after an assessment of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the pupil's future needs for instruction in braille or the use of braille, that instruction in braille or the use of braille is not appropriate for the pupil.

(4) Consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including

opportunities for direct instruction in the pupil's language and communication mode.

(5) Consider whether the pupil requires assistive technology devices and services as defined in Section 1401(1) and (2) of Title 20 of the United States Code.

(c) If, in considering the special factors described in subdivisions (a) and (b), the individualized education program team determines that a pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive a free appropriate public education, the individualized education program team shall include a statement to that effect in the pupil's individualized education program.

(d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revise the individualized education program, as appropriate, to address among other matters the following:

(1) A lack of expected progress toward the annual goals and in the general education curriculum, where appropriate.

(2) The results of any reassessment conducted pursuant to Section 56381.

(3) Information about the pupil provided to, or by, the parents or guardians, as described in subdivision (b) of Section 56381.

(4) The pupil's anticipated needs.

(5) Any other relevant matter.

(e) A regular education teacher of the pupil, who is a member of the individualized education program team, shall participate, consistent with Section 1414(d)(1)(C) of Title 20 of the United States Code, in the review and revision of the individualized education program of the pupil.

(f) The parent or guardian 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 or guardian or local educational agency shall have the right to record electronically the proceedings of individualized education program team meetings on an audiotape recorder. The parent or guardian or local educational agency shall notify the members of the individualized education program team of his, her, or its intent to record a meeting at least 24 hours prior to the meeting. If the local educational agency initiates the notice of intent to audiotape record a meeting and the parent

or guardian objects or refuses to attend the meeting because it will be tape recorded, the meeting shall not be recorded on an audiotape recorder.

(2) The Legislature hereby finds as follows:

(A) Under federal law, audiotape recordings made by a local educational agency are subject to the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g), and are subject to the confidentiality requirements of the regulations under Sections 300.610 to 300.626, inclusive, of Part 34 of the Code of Federal Regulations.

(B) Parents or guardians have the right, pursuant to Sections 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal Regulations, to do all of the following:

(i) Inspect and review the tape recordings.

(ii) Request that the tape recordings be amended if the parent or guardian 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.

(iii) Challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading, or in violation of the 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.

SEC. 61. Section 56342.1 of the Education Code is amended to read:

56342.1. Before a local educational agency places an individual with exceptional needs in, or refers an individual to, a nonpublic, nonsectarian school pursuant to Section 56365, the district, special education local plan area, or county office of education shall initiate and conduct a meeting to develop an individualized education program in accordance with Sections 56341.1 and 56345 and in accordance with Section 300.325(a) of Title 34 of the Code of Federal Regulations.

SEC. 62. Section 56363.5 of the Education Code is amended to read:

56363.5. Local educational agencies may seek, either directly or through the pupil's parents or guardians, reimbursement from insurance companies to cover the costs of related services, in accordance with Section 300.154(d) to (h), inclusive, of the Code of Federal Regulations.

SEC. 63. Section 56366.1 of the Education Code is amended to read:

56366.1. (a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the Superintendent on forms provided by the department and include the following information on the application:

(1) A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member rendering special education or designated instruction and services to do so, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.

(4) An annual operating budget.

(5) Affidavits and assurances necessary to comply with all applicable federal, state, and local laws and regulations that include criminal record summaries required of all nonpublic, nonsectarian school or agency personnel having contact with minor children under Section 44237.

(b) (1) The applicant shall provide the special education local plan area in which the applicant is located with the written notification of its intent to seek certification or renewal of its certification. The applicant shall submit on a form, developed by the department, a signed verification by local educational agency representatives that they have been notified of the intent to certify or renew certification. The verification shall include a statement that representatives of the local educational agency for the area in which the applicant is located have had the opportunity to review the application at least 60 calendar days prior to submission of an initial application to the Superintendent, or at least 30 calendar days prior to submission of a renewal application to the Superintendent. The signed verification shall provide assurances that local educational agency representatives have had the opportunity to provide input on all required components of the application.

(2) If the applicant has not received a response from the local educational agency 60 calendar days from the date of the return receipt for initial applications or 30 calendar days from the date of the return receipt for renewal applications, the applicant may file the application with the Superintendent. A copy of the return receipt shall be included with the application as verification of notification efforts to the local educational agency.

(3) The department shall mail renewal application materials to certified nonpublic, nonsectarian schools and agencies at least 120 days prior to the date their current certification expires.

(c) If the applicant operates a facility or program on more than one site, each site shall be certified.

(d) If the applicant is part of a larger program or facility on the same site, the Superintendent shall consider the effect of the total program on the applicant. A copy of the policies and standards for the nonpublic, nonsectarian school or agency and the larger program shall be available to the Superintendent.

(e) Prior to certification, the Superintendent shall conduct an onsite review of the facility and program for which the applicant seeks certification. The Superintendent may be assisted by representatives of the special education local plan area in which the applicant is located and a nonpublic, nonsectarian school or agency representative who does not have a conflict of interest with the applicant. The Superintendent shall conduct an additional onsite review of the facility and program within three years of the effective date of the certification, unless the Superintendent conditionally certifies the school or agency or unless the Superintendent receives a formal complaint against the school or agency. In the latter two cases, the Superintendent shall conduct an onsite review at least annually.

(f) The Superintendent shall make a determination on an application within 120 days of receipt of the application and shall certify, conditionally certify, or deny certification to the applicant. If the Superintendent fails to take one of these actions within 120 days, the applicant is automatically granted conditional certification for a period terminating on August 31 of the current school year. If certification is denied, the Superintendent shall provide reasons for the denial. The Superintendent may certify the school or agency for a period of not longer than one year.

(g) Certification becomes effective on the date the nonpublic, nonsectarian school or agency meets all the application requirements and is approved by the Superintendent. Certification may be retroactive if the school or agency met all the requirements of this section on the date the retroactive certification is effective. Certification expires on December 31 of the terminating year.

(h) The Superintendent annually shall review the certification of each nonpublic, nonsectarian school and agency. For this purpose, a certified school or agency annually shall update its application between August 1 and October 31, unless the board grants a waiver pursuant to Section 56101. The Superintendent may conduct an onsite review as part of the annual review.

(i) (1) The Superintendent shall conduct an investigation of a nonpublic, nonsectarian school or agency onsite at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child. The Superintendent shall document the concern and submit it to the nonpublic,

nonsectarian school or agency at the time of the onsite investigation. The Superintendent shall require a written response to any noncompliance or deficiency found.

(2) With respect to a nonpublic, nonsectarian school, the Superintendent shall conduct an investigation, which may include an unannounced onsite visit, if the Superintendent receives evidence of a significant deficiency in the quality of educational services provided, a violation of Section 56366.9, or noncompliance with the policies expressed by subdivision (b) of Section 1501 of the Health and Safety Code by the nonpublic, nonsectarian school. The Superintendent shall document the complaint and the results of the investigation and shall provide copies of the documentation to the complainant, the nonpublic, nonsectarian school, and the contracting local educational agency.

(3) Violations or noncompliance documented pursuant to paragraph (1) or (2) shall be reflected in the status of the certification of the school, at the discretion of the Superintendent, pending an approved plan of correction by the nonpublic, nonsectarian school. The department shall retain for a period of 10 years all violations pertaining to certification of the nonpublic, nonsectarian school or agency.

(j) The Superintendent shall monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard-focused instructional materials used, of an existing certified nonpublic, nonsectarian school or agency on a three-year cycle, as follows:

(1) The nonpublic, nonsectarian school or agency shall complete a self-review in year one.

(2) The Superintendent shall conduct an onsite review of the nonpublic, nonsectarian school or agency in year two.

(3) The Superintendent shall conduct a followup visit to the nonpublic, nonsectarian school or agency in year three.

(k) (1) Notwithstanding any other provision of law, the Superintendent shall not certify a nonpublic, nonsectarian school or agency that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school pursuant to Section 56150, or other nonspecial education program, including independent study or adult school, or both, unless the nonpublic, nonsectarian school or agency notifies the county superintendent of schools and the special education local plan area in which the proposed new or expanded nonpublic, nonsectarian school or agency is located of its intent to seek certification.

(2) The notification shall occur no later than the December 1 prior to the new fiscal year in which the proposed or expanding school or agency intends to initiate services. The notice shall include the following:

(A) The specific date upon which the proposed nonpublic, nonsectarian school or agency is to be established.

(B) The location of the proposed program or facility.

(C) The number of pupils proposed for services, the number of pupils currently served in the juvenile court, community school, or other nonspecial education program, the current school services including special education and related services provided for these pupils, and the specific program of special education and related services to be provided under the proposed program.

(D) The reason for the proposed change in services.

(E) The number of staff who will provide special education and designated instruction and services and hold a current valid California credential or license in the service rendered.

(3) In addition to the requirements in subdivisions (a) to (f), inclusive, the Superintendent shall require and consider the following in determining whether to certify a nonpublic, nonsectarian school or agency as described in this subdivision:

(A) A complete statement of the information required as part of the notice under paragraph (1).

(B) Documentation of the steps taken in preparation for the conversion to a nonpublic, nonsectarian school or agency, including information related to changes in the population to be served and the services to be provided pursuant to each pupil's individualized education program.

(4) Notwithstanding any other provision of law, the certification becomes effective no earlier than July 1 if the school or agency provided the notification required pursuant to paragraph (1).

(*l*) (1) Notwithstanding any other provision of law, the Superintendent shall not certify or renew the certification of a nonpublic, nonsectarian school or agency, unless all of the following conditions are met:

(A) The entity operating the nonpublic, nonsectarian school or agency maintains separate financial records for each entity that it operates, with each nonpublic, nonsectarian school or agency identified separately from any licensed children's institution that it operates.

(B) The entity submits an annual budget that identifies the projected costs and revenues for each entity and demonstrates that the rates to be charged are reasonable to support the operation of the entity.

(C) The entity submits an entitywide annual audit that identifies its costs and revenues, by entity, in accordance with generally accepted accounting and auditing principles. The audit shall clearly document the

amount of moneys received and expended on the education program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, "licensed children's institution" has the same meaning as it is defined by Section 56155.5.

(m) The school or agency shall be charged a reasonable fee for certification. The Superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

| | |
|---|---|
| (1) 1-5 pupils | $ 300 |
| (2) 6-10 pupils | 500 |
| (3) 11-24 pupils | 1,000 |
| (4) 25-75 pupils | 1,500 |
| (5) 76 pupils and over | 2,000 |

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual renewal by the Superintendent. The Superintendent shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the Superintendent.

(n) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who hold a certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered are eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

(2) The board shall develop regulations to implement this subdivision.

(o) In addition to meeting the standards adopted by the board, a nonpublic, nonsectarian school or agency shall provide written assurances

that it meets all applicable standards relating to fire, health, sanitation, and building safety.

SEC. 64. Section 56426.6 of the Education Code is amended to read:

56426.6. (a) Early education services shall be provided by a local educational agency through a transdisciplinary team consisting of a group of professionals from various disciplines, agencies, and parents who shall share their expertise and services to provide appropriate services for infants and their families. Each team member shall be responsible for providing and coordinating early education services for one or more infants and their families, and shall serve as a consultant to other team members and as a provider of appropriate related services to other infants in the program.

(b) Credentialed personnel with expertise in vision or hearing impairments shall be made available by the local educational agency to early education programs serving infants identified in accordance with subdivision (a), (b), or (d) of Section 3030 of Title 5 of the California Code of Regulations, and shall be the primary providers of services under those programs whenever possible.

(c) Transdisciplinary teams may include, but need not be limited to, qualified persons from the following disciplines:

(1) Early childhood special education.

(2) Speech and language therapy.

(3) Nursing, with a skill level not less than that of a registered nurse.

(4) Social work, psychology, or mental health.

(5) Occupational therapy.

(6) Physical therapy.

(7) Audiology.

(8) Parent-to-parent support.

(d) A person who is authorized by the local educational agency to provide early education or related services to infants shall have appropriate experience in normal and atypical infant development and an understanding of the unique needs of families of infants with exceptional needs, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which plan shall be developed and implemented as part of the staff development component of the local plan for early education services.

SEC. 65. Section 56431 of the Education Code is amended to read:

56431. The Superintendent shall develop procedures and criteria to enable a local educational agency to contract with private nonprofit preschools or child development centers to provide special education and related services to infants and preschool age individuals with exceptional needs. The criteria shall include minimum standards that the private, nonprofit preschool or center shall be required to meet.

SEC. 66. Section 56456 of the Education Code is amended to read:

56456. It is the intent of the Legislature that local educational agencies may use any state or local special education funds for approved vocational programs, services, and activities to satisfy the excess cost-matching requirements for receipt of federal vocational education funds for individuals with exceptional needs.

SEC. 67. Section 56476 of the Education Code is amended to read:

56476. The Governor or designee of the Governor, in accordance with Section 1412(a)(12) of Title 20 of the United States Code and Section 300.154 of Title 34 of the Code of Federal Regulations, shall ensure that each agency under the Governor's jurisdiction enters into an interagency agreement with the Superintendent to ensure that all services that are needed to ensure a free appropriate public education are provided.

SEC. 68. Section 56504 of the Education Code is amended to read:

56504. The parent shall have the right and opportunity to examine all school records of his or her child and to receive copies pursuant to this section and to Section 49065 within five business days after the request is made by the parent, either orally or in writing. The public agency shall comply with a request for school records without unnecessary delay before any meeting regarding an individualized education program or any hearing pursuant to Section 300.121, 300.301, 300.304, or 300.507 of Title 34 of the Code of Federal Regulations or resolution session pursuant to Section 300.510 of Title 34 of the Code of Federal Regulations and in no case more than five business days after the request is made orally or in writing. The parent shall have the right to a response from the public agency to reasonable requests for explanations and interpretations of the records. If a school record includes information on more than one pupil, the parents of those pupils have the right to inspect and review only the information relating to their child or to be informed of that specific information. A public agency shall provide a parent, on request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency. A public agency may charge no more than the actual cost of reproducing the records, but if this cost effectively prevents the parent from exercising the right to receive the copy or copies, the copy or copies shall be reproduced at no cost.

SEC. 69. Section 56851 of the Education Code is amended to read:

56851. (a) In developing the individualized education program for an individual residing in a state hospital who is eligible for services under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a state hospital shall include on its interdisciplinary team a representative of the local educational agency in which the state hospital is located, and the individual's state hospital teacher, depending on

whether the state hospital is otherwise working with the local educational agency for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education local plan area that is required by this section to provide a representative from the district or special education local plan area does not do so, the county office of education shall provide a representative.

(b) The state hospital shall reimburse the local educational agency for the costs, including salary, of providing the representative.

(c) Once the individual is enrolled in the community program, the local educational agency providing special education shall be responsible for reviewing and revising the individualized education program with the participation of a representative of the state hospital and the parent. The public agency responsible for the individualized education program shall be responsible for all individual protections, including notification and due process.

SEC. 70. Section 66018.55 of the Education Code is amended to read:

66018.55. (a) As used in this section, "college and university" includes all institutions of public higher education and all independent institutions of higher education.

(b) The Office of Privacy Protection in the Department of Consumer Affairs shall establish a task force to conduct a review of the use by all colleges and universities of social security numbers in order to recommend practices to minimize the collection, use, storage, and retention of social security numbers in relation to academic and operational needs and applicable legal requirements.

(c) The task force shall be known as the "College and University Social Security Number Task Force." The Office of Privacy Protection shall determine the composition of the task force, which shall include, but not be limited to, all of the following:

(1) Two representatives from each of the three institutions of public higher education.

(2) Two representatives of the California Association of Independent Colleges and Universities.

(3) Two representatives each from two organizations devoted to the protection of personal privacy.

(4) One representative from a national organization devoted to the management of information technology in higher education.

(5) One representative from the business community with expertise in technological solutions to privacy concerns.

(6) One representative each from the Assembly Committee on Judiciary and the Senate Committee on Judiciary.

(d) The task force shall seek input, as deemed necessary and appropriate, from all of the following:

(1) Representatives of organizations with expertise in technical policy and practices of Internet disclosure, privacy policy relevant to Internet disclosure, and fostering public integrity and accountability.

(2) The constituencies of the college and university communities, including students, staff, and faculty.

(e) The task force shall review and make recommendations to minimize the collection, use, storage, and retention of social security numbers by California colleges and universities and shall include, but not be limited to, all of the following:

(1) A survey of best practices at colleges and universities and the costs of implementing those best practices.

(2) The necessary use and protection of social security numbers for all of the following:

(A) Research purposes.

(B) Academic purposes, including, but not limited to, academic research, admission, financial aid, and other related operational uses.

(C) Operational uses by academic medical centers, including, but not limited to, patient identification, tracking, and care.

(D) Business purposes, including, but not limited to, the provision of employee benefits, tax purposes, loan programs, and other requirements imposed by current state and federal statutes and regulations.

(E) Another operational need of the college or university.

(3) Current personal privacy protections provided to students, applicants, staff, and faculty of colleges and universities.

(4) Existing state and federal legal requirements, including regulatory requirements, mandating the use of social security numbers at colleges and universities.

(5) The possible use of personal identifiers or other substitutes for social security numbers that protect personal information and meet the operational needs of colleges and universities.

(6) The cost of funding any recommendations presented by the task force, including those that are of minimal cost and can be implemented immediately and those that require additional funding or time to implement.

(f) The task force shall commence meetings no later than May 1, 2008.

(g) (1) On or before July 1, 2010, the task force shall submit a final report of its findings and recommendations to the Office of Privacy Protection, and to the Assembly Committee on Judiciary and the Senate Committee on Judiciary.

(2) The final report shall also include a list of the existing uses of social security numbers common among colleges and universities for routine operations and compliance with state and federal laws.

(3) The findings and recommendations of the task force shall be informational only and shall not be binding on any college or university.

SEC. 71. The heading of Part 40.5 (commencing with Section 67500) of Division 5 of Title 3 of the Education Code is amended to read:

PART 40.5. CAPITAL OUTLAY REQUIREMENTS

SEC. 72. Section 69551 of the Education Code is amended to read:

69551. (a) The Legislature finds and declares all of the following:

(1) The Cash for College Program has successfully established local regional partnerships that annually provide hands-on help in filling out financial aid forms necessary to receive financial assistance for college. This program was initiated by private foundations and the Student Aid Commission in 2002 with the goal of increasing the number of students who successfully complete the financial aid process and enroll in college. In 2007, the Cash for College Program succeeded in serving over 20,000 students and their families in 44 of the 58 counties in California, thereby helping the state to access tens of millions of dollars in federal Pell Grant financial aid for low-income students and increasing the number of students participating in the state's Cal Grant program.

(2) The intersegmental cooperative nature of the Cash for College Program has proved to be a highly effective mechanism to coordinate existing services and to foster the cooperation of the various educational segments, community, and business partners involved.

(3) The Cash for College Program has been successful because of the financial and volunteer contributions of local partners in private business and industry, the financial aid, admissions, and outreach communities, and student groups. Additional funding has been provided through these local and regional partnerships, and through one million five hundred thousand dollars ($1,500,000) in private foundation grant funds that have supported the initial development of the program, as well as funded local scholarships offered to workshop participants who complete the financial aid process by the state filing deadline.

(4) The Cash for College Program has assisted high school and community college students whose families were unfamiliar with the financial aid process. The program focuses on assisting students and their families who are first- or second-generation college-bound students who have little or no access to college advising because of limited resources at the schoolsite or the perception that college is not an option.

(5) The Cash for College Program seeks to provide all California students who desire to attend college the opportunity to enroll by providing tangible assistance in accessing the available state and federal resources to make higher education possible.

(6) A college or postsecondary education is a requirement for a working wage job. The wage disparity between a high school graduate and a college graduate is one million dollars ($1,000,000) over an individual's lifespan.

(7) California reflects the ethnic and cultural diversity of today's world. Evidence of this change is most pronounced within our public elementary and secondary education system. As California continues into the 21st century, there is no single group that represents a majority of elementary and secondary enrollment. These changing demographics present great challenges and great opportunities.

(8) California must invest in higher education and in the future of its young people so they can acquire skills and knowledge necessary to continue the state's economic recovery.

(9) The Cash for College Program provides access to the college financial aid process for students of varied backgrounds and socioeconomic status.

(b) (1) Beginning January 1, 2008, the Cash for College Program is established and is administered by the Student Aid Commission, in partnership with private business and industry and local community and educational organizations. The Student Aid Commission may allocate funds for support of local Cash for College financial aid workshop efforts that are designed to accomplish the following goals:

(A) Targeted outreach to, and assistance for, low-income and first-generation college-bound students with state and federal financial aid applications.

(B) Targeted outreach to, and assistance for, students who are enrolled in schools or geographic regions with low college eligibility or participation rates, with state and federal financial aid applications.

(2) The projects and organizations funded under this article shall implement the following activities:

(A) Organize and conduct free local and regional workshops that help students and families to fill out the Free Application for Federal Student Aid (FAFSA) and the Cal Grant GPA verification form required for Cal Grants.

(B) Convene advisory board meetings to develop regional partnerships with local partners in private business and industry, admissions and outreach communities, and student groups, to foster financial and volunteer contributions.

(c) The Student Aid Commission shall, by December 1 of each year, provide a report to the fiscal and policy committees of the Legislature on the Cash for College Program detailing program data, expenditures, and the findings of an independent evaluation on the extent to which program goals have been met. Program data shall include the number of completed FAFSA applications, the number of submitted grade point average verifications, and the number of Cal Grant recipients using their Cal Grant awards at California postsecondary institutions.

(d) The Student Aid Commission shall contract with an external evaluator to conduct the independent evaluation.

(e) (1) The commission may accept voluntary contributions or donations in cash to pay for the costs of implementing the program pursuant to this article. Voluntary contributions shall be deposited into the Cash for College Fund, which is hereby created in the State Treasury. Only moneys contributed or donated for the purposes of this article may be deposited into the fund. The fund shall be credited with all investment income earned by moneys in the fund. The moneys received in contributions or donations for the purposes of this article are not part of the General Fund as defined in Section 16300 of the Government Code. Voluntary contributions or donations are special funds held in trust for purposes of meeting the purposes of this article. Notwithstanding Section 13340 of the Government Code, moneys in the fund from voluntary contributions or donations are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this article.

(2) Additional funds may be appropriated in the annual Budget Act for the purposes of this article.

(f) (1) As used in this subdivision, "regional coordinating organization" means a coalition of entities led by a designated organization, which may include nonprofit organizations, local education or other government agencies, or public or private higher education institutions.

(2) The Student Aid Commission shall allocate funds to regional coordinating organizations to plan, coordinate, or conduct Cash for College workshop series within specified regions within the state.

(3) The Student Aid Commission shall require a regional coordinating organization to contribute equal or greater resources to match the Cash for College funds allocated to it by the commission. Funds allocated to a regional coordinating organization under this subdivision shall be based on demonstrated ability to contribute equal or greater matching resources or funds. The Student Aid Commission may require advance payment, if it determines that it is necessary to ensure that funds provided pursuant to this article are available each year before the start of the program.

(4) The Student Aid Commission may partner with regional coordinating organizations or other entities to facilitate additional nonstate funding or donations of property, or both, for the Cash for College Program.

(5) Notwithstanding Section 11005 of the Government Code, the Student Aid Commission may accept gifts of personal property without approval of the Director of Finance.

(g) The commission may use the moneys appropriated for the program, including reasonable administrative costs, marketing, and external evaluation. Administrative costs shall include appropriate staffing to support the program, including, but not limited to, a Cash for College coordinator. The commission shall annually establish the total amount of funding to assist regional coordinating organizations. Allocation of funds shall be established based upon the best use of funding for that year, as determined by the commission in consultation with a Cash for College statewide advisory board that may include, but is not limited to, partners in private business and industry, admissions, outreach communities, and student groups.

SEC. 73. Section 71095 of the Education Code is amended to read:

71095. (a) The chancellor's office, in consultation with the Governor's Office of Emergency Services and the Office of Homeland Security, shall, by January 1, 2009, develop emergency preparedness standards and guidelines to assist community college districts and campuses in the event of a natural disaster, hazardous condition, or terrorist activity on or around a community college campus.

(b) The standards and guidelines shall be developed in accordance with the Standardized Emergency Management System and the National Incident Management System, and shall be reviewed by the Governor's Office of Emergency Services in a manner that is consistent with existing policy. In developing the standards and guidelines, the chancellor's office shall consider, but is not limited to, all of the following components:

(1) Information on establishing a campus emergency management team.

(2) Provisions regarding overview training for every employee within one year of commencement of employment.

(3) Information on specialized training for employees who may be designated as part of an emergency management team.

(4) Information on preparedness, prevention, response, recovery, and mitigation policies and procedures.

(5) Information on coordinating with the appropriate local, state, and federal government authorities, and nongovernmental entities on comprehensive emergency management and preparedness activities.

SEC. 74. Section 13001 of the Elections Code is amended to read:

13001. All expenses authorized and necessarily incurred in the preparation for, and conduct of, elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The elections official, in providing the materials required by this division, need not utilize the services of the county or city purchasing agent.

SEC. 75. Section 1520 of the Financial Code is amended to read:

1520. It is the intent of the Legislature that the provisions of this article, insofar as they are contained in the regulations regarding fiduciary activities of national banks (Part 9 (commencing with Section 9.1) of Title 12 of the Code of Federal Regulations) of the Office of the Comptroller of the Currency, conform, and be interpreted by anyone construing the provisions of this article to so conform, to those regulations, any rule or interpretation promulgated thereunder by the Office of the Comptroller of the Currency, and to any interpretation issued by an official or employee of the Office of the Comptroller of the Currency duly authorized to issue the interpretation.

SEC. 76. Section 50700 of the Financial Code is amended to read:

50700. (a) A residential mortgage lender, or a person or employee acting under the authority of a residential mortgage lender's license, shall not provide brokerage services to a borrower, except as provided in subdivision (c).

(b) "Brokerage services" means either of the following:

(1) Obtaining or attempting to obtain, on behalf of a borrower, a residential mortgage loan, as defined in subdivision (o) of Section 50003, secured by residential real estate, as defined in subdivision (t) of Section 50003, made with the funds of another institutional lender, as defined in paragraphs (1), (2), and (4) of subdivision (j) of Section 50003, and closed in the name of that lender, for a fee paid by the borrower or the institutional lender.

(2) Obtaining or attempting to obtain, on behalf of a borrower, a residential mortgage loan, as defined in subdivision (o) of Section 50003, secured by residential real estate, as defined in subdivision (t) of Section 50003, made with the funds of another institutional lender, as defined in paragraphs (1), (2), and (4) of subdivision (j) of Section 50003, but closed in the name of the licensee, for a fee paid by the borrower or the institutional lender.

(c) A residential mortgage lender may provide brokerage services under the authority of its license, if the lender first enters into a written brokerage agreement with the borrower that satisfies the requirements of Section 50701.

(d) This chapter does not authorize a licensee to do any of the following:

(1) Provide brokerage services through independent contractors.

(2) Obtain or attempt to obtain for a borrower a residential mortgage loan that is a "high cost mortgage," referred to in Section 152(aa)(1) of the Home Ownership and Equity Protection Act of 1994, as amended (15 U.S.C. Sec. 1602 (aa)).

(3) Hold itself out to borrowers, through advertising, as a mortgage broker, rather than a residential mortgage lender. However, a licensee shall disclose its status as a broker or agent when that disclosure is required by law.

(4) Perform activity subject to Section 10131 of the Business and Professions Code, except activities authorized by this division.

SEC. 77. Section 8235 of the Fish and Game Code is amended to read:

8235. (a) The owner of a permitted vessel, or that owner's agent, may apply for renewal of the permit annually on or before April 30, upon payment of the fees established under subdivision (b), without penalty. Upon receipt of the application and fees, the department shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

(b) The department shall fix the annual fee for the renewal of the permit in an amount it determines to be necessary to pay the reasonable costs of implementing and administering this article.

(c) If an owner to whom a permit has been issued, or that owner's agent, applies for renewal of the permit, the application for renewal shall be received or, if mailed, postmarked, on or before April 30. An application received or, if mailed, postmarked, after April 30 shall be assessed a late fee subject to Section 7852.2. The department shall issue the permit for use of the permitted vessel in the subsequent permit year.

(d) The department shall suspend a late fee otherwise due under subdivision (c) and shall issue a permit for use of the permitted vessel in the subsequent permit year if the department is unable to accept applications for renewal of permits by March 1.

(e) Except as provided in subdivision (c), the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

SEC. 78. Section 3352 of the Food and Agricultural Code is amended to read:

3352. (a) The authority shall be governed by a board of directors, which shall be composed of the Secretary of Food and Agriculture, the Director of Finance, the Director of General Services, and four individuals, appointed as provided in paragraph (1), who are members

of the Board of Directors of the California Exposition and State Fair. The Treasurer and Controller shall be members of the board of the authority only for the purposes of hearing and deciding upon matters related to the issuance of revenue bonds pursuant to this chapter. The Director of Finance shall serve as chairperson of the authority. All meetings of the authority shall be open and public.

(1) Of the four appointed members of the Board of Directors of the California Exposition and State Fair, one shall be appointed by the Speaker of the Assembly, one shall be appointed by the Senate Committee on Rules, and two shall be appointed by the Governor.

(2) The authority may contract with consultants as approved by the board of the authority. The authority shall not employ any other staff.

(3) The general manager of the California Exposition and State Fair may serve only in an advisory capacity to the authority.

(b) The authority is a "department" for the purposes of hearings pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 79. Section 3357 of the Food and Agricultural Code is amended to read:

3357. (a) In leasing, or entering into agreements for the use of, the State Fair Race Track or other property owned or controlled by the California Exposition and State Fair, the authority shall follow the same procedures, as appropriate, as the Department of General Services follows in leasing or entering into similar agreements for other state real property. The authority shall also consult with, and present for comment the lease or agreement to, the governing bodies of the City and County of Sacramento prior to awarding the lease or entering into the agreement.

(b) Prior to awarding a lease of, or entering into an agreement for the use of, the State Fair Race Track or other property owned or controlled by the California Exposition and State Fair, the authority shall consider all the factors concerning appropriate capital improvements of the race track, the financing of the race track, additional racing opportunities, and the use of new or additional properties or facilities, including, but not limited to, a grandstand or grandstand improvements, which factors shall be considered in the award of the lease or entering into the agreement. The authority shall also consult with, and present for comment the lease or agreement to, the governing bodies of the City and County of Sacramento prior to awarding the lease or entering into the agreement.

SEC. 80. Section 20755 of the Food and Agricultural Code is amended to read:

20755. The owner of a recorded brand may, on or before April 30 of any year, pay in advance to the bureau a sum that is a multiple of sixty dollars ($60). The payment entitles him or her to use the brand for a

minimum of two years, but not to exceed 10 years, at the rate of thirty dollars ($30) per year on and after April 1 of that year. If the advance payment is made, biennial renewals for the years within the period for which advance payment has been made are not required.

SEC. 81. Section 3502.5 of the Government Code is amended to read:

3502.5. (a) Notwithstanding Section 3502, any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization that has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this chapter, "agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

(b) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may be filed only after the recognized employee organization has requested the public agency to negotiate on an agency shop arrangement and, beginning seven working days after the public agency received this request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from a claim, demand, or other action relating to the public agency's compliance with the agency fee obligation.

(c) An employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or

financially supporting public employee organizations shall not be required to join or financially support a public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three of these funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate the funds, then to a fund of that type chosen by the employee. Proof of the payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

(d) An agency shop provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for that type of vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit, (2) the vote is by secret ballot, and (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during that term. Notwithstanding the above, the public agency and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement. The procedures in this subdivision are also applicable to an agency shop agreement placed in effect pursuant to subdivision (b).

(e) An agency shop arrangement shall not apply to management employees.

(f) A recognized employee organization that has agreed to an agency shop provision or is a party to an agency shop arrangement shall keep an adequate itemized record of its financial transactions and shall make available annually, to the public agency with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed by this chapter, or required to file financial reports under Section 3546.5, may satisfy

the financial reporting requirement of this section by providing the public agency with a copy of the financial reports.

SEC. 82. Section 3517.8 of the Government Code is amended to read:

3517.8. (a) If a memorandum of understanding has expired, and the Governor and the recognized employee organization have not agreed to a new memorandum of understanding and have not reached an impasse in negotiations, subject to subdivision (b), the parties to the agreement shall continue to give effect to the provisions of the expired memorandum of understanding, including, but not limited to, all provisions that supersede existing law, any arbitration provisions, any no strike provisions, any agreements regarding matters covered in the Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), and any provisions covering fair share fee deduction consistent with Section 3515.7.

(b) If the Governor and the recognized employee organization reach an impasse in negotiations for a new memorandum of understanding, the state employer may implement any or all of its last, best, and final offer. Any proposal in the state employer's last, best, and final offer that, if implemented, would conflict with existing statutes or require the expenditure of funds shall be presented to the Legislature for approval and, if approved, shall be controlling without further legislative action, notwithstanding Sections 3517.5, 3517.6, and 3517.7. Implementation of the last, best, and final offer does not relieve the parties of the obligation to bargain in good faith and reach an agreement on a memorandum of understanding if circumstances change, and does not waive rights that the recognized employee organization has under this chapter.

SEC. 83. Section 3543 of the Government Code is amended to read:

3543. (a) Public school employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public school employees shall have the right to represent themselves individually in their employment relations with the public school employer, except that once the employees in an appropriate unit have selected an exclusive representative and it has been recognized pursuant to Section 3544.1 or certified pursuant to Section 3544.7, an employee in that unit shall not meet and negotiate with the public school employer. If the exclusive representative of a unit provides notification, as specified by subdivision (a) of Section 3546, public school employees who are in a unit for which an exclusive representative has been selected, shall be required, as a condition of continued employment, to join the recognized employee organization or to pay the organization a fair share services fee, as required by Section 3546. If a

majority of the members of a bargaining unit rescind that arrangement, either of the following options shall be applicable:

(1) The recognized employee organization may petition for the reinstatement of the arrangement described in subdivision (a) of Section 3546 pursuant to the procedures in paragraph (2) of subdivision (d) of Section 3546.

(2) The employees may negotiate either of the two forms of organizational security described in subdivision (i) of Section 3540.1.

(b) An employee may at any time present grievances to his or her employer, and have those grievances adjusted, without the intervention of the exclusive representative, as long as the adjustment is reached prior to arbitration pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8 and the adjustment is not inconsistent with the terms of a written agreement then in effect, provided that the public school employer shall not agree to a resolution of the grievance until the exclusive representative has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.

SEC. 84. Section 7267.2 of the Government Code is amended to read:

7267.2. (a) (1) Prior to adopting a resolution of necessity pursuant to Section 1245.230 of the Code of Civil Procedure and initiating negotiations for the acquisition of real property, the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. The amount shall not be less than the public entity's approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property.

(2) At the time of making the offer described in paragraph (1), the public entity shall provide the property owner with an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

(b) The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. The written statement and

summary shall contain detail sufficient to indicate clearly the basis for the offer, including, but not limited to, all of the following information:

(1) The date of valuation, highest and best use, and applicable zoning of property.

(2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value.

(3) If appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated and shall include the calculations and narrative explanation supporting the compensation, including any offsetting benefits.

(c) Where the property involved is owner-occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. The public entity may, but is not required to, satisfy the written statement, summary, and review requirements of this section by providing the owner a copy of the appraisal on which the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount that it believes to be just compensation therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price that is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), "offered for sale" means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published specified price, set no more than six months prior to, and still available at, the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.

SEC. 85. Section 7576 of the Government Code is amended to read:

7576. (a) The State Department of Mental Health, or a community mental health service, as described in Section 5602 of the Welfare and Institutions Code, designated by the State Department of Mental Health, is responsible for the provision of mental health services, as defined in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education, if required in the individualized education program of a pupil. A local educational agency is not required to place a pupil in a more restrictive educational

environment in order for the pupil to receive the mental health services specified in his or her individualized education program if the mental health services can be appropriately provided in a less restrictive setting. It is the intent of the Legislature that the local educational agency and the community mental health service vigorously attempt to develop a mutually satisfactory placement that is acceptable to the parent and addresses the educational and mental health treatment needs of the pupil in a manner that is cost effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. For purposes of this section, "parent" is as defined in Section 56028 of the Education Code.

(b) A local educational agency, individualized education program team, or parent may initiate a referral for assessment of the social and emotional status of a pupil, pursuant to Section 56320 of the Education Code. Based on the results of assessments completed pursuant to Section 56320 of the Education Code, an individualized education program team may refer a pupil who has been determined to be an individual with exceptional needs, as defined in Section 56026 of the Education Code, and who is suspected of needing mental health services to a community mental health service if the pupil meets all of the criteria in paragraphs (1) to (5), inclusive. Referral packages shall include all documentation required in subdivision (c), and shall be provided immediately to the community mental health service.

(1) The pupil has been assessed by school personnel in accordance with Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code. Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed.

(2) The local educational agency has obtained written parental consent for the referral of the pupil to the community mental health service, for the release and exchange of all relevant information between the local educational agency and the community mental health service, and for the observation of the pupil by mental health professionals in an educational setting.

(3) The pupil has emotional or behavioral characteristics that satisfy all of the following:

(A) Are observed by qualified educational staff in educational and other settings, as appropriate.

(B) Impede the pupil from benefiting from educational services.

(C) Are significant as indicated by their rate of occurrence and intensity.

(D) Are associated with a condition that cannot be described solely as a social maladjustment or a temporary adjustment problem, and cannot be resolved with short-term counseling.

(4) As determined using educational assessments, the pupil's functioning, including cognitive functioning, is at a level sufficient to enable the pupil to benefit from mental health services.

(5) The local educational agency, pursuant to Section 56331 of the Education Code, has provided appropriate counseling and guidance services, psychological services, parent counseling and training, or social work services to the pupil pursuant to Section 56363 of the Education Code, or behavioral intervention as specified in Section 56520 of the Education Code, as specified in the individualized education program and the individualized education program team has determined that the services do not meet the educational needs of the pupil, or, in cases where these services are clearly inadequate or inappropriate to meet the educational needs of the pupil, the individualized education program team has documented which of these services were considered and why they were determined to be inadequate or inappropriate.

(c) If referring a pupil to a community mental health service in accordance with subdivision (b), the local educational agency or the individualized education program team shall provide the following documentation:

(1) Copies of the current individualized education program, all current assessment reports completed by school personnel in all areas of suspected disabilities pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, and other relevant information, including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria set forth in paragraphs (3) and (4) of subdivision (b).

(4) A description of the counseling, psychological, and guidance services, and other interventions that have been provided to the pupil, as provided in the individualized education program of the pupil, including the initiation, duration, and frequency of these services, or an explanation of the reasons a service was considered for the pupil and determined to be inadequate or inappropriate to meet his or her educational needs.

(d) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a local educational agency may refer a pupil who has been determined to be, or is suspected of being, an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service if a pupil meets the criteria in paragraphs (1) and (2). Referral packages shall include all documentation required in subdivision (e) and shall be provided immediately to the community mental health service.

(1) The pupil meets the criteria in paragraphs (2) to (4), inclusive, of subdivision (b).

(2) Counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(e) If referring a pupil to a community mental health service in accordance with subdivision (d), the local educational agency shall provide the following documentation:

(1) Results of preliminary assessments to the extent they are available and other relevant information including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subdivision (b).

(4) Documentation that appropriate related educational and designated instruction and services have been provided in accordance with Sections 300.34 and 300.39 of Title 34 of the Code of Federal Regulations.

(5) An explanation of the reasons that counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(f) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may seek services from other public programs or private providers, as appropriate. This subdivision does not change the identification and referral responsibilities imposed on local educational agencies under Article 1 (commencing with Section 56300) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code.

(g) Referrals shall be made to the community mental health service in the county in which the pupil lives. If the pupil has been placed into residential care from another county, the community mental health service receiving the referral shall forward the referral immediately to the community mental health service of the county of origin, which shall have fiscal and programmatic responsibility for providing or arranging for the provision of necessary services. The procedures described in this subdivision shall not delay or impede the referral and assessment process.

(h) A county mental health agency does not have fiscal or legal responsibility for costs it incurs prior to the approval of an individualized education program, except for costs associated with conducting a mental health assessment.

SEC. 86. Section 7585 of the Government Code is amended to read:

7585. (a) Whenever a department or local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575 or 7576, and specified in the pupil's individualized education program, the parent, adult pupil, if applicable, or a local educational agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of California Health and Human Services.

(b) When either the Superintendent or the secretary receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The Superintendent, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local educational agency, and affected departments, within 10 days of the meeting.

(c) If the issue cannot be resolved within 15 calendar days to the satisfaction of the Superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative Hearings, or his or her designee, in the Department of General Services.

(d) The Director of the Office of Administrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the Superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the director, or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local educational agency, either party may appeal to the director, whose decision shall be the final administrative determination and binding on all parties.

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service. The Superintendent and the secretary shall ensure that funds are available for the provision of the service pending resolution of the issue pursuant to subdivision (e).

(g) This section does not prevent a parent or adult pupil from filing for a due process hearing under Section 7586.

(h) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section.

SEC. 87. Section 8588.1 of the Government Code is amended to read:

8588.1. (a) The Legislature finds and declares that this state can only truly be prepared for the next disaster if the public and private sector collaborate.

(b) The Office of Emergency Services may include, as appropriate, private businesses and nonprofit organizations within its responsibilities to prepare the state for disasters under this chapter. All participation by businesses and nonprofit associations in this program shall be voluntary.

(c) The office may do any of the following:

(1) Provide guidance to business and nonprofit organizations representing business interests on how to integrate private sector emergency preparedness measures into governmental disaster planning programs.

(2) Conduct outreach programs to encourage business to work with governments and community associations to better prepare the community and their employees to survive and recover from disasters.

(3) Develop systems so that government, businesses, and employees can exchange information during disasters to protect themselves and their families.

(4) Develop programs so that businesses and government can work cooperatively to advance technology that will protect the public during disasters.

(d) The office may share facilities and systems for purposes of subdivision (b) with the private sector to the extent the costs for their use are reimbursed by the private sector.

(e) Proprietary information or information protected by state or federal privacy laws shall not be disclosed under this program.

(f) Notwithstanding Section 11005, donations and private grants may be accepted by the office and shall not be subject to Section 11005.

(g) The Disaster Resistant Communities Fund is hereby created in the State Treasury. Upon appropriation by the Legislature, the Director of the Office of Emergency Services may expend the moneys in the account for the costs associated with this section.

(h) This section shall be implemented only to the extent that in-kind contributions or donations are received from the private sector, or grant funds are received from the federal government, for these purposes.

SEC. 88. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) "Backward compatibility" means that the equipment is able to function with older, existing equipment.

(b) "Committee" means the Public Safety Radio Strategic Planning Committee, which was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments and between state public safety departments and local or federal entities, and which consists of representatives of the following state entities:

(1) The Office of Emergency Services, who shall serve as chairperson.
(2) The Department of the California Highway Patrol.
(3) The Department of Transportation.
(4) The Department of Corrections and Rehabilitation.
(5) The Department of Parks and Recreation.
(6) The Department of Fish and Game.
(7) The Department of Forestry and Fire Protection.
(8) The Department of Justice.
(9) The Department of Water Resources.
(10) The State Department of Public Health.
(11) The Emergency Medical Services Authority.
(12) The Department of General Services.
(13) The Office of Homeland Security.
(14) The Military Department.
(15) The Department of Finance.

(c) "First response agencies" means public agencies that, in the early states of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs' departments, municipal police departments, county and city fire departments, and police and fire protection districts.

(d) "Nonproprietary equipment or systems" means equipment or systems that are able to function with another manufacturer's equipment or system regardless of type or design.

(e) "Open architecture" means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(f) "Public safety radio subscriber" means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters, transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(g) "Public safety spectrum" means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 89. Section 8879.50 of the Government Code is amended to read:

8879.50. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20), the following terms have the following meanings:

(1) "Commission" means the California Transportation Commission.

(2) "Department" means the Department of Transportation.

(3) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20), as specified in subdivision (c).

(4) Unless otherwise specified in this chapter, "project" includes equipment purchase, construction, right-of-way acquisition, and project delivery costs.

(5) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) that is responsible for implementation of an approved project.

(6) "Fund" shall have the same meaning as in subdivision (c) of Section 8879.20.

(b) Administrative costs, including audit and program oversight costs for agencies, commissions, or departments administering programs funded pursuant to this chapter, recoverable by bond funds shall not exceed 3 percent of the program's cost.

(c) The administrative agency for each bond account is as follows:

(1) The commission is the administrative agency for the Corridor Mobility Improvement Account; the Trade Corridors Improvement Fund; the Transportation Facilities Account; the State Route 99 Account; the State-Local Partnership Program Account; the Local Bridge Seismic

Retrofit Account; the Highway-Railroad Crossing Safety Account; and the Highway Safety, Rehabilitation, and Preservation Account.

(2) The Office of Homeland Security and the Office of Emergency Services are the administrative agencies for the Port and Maritime Security Account and the Transit System Safety, Security, and Disaster Response Account.

(3) The department is the administrative agency for the Public Transportation Modernization, Improvement, and Service Enhancement Account.

(d) The administrative agency shall not approve project fund allocations for a project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for usable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3), and shall do all of the following:

(1) Provide for the audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source

to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

SEC. 90. Section 8879.60 of the Government Code is amended to read:

8879.60. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to intercity and commuter rail operators eligible to receive funds pursuant to subdivision (c) of Section 8879.57, the Office of Homeland Security (OHS) shall administer a grant application and award program for those intercity and commuter rail operators.

(b) Funds awarded to intercity and commuter rail operators pursuant to this section shall be for eligible capital expenditures as described in subdivision (c) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, OHS shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, OHS shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, OHS shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible intercity and commuter rail operators may submit project nominations for funding to OHS for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, OHS shall select eligible projects to receive grants under this section. Grants awarded to intercity and commuter rail operators pursuant to subdivision (c) of Section 8879.57

shall be for eligible capital expenditures, as described in subparagraphs (A) and (B) of paragraph (2) of subdivision (c) of that section.

SEC. 91. Section 11126 of the Government Code is amended to read:

11126. (a) (1) This article does not prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition of holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from a public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For purposes of this section, "employee" does not include a person who is elected to, or appointed to a public office by, a state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, "employee" includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) This article does not do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided that the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual

licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter a correctional institution or the grounds of a correctional institution if that right is not otherwise granted by law, and this article does not prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of an individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent a closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) This article does not preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Bureau for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Bureau for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or a committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For purposes of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law

or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body also may meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether action was taken in closed session. The Legislative Analyst shall retain for no less than four years written notification received from a state body pursuant to this subparagraph.

(d) (1) Notwithstanding any other provision of law, a meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) This article does not prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against a person or entity under the jurisdiction of the commission.

(e) (1) This article does not prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when

discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision is not a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), this article does not do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim

for the payment of tort liability or public liability losses incurred by the state body or a member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. This article does not prevent an examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider a matter that properly could be considered in closed session by the state body the authority of which it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider a matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider a matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency

Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board of the State Teachers' Retirement System or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code.

SEC. 92. Section 11549.2 of the Government Code is amended to read:

11549.2. (a) Employees assigned to the security unit of the Office of Technology Review, Oversight, and Security within the Department of Finance, and the employees of the Office of Privacy Protection within the Department of Consumer Affairs are transferred to the office, within the State and Consumer Services Agency.

(b) The status, position, and rights of an employee transferred pursuant to this section shall not be affected by the transfer.

SEC. 93. Section 11549.5 of the Government Code is amended to read:

11549.5. (a) There is hereby created in the office, the Office of Privacy Protection. The purpose of the Office of Privacy Protection shall be to protect the privacy of individuals' personal information in a manner consistent with the California Constitution by identifying consumer problems in the privacy area and facilitating the development of fair

information practices in adherence with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(b) The Office of Privacy Protection shall inform the public of potential options for protecting the privacy of, and avoiding the misuse of, personal information.

(c) The Office of Privacy Protection shall make recommendations to organizations for privacy policies and practices that promote and protect the interests of the consumers of this state.

(d) The Office of Privacy Protection may promote voluntary and mutually agreed upon nonbinding arbitration and mediation of privacy-related disputes where appropriate.

(e) The Office of Privacy Protection shall do all of the following:

(1) Receive complaints from individuals concerning a person obtaining, compiling, maintaining, using, disclosing, or disposing of personal information in a manner that may be potentially unlawful or violate a stated privacy policy relating to that individual, and provide advice, information, and referral, where available.

(2) Provide information to consumers on effective ways of handling complaints that involve violations of privacy-related laws, including identity theft and identity fraud. If appropriate local, state, or federal agencies are available to assist consumers with those complaints, the office shall refer those complaints to those agencies.

(3) Develop information and educational programs and materials to foster public understanding and recognition of the purposes of this article.

(4) Investigate and assist in the prosecution of identity theft and other privacy-related crimes, and, as necessary, coordinate with local, state, and federal law enforcement agencies in the investigation of similar crimes.

(5) Assist and coordinate in the training of local, state, and federal law enforcement agencies regarding identity theft and other privacy-related crimes, as appropriate.

(6) The authority of the Office of Privacy Protection to adopt regulations under this article shall be limited exclusively to those regulations necessary and appropriate to implement subdivisions (b), (c), (d), and (e).

SEC. 94. Section 11549.6 of the Government Code is amended to read:

11549.6. This chapter shall not apply to the State Compensation Insurance Fund, the Legislature, or the Legislative Data Center in the Legislative Counsel Bureau.

SEC. 95. Section 11550 of the Government Code is amended to read:

11550. (a) Effective January 1, 1988, an annual salary of ninety-one thousand fifty-four dollars ($91,054) shall be paid to each of the following:

(1) Director of Finance.
(2) Secretary of Business, Transportation and Housing.
(3) Secretary of the Resources Agency.
(4) Secretary of California Health and Human Services.
(5) Secretary of State and Consumer Services.
(6) Commissioner of the California Highway Patrol.
(7) Secretary of the Department of Corrections and Rehabilitation.
(8) Secretary of Food and Agriculture.
(9) Secretary of Veterans Affairs.
(10) Secretary of Labor and Workforce Development.
(11) State Chief Information Officer.
(12) Secretary for Environmental Protection.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 96. Section 13959 of the Government Code is amended to read:

13959. (a) The board shall grant a hearing to an applicant who believes he or she is entitled to compensation pursuant to this chapter to contest a staff recommendation to deny compensation in whole or in part.

(b) The board shall notify the applicant not less than 10 days prior to the date of the hearing. Notwithstanding Section 11123, if the application that the board is considering involves either a crime against a minor, a crime of sexual assault, or a crime of domestic violence, the board may exclude from the hearing all persons other than board members and members of its staff, the applicant for benefits, a minor applicant's parents or guardians, the applicant's representative, witnesses, and other persons of the applicant's choice to provide assistance to the applicant during the hearing. However, the board shall not exclude persons from the hearing if the applicant or applicant's representative requests that the hearing be open to the public.

(c) At the hearing, the person seeking compensation shall have the burden of establishing, by a preponderance of the evidence, the elements for eligibility under Section 13955.

(d) Except as otherwise provided by law, in making determinations of eligibility for compensation and in deciding upon the amount of compensation, the board shall apply the law in effect as of the date an application was submitted.

(e) The hearing shall be informal and need not be conducted according to the technical rules relating to evidence and witnesses. The board may rely on any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that might make improper the admission of the evidence over objection in a civil action. The board may rely on written reports prepared for the board, or other information received, from public agencies responsible for investigating the crime. If the applicant or the applicant's representative chooses not to appear at the hearing, the board may act solely upon the application for compensation, the staff's report, and other evidence that appears in the record.

(f) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall schedule the applicant's hearing in as convenient a location as possible.

(g) The board may delegate the hearing of applications to hearing officers.

(h) The decisions of the board shall be in writing. Copies of the decisions shall be delivered to the applicant or to his or her representative personally or sent to him or her by mail.

(i) The board may order a reconsideration of all or part of a decision on written request of the applicant. The board shall not grant more than one request for reconsideration with respect to any one decision on an application for compensation. The board shall not consider any request for reconsideration filed with the board more than 30 calendar days after the personal delivery or 60 calendar days after the mailing of the original decision.

(j) The board may order a reconsideration of all or part of a decision on its own motion, at its discretion, at any time.

SEC. 97. Section 14838 of the Government Code is amended to read:

14838. In order to facilitate the participation of small business, including microbusiness, in the provision of goods, information technology, and services to the state, and in the construction (including alteration, demolition, repair, or improvement) of state facilities, the directors of the department and other state agencies that enter those contracts, each within their respective areas of responsibility, shall do all of the following:

(a) Establish goals, consistent with those established by the Office of Small Business Certification and Resources, for the extent of participation of small businesses, including microbusinesses, in the provision of goods, information technology, and services to the state, and in the construction of state facilities.

(b) Provide for small business preference, or nonsmall business preference for bidders that provide for small business and microbusiness subcontractor participation, in the award of contracts for goods, information technology, services, and construction, as follows:

(1) In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to small business and microbusiness shall be 5 percent of the lowest responsible bidder meeting specifications. The preference to nonsmall business bidders that provide for small business or microbusiness subcontractor participation shall be, up to a maximum of 5 percent of the lowest responsible bidder meeting specifications, determined according to rules and regulations established by the Department of General Services.

(2) In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to small business or microbusiness shall be 5 percent of the highest responsible bidder's total score. The preference to nonsmall business bidders that provide for small business or microbusiness subcontractor participation shall be up to a maximum 5 percent of the highest responsible bidder's total score, determined according to rules and regulations established by the Department of General Services.

(3) The preferences under paragraphs (1) and (2) shall not be awarded to a noncompliant bidder and shall not be used to achieve any applicable minimum requirements.

(4) The preference under paragraph (1) shall not exceed fifty thousand dollars ($50,000) for any bid, and the combined cost of preferences granted pursuant to paragraph (1) and any other provision of law shall not exceed one hundred thousand dollars ($100,000). In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar ($50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses, including microbusinesses, in the contract award.

(c) Give special consideration to small businesses and microbusinesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses and microbusinesses in the preparation and submission of the information requested in Section 14310.

(e) Under the authorization granted in Section 10163 of the Public Contract Code, make awards, whenever feasible, to small business and microbusiness bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major

projects into subprojects so as to allow a small business or microbusiness contractor to qualify to bid on these subprojects.

(f) Small business and microbusiness bidders qualified in accordance with this chapter shall have precedence over nonsmall business bidders in that the application of a bidder preference for which nonsmall business bidders may be eligible under this section or any other provision of law shall not result in the denial of the award to a small business or microbusiness bidder. In the event of a precise tie between the low responsible bid of a bidder meeting specifications of a small business or microbusiness, and the low responsible bid of a bidder meeting the specifications of a disabled veteran-owned small business or microbusiness, the contract shall be awarded to the disabled veteran-owned small business or microbusiness. This provision applies if the small business or microbusiness bidder is the lowest responsible bidder, as well as if the small business or microbusiness bidder is eligible for award as the result of application of the small business and microbusiness bidder preference granted by subdivision (b).

SEC. 98. Section 15820.104 of the Government Code is amended to read:

15820.104. (a) The State Public Works Board may issue up to one hundred forty-six million one hundred sixty thousand dollars ($146,160,000) in revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to this part, to finance the design and construction for the project. The revenue bonds, negotiable notes, or negotiable bond anticipation notes authorized in this chapter shall reduce the amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes the board is authorized to issue pursuant to subdivision (a) of Section 15819.403 for the construction authorized by subdivision (c) of Section 15819.40. None of the provisions of Chapter 3.2.1 (commencing with Section 15819.40) shall apply to the project.

(b) The department may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313 or from any other appropriate source. In the event any of the revenue bonds, notes, or bond anticipation notes authorized by this chapter are not sold, the department shall commit a sufficient amount of its support appropriation to repay loans made from the Pooled Money Investment Account for an approved project.

(c) The costs of financing include, but are not limited to, interest during construction of the project, a reasonably required reserve fund, and the cost of issuance of permanent financing.

(d) The department and the board shall execute and deliver any and all leases, contracts, agreements, or other documents necessary for the sale of bonds or other financing for the project.

(e) Proceeds of the revenue bonds, notes, or bond anticipation notes may be used to reimburse the department for the costs of preliminary plans, working drawings, and construction for the project.

(f) Notwithstanding Section 13340, funds derived pursuant to this section are continuously appropriated for purposes of this chapter.

SEC. 99. Section 15820.105 of the Government Code is amended to read:

15820.105. (a) Plans and specifications for the project shall comply with applicable building codes.

(b) The project is hereby deemed a "public work" project for purposes of Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code.

(c) The provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code shall apply to all public works contracts entered into for the project.

(d) Other than as provided in this section and Sections 15820.101 to 15820.104, inclusive, private sector methods may be used to deliver the project. Specifically, the procurement and contracting for the delivery of the project is not subject to the State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code) or any other provision of California law governing public procurement or public works projects.

SEC. 100. Section 19609 of the Government Code is amended to read:

19609. (a) For a demonstration project made permanent pursuant to legislation operative on or after January 1, 2008, a department participating in the demonstration project shall file a report on all aspects of the demonstration project with the State Personnel Board. The report shall include, but not be limited to, all of the following:

(1) The number of applicants.

(2) The number of applicants that were hired.

(3) The cost of the hiring process.

(4) The number and nature of examination appeals.

(5) The length of time to complete the hiring and testing process.

(b) For a three-year period from the date that the demonstration project becomes permanent, the department shall file the report described in subdivision (a) on an annual basis. After the expiration of the three-year period, the department shall file a report if a report is requested by the State Personnel Board.

(c) When the State Personnel Board receives a report described in this section, the State Personnel Board may hold a public hearing to provide for the exchange of information and an opportunity for public comment about the demonstration project that is the subject of the report.

SEC. 101. Section 27293 of the Government Code is amended to read:

27293. (a) (1) Except as otherwise provided in subdivision (b), if an instrument intended for record is executed or certified in whole or in part in a language other than English, the recorder shall not accept the instrument for record.

(2) (A) A translation in English of an instrument executed or certified in whole or in part in a language other than English may be presented to the county clerk for verification that the translation was performed by a certified or registered court interpreter, as described in Section 68561, or by an accredited translator registered with the American Translators Association. The translation shall be accompanied by a notarized declaration by the interpreter or translator that the translation is true and accurate, and includes the certification, qualification, or registration of the interpreter or translator. The clerk shall consult an Internet Web site maintained by the Judicial Council or the American Translators Association in verifying the certification, qualification, or registration of the interpreter or translator.

(B) Upon verification that the translation was performed by an interpreter or translator described in subparagraph (A), and that the translation is accompanied by a notarized declaration as required pursuant to subparagraph (A), the clerk shall duly make certification of that verification under seal of the county, attach the certification to the translation, and attach the certified translation to the original instrument.

(C) For this verification and certification, a fee of ten dollars ($10) shall be paid to the county clerk for each document submitted for certification. The attached original instrument and certified translation may be presented to the recorder, and, upon payment of the usual fees, the recorder shall accept and permanently file the instrument and record the certified translation. The recording of the certified translation gives notice and is of the same effect as the recording of an original instrument. Certified copies of the recorded translation may be recorded in other counties, with the same effect as the recording of the original translation, provided, however, that in those counties where a photostatic or photographic method of recording is employed, the whole instrument, including the foreign language and the translation, may be recorded, and the original instrument returned to the party leaving it for record or upon his or her order.

(b) The provisions of subdivision (a) do not apply to any instrument offered for record that contains provisions in English and a translation of the English provisions in a language other than English, provided that the English provisions and the translation thereof are specifically set forth in state or federal law.

(c) The county clerk is not required to issue a translation certificate if he or she is unable to confirm the certification, registration, or accreditation of the translator, as required in subdivision (a).

SEC. 102. 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 three inches in one sentence, the recorder shall charge one dollar ($1) extra for each page or sheet on which printing appears, except, 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 funds generated by 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 deposited in the county general fund.

(c) Notwithstanding Section 68085, 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.

(d) (1) In addition to all other fees authorized by this section, a county recorder may charge a fee of one dollar ($1) for recording the first page of every instrument, paper, or notice required or permitted by law to be recorded, as authorized by each county's board of supervisors. The funds generated by this fee shall be used only by the county recorder collecting the fee for the purpose of implementing a social security number truncation program pursuant to Article 3.5 (commencing with Section 27300).

(2) A county recorder shall not charge the fee described in paragraph (1) after December 31, 2017, unless the county recorder has received reauthorization by the county's board of supervisors. A county recorder

shall not seek reauthorization of the fee by the board before June 1, 2017, or after December 31, 2017. In determining the additional period of authorization, the board shall consider the review described in paragraph (4).

(3) Notwithstanding paragraph (2), a county recorder who, pursuant to subdivision (c) of Section 27304, secures a revenue anticipation loan, or other outside source of funding, for the implementation of a social security number truncation program, may be authorized to charge the fee described in paragraph (1) for a period not to exceed the term of repayment of the loan or other outside source of funding.

(4) A county board of supervisors that authorizes the fee described in this subdivision shall require the county auditor to conduct two reviews to verify that the funds generated by this fee are used only for the purpose of the program, as described in Article 3.5 (commencing with Section 27300) and for conducting these reviews. The reviews shall state the progress of the county recorder in truncating recorded documents pursuant to subdivision (a) of Section 27301, and shall estimate any ongoing costs to the county recorder of complying with subdivisions (a) and (b) of Section 27301. The board shall require that the first review be completed not before June 1, 2012, or after December 31, 2013, and that the second review be completed not before June 1, 2017, or after December 31, 2017. The reviews shall adhere to generally accepted accounting standards, and the review results shall be made available to the public.

SEC. 103. Section 31521.3 of the Government Code is amended to read:

31521.3. (a) The board of supervisors may provide that the fourth, fifth, sixth, eighth, ninth, and alternate retired members of the board of retirement shall receive compensation for the review and analysis of disability retirement cases. The compensation shall be limited to the first time a case is considered by the board and shall not exceed one hundred dollars ($100) per day. The compensation shall be prorated for less than eight hours of work in a single day.

(b) A board member compensated pursuant to subdivision (a) shall certify to the retirement board, in a manner specified by the retirement board, the number of hours spent reviewing disability cases each month. The number of hours compensated under this section shall not exceed 32 hours per month.

(c) On or before March 31, 2010, and on or before March 31 in each even-numbered year thereafter, the compensation limit established by the board of supervisors pursuant to subdivision (a) shall be adjusted biennially by the board of retirement to reflect any change in the Consumer Price Index for the Los Angeles, Riverside, and Orange County

areas that has occurred in the previous two calendar years, rounded to the nearest dollar.

(d) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 104. Section 31739.33 of the Government Code is amended to read:

31739.33. (a) Except as provided in subdivision (b), a retirement allowance, optional death allowance, or annual death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system or of a superseded system who has been or was retired for disability which did not on July 1, 1976, exceed five hundred dollars ($500) per month is hereby increased as follows:

| Number of years of county or district service | Percentage of increase in monthly retirement allowance |
|---|---|
| 25 or more years..... | 10% |
| 20–25 years..... | 8% |
| 15–20 years..... | 6% |

(b) No allowance shall be increased to more than five hundred dollars ($500) per month pursuant to subdivision (a).

This section shall not be operative in a county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

SEC. 105. Section 53343.1 of the Government Code is amended to read:

53343.1. A community facilities district formed after January 1, 1992, shall prepare, if requested by a person who resides in or owns property in the district, within 120 days after the last day of each fiscal year, a separate document titled an "Annual Report." The district may charge a fee for the report not exceeding the actual costs of preparing the report. The report shall include the following information for the fiscal year:

(a) The amount of special taxes collected for the year.

(b) The amount of other moneys collected for the year and their source, including interest earned.

(c) The amount of moneys expended for the year.

(d) A summary of the amount of moneys expended for the following:

(1) Facilities, including property.

(2) Services.
(3) The costs of bonded indebtedness.
(4) The costs of collecting the special tax under Section 53340.
(5) Other administrative and overhead costs.

(e) For moneys expended for facilities, including property, an identification of the categories of each type of facility funded with amounts expended in each category, including the total percentage of the cost of each type of facility that was funded with bond proceeds or special taxes.

(f) For moneys expended for services, an identification of the categories of each type of service funded with amounts expended in each category, including the total percentage of the cost of each type of service that was funded with bond proceeds or special taxes.

(g) For moneys expended for other administrative costs, an identification of each of these costs.

(h) The annual report shall contain references to the relevant sections of the resolution of formation of the district so that interested persons may confirm that bond proceeds and special taxes are being used for authorized purposes. The annual report shall be made available to the public upon request.

SEC. 106. Section 53601 of the Government Code is amended to read:

53601. This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having moneys in a sinking fund or moneys in its treasury not required for the immediate needs of the local agency may invest any portion of the moneys that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery.

For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where

this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. 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 or securities lending agreement authorized by this section, that 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) Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.

(e) Bonds, notes, warrants, or other evidences of indebtedness of a 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.

(f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(g) Bankers' acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances shall not exceed 180 days' maturity or 40 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 30 percent of the agency's moneys 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 moneys in its treasury in a manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars ($500,000,000).

(C) Has debt other than commercial paper, if any, that is rated "A" or higher by an NRSRO.

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or a surety bond.

(C) Has commercial paper that is rated "A-1" or higher, or the equivalent, by an NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, may invest no more than 25 percent of their moneys in eligible commercial paper. Local agencies, other than counties or a city and county, may purchase no more than 10 percent of the outstanding commercial paper of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed 30 percent of the agency's moneys that 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), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the moneys are prohibited from 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 a person with investment decisionmaking authority in the administrative office manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on an investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlie a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold using a reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty using a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of

a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may be made only upon prior approval of the governing body of the local agency and shall be made only with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty 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.

(B) "Securities," for purposes of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, 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 "A" or better by an NRSRO. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's moneys that may be invested pursuant to this section.

(*l*) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivision (a) to (j), inclusive, or subdivisions (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivision (m) or (n) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include commission that the companies may charge and shall not exceed 20 percent of the agency's moneys that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) 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.

(n) Notes, bonds, or other obligations that 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 that 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.

(o) A mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough 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 an NRSRO and rated in a rating category of "AA" or its equivalent or better by an NRSRO. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus moneys that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (n), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

(1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.

(2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (n), inclusive.

(3) The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

SEC. 107. Section 56100.1 of the Government Code is amended to read:

56100.1. A commission may require, through the adoption of written policies and procedures, the disclosure of contributions, as defined in Section 82015, expenditures, as defined in Section 82025, and independent expenditures, as defined in Section 82031, made in support of or opposition to a proposal. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission's Internet Web site, if applicable, or to the board of supervisors of the county in which the commission is located, which may designate a county officer to receive the disclosure. Disclosure pursuant to a requirement under the authority provided in this section shall be in addition to any disclosure otherwise required by Section 56700.1, the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)), or local ordinance.

SEC. 108. Section 56700.1 of the Government Code is amended to read:

56700.1. Expenditures for political purposes related to a proposal for a change of organization or reorganization that will be submitted to a commission pursuant to this part, and contributions in support of or in opposition to those proposals, shall be disclosed and reported to the commission to the same extent and subject to the same requirements of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) as provided for local initiative measures.

SEC. 109. Section 57009 of the Government Code is amended to read:

57009. Expenditures for political purposes related to proceedings for a change of organization or reorganization that will be conducted pursuant to this part, and contributions in support of or in opposition to

those proceedings, shall be disclosed and reported to the commission to the same extent and subject to the same requirements of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) as provided for local initiative measures.

SEC. 110. Section 65007 of the Government Code is amended to read:

65007. As used in this title, the following terms have the following meanings, unless the context requires otherwise:

(a) "Adequate progress" means all of the following:

(1) The total project scope, schedule, and cost of the completed flood protection system have been developed to meet the appropriate standard of protection.

(2) Revenues sufficient to fund each year of the project schedule developed in paragraph (1) have been identified and, in any given year and consistent with that schedule, at least 90 percent of the revenues scheduled to have been received by that year have been appropriated and are currently being expended.

(3) Critical features of the flood protection system are under construction, and each critical feature is progressing as indicated by the actual expenditure of the construction budget funds.

(4) The city or county has not been responsible for a significant delay in the completion of the system.

(5) The local flood management agency shall provide the Department of Water Resources and the Central Valley Flood Protection Board with the information specified in this subdivision sufficient to determine substantial completion of the required flood protection. The local flood management agency shall annually report to the Central Valley Flood Protection Board on the efforts in working toward completion of the flood protection system.

(b) "Central Valley Flood Protection Plan" has the same meaning as that set forth in Section 9612 of the Water Code.

(c) "Developed area" has the same meaning as that set forth in Section 59.1 of Title 44 of the Code of Federal Regulations.

(d) "Flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazard zones, will be free from flooding or flood damage.

(e) "Nonurbanized area" means a developed area or an area outside a developed area in which there are fewer than 10,000 residents.

(f) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(g) "Sacramento-San Joaquin Valley" means lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or their tributaries or connected therewith, or upon any land adjacent thereto, or within the overflow basins thereof, or upon land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley does not include lands lying within the Tulare Lake basin, including the Kings River.

(h) "State Plan of Flood Control" has the same meaning as that set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(i) "Urban area" means a developed area in which there are 10,000 residents or more.

(j) "Urbanizing area" means a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years.

(k) "Urban level of flood protection" means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources.

SEC. 111. Section 65865.5 of the Government Code is amended to read:

65865.5. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of a city or county within the Sacramento-San Joaquin Valley shall not enter into a development agreement for property that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the development agreement that will protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system that will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the

system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) This section does not change or diminish existing requirements of local flood plain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 112. Section 65917.5 of the Government Code is amended to read:

65917.5. (a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all

outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures

to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

SEC. 113. Section 65962 of the Government Code is amended to read:

65962. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, each city and county within the Sacramento-San Joaquin Valley shall not approve a discretionary permit or other discretionary entitlement, or a ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the permit or discretionary entitlement that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) This section does not change or diminish existing requirements of local flood plain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 114. Section 66474.5 of the Government Code is amended to read:

66474.5. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of each city and county within the Sacramento-San Joaquin Valley shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, for a subdivision that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the subdivision to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the subdivision that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected

by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) This section does not change or diminish existing requirements of local flood plain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 115. Section 66474.62 of the Government Code is amended to read:

66474.62. In cities having a population of more than 2,800,000, a legislative body shall not deny approval of a final subdivision map pursuant to Section 66474.61 if it, the advisory agency, or the appeal board has previously approved a tentative map for the proposed subdivision and if it finds that the final map is in substantial compliance with the previously approved tentative map and with the conditions to the approval thereof.

SEC. 116. Section 66540.1 of the Government Code is amended to read:

66540.1. The Legislature hereby finds and declares all of the following:

(a) In 1999, based on the findings and analyses in a study sponsored by the Bay Area Council, the Legislature created the San Francisco Bay Area Water Transit Authority for purposes of preparing a bay area water transit implementation and operations plan and operating a comprehensive regional public water transportation system. In 2002, after two years of study, public hearings, collaboration with existing bay area transit and public transportation ferry service providers, and peer review, the San Francisco Bay Area Water Transit Authority submitted the required plan to the Legislature. The plan included rationale for expanded ferries, ridership projections and routes, potential terminal locations, capital, operating and maintenance costs, vessel specification, and emergency and safety response capabilities.

(b) While the efforts of the existing San Francisco Bay Area Water Transit Authority to develop a regional water transit plan are commendable, the country has seen several significant disasters, including the 9/11 tragedy and Hurricane Katrina, which have emphasized the need for coordinated emergency response. From the lessons learned from those events, it is apparent that the bay area's current emergency response

infrastructure is not sufficient to respond to emergencies of the magnitude witnessed in the past few years and anticipated in the future.

(c) In 2006, the Bay Area Council sponsored a study on the role a comprehensive public water transportation system would play in the bay area's emergency response infrastructure. The 2006 study found that a comprehensive water transportation system is vital to emergency preparedness and response for the region. If bridges, roads, highways, tunnels, and trains are out of service as a result of an emergency, only the waters of the bay are certain to remain open for traffic. However, current infrastructure and equipment capabilities are grossly inadequate. Ferry terminals exist in only a few locations on the bay, and the vessel fleet lacks the capacity to make up for even one out-of-service bridge. The few vessels that exist are in the hands of many different public and private owners and operators, and there is no detailed plan or identified leader to activate and coordinate them.

(d) The study further urged that action be taken immediately to strengthen and expand the regional public water transportation system so that the bay area would be prepared in the event of a catastrophic emergency. The San Francisco Bay area is almost certain to experience moderate to severe earthquakes in the foreseeable future. A major earthquake or a series of earthquakes on any of the region's faults would have the potential of closing thousands of area roads and rendering some or all transbay bridges and mass transit lines impassable. With the regional transportation system disabled, first responders would be unable to help tens of thousands of homeless, injured, and starving victims. A failure of transportation would be particularly devastating to the most vulnerable of our population, the elderly, children, and the poor. The loss of any portion of the regional transportation system, from either a natural or manmade disaster, would place lives and property at risk and would seriously undermine the San Francisco Bay area economy.

(e) It is the responsibility of the state to protect and preserve the right of its citizens to a safe and peaceful existence. To accomplish this goal and to minimize the destructive impact of disasters and other massive emergencies, the actions of numerous public agencies must be coordinated to effectively manage all four phases of emergency activity: preparedness, mitigation, response, and recovery. It is a matter of statewide interest to establish an expanded and coordinated regional water transportation system to provide necessary security, flexibility, and mobility for disaster response and recovery in the San Francisco Bay area. This transcends any local interest, and requires a single governmental entity with appropriate powers and scope of authority to serve this statewide interest.

(f) As emergencies and other catastrophic events are certain (only the timing is unpredictable), it is crucial for immediate action to be taken to develop and implement these emergency response strategies. It is not only impractical, but rather impossible, to cobble together an emergency water transportation system after the fact. It is a task of years, not months, to make the real changes and create the essential infrastructure for an integrated and comprehensive water transit emergency system. In light of the ever-present threat, it is imperative to begin this crucial effort without delay.

(g) The public interest requires swift action and steadfast resolve to prepare for the coming earthquakes, as well as other emergencies, with the speed and determination that is due for a threat of this magnitude. The water transit emergency response and recovery system must be fully implemented as quickly as possible, as if the lives of bay area residents depend on it, because they do.

(h) It is a matter of statewide interest to stimulate the maximum use of the San Francisco Bay for emergency response and recovery. The geographical situation of the San Francisco Bay makes it ideal for emergency response and recovery, but at the same time prevents the full utilization of the bay by acting as a physical barrier to an effective transportation system between the various jurisdictions surrounding the bay. Only a specially created local entity of regional government can freely operate in the numerous individual units of county, city and county, and city governments located in the area. In order to protect the lives and livelihoods of the bay area, the Legislature in this act establishes a new governmental entity specifically charged and empowered with the responsibility to plan, implement, and manage these critical services and facilities, as a matter of the utmost urgency.

SEC. 117. Section 66540.9 of the Government Code is amended to read:

66540.9. In order to properly plan and provide for emergency water transportation services and facilities, the authority shall have the authority to plan, develop, and operate all aspects of water transportation facilities within the bay area region, including, but not limited to, the location and development of terminals, parking lots and structures, and all other facilities and services necessary to serve passengers and other customers of the water transportation services system.

SEC. 118. Section 66540.10 of the Government Code is amended to read:

66540.10. The San Francisco Bay Area Water Transit Authority shall transfer the title and ownership of all property within its control and ownership to the authority. Funds necessary for the establishment and organization of the authority, as determined by the board, shall be

transferred immediately upon request by the authority. All other transfers shall be consistent with the transition plan required under subdivision (b) of Section 66540.32 and shall include, but not be limited to, all of the following:

(a) All real and personal property, including, but not limited to, all terminals, ferries, vehicles or facilities, parking facilities for passengers and employees, and related buildings and facilities convenient or necessary to operate, support, maintain, and manage the water transportation services system and its services to customers.

(b) All contracts with tenants, concessionaires, leaseholders, and others.

(c) All financial obligations secured by revenues and fees generated from the operations of the water transportation services system, including, but not limited to, bonded indebtedness associated with the water transportation services system.

(d) All financial reserves, including, but not limited to, sinking funds and other credits.

(e) All office equipment, including, but not limited to, computers, records and files, and software required for financial management, personnel management, and accounting and inventory systems.

SEC. 119. Section 66540.12 of the Government Code is amended to read:

66540.12. (a) The authority shall be governed by a board composed of five members, as follows:

(1) Three members shall be appointed by the Governor, subject to confirmation by the Senate. The Governor shall make the initial appointment of these members of the board no later than January 11, 2008.

(2) One member shall be appointed by the Senate Committee on Rules.

(3) One member shall be appointed by the Speaker of the Assembly.

(b) Each member of the board shall be a resident of a county in the bay area region.

(c) Public officers associated with an area of government, including planning or water, whether elected or appointed, may be appointed to serve contemporaneously as members of the board. A local jurisdiction or agency shall not have more than one representative on the board of the authority.

(d) The Governor shall designate one member as the chair of the board and one member as the vice chair of the board.

(e) The term of a member of the board shall be six years.

(f) Vacancies shall be filled immediately by the appointing power for the unexpired portion of the terms in which they occur.

SEC. 120. Section 66540.32 of the Government Code is amended to read:

66540.32. (a) The authority shall create and adopt, on or before July 1, 2009, an emergency water transportation system management plan for water transportation services in the bay area region in the event that bridges, highways, and other facilities are rendered wholly or significantly inoperable.

(b) The authority shall create and adopt, on or before January 1, 2009, a transition plan to facilitate the transfer of existing public transportation ferry services within the bay area region to the authority pursuant to this title. In the preparation of the transition plan, priority shall be given to ensuring continuity in the programs, services, and activities of existing public transportation ferry services.

(c) In developing the plans described in subdivisions (a) and (b), the authority shall cooperate to the fullest extent possible with the Metropolitan Transportation Commission, the state Office of Emergency Services, the Association of Bay Area Governments, and the San Francisco Bay Conservation and Development Commission, and shall, to the fullest extent possible, coordinate its planning with local agencies, including those local agencies that operated, or contracted for the operation of, public water transportation services as of January 1, 2008. To avoid duplication of work, the authority shall make maximum use of data and information available from the planning programs of the Metropolitan Transportation Commission, the state Office of Emergency Services, the Association of Bay Area Governments, the San Francisco Bay Conservation and Development Commission, the cities and counties in the San Francisco Bay area, and other public and private planning agencies. In addition, the authority shall consider both of the following:

(1) The San Francisco Bay Area Water Transit Implementation and Operations Plan adopted by the San Francisco Bay Area Water Transit Authority on July 10, 2003.

(2) Any other plan concerning water transportation within the bay area region developed or adopted by a general purpose local government or special district that operates or sponsors water transit, including, but not limited to, those water transportation services provided under agreement with a private operator.

(d) The authority shall prepare a specific transition plan for any transfer not anticipated by the transition plan required under subdivision (b).

(e) At least 45 days prior to adoption of the plans required by subdivisions (a) and (b), the authority shall provide a copy of the plan adopted pursuant to subdivision (a) and the plan adopted pursuant to subdivision (b) to each city and county in the bay area region. Any of

these cities or counties may provide comments on these plans to the authority.

SEC. 121. Section 66540.34 of the Government Code, as added by Section 2, first occurrence, of Chapter 734 of the Statutes of 2007, is amended and renumbered to read:

66540.33. The authority shall refer for recommendation the plans of routes, rights of way, terminals, yards, and related facilities and improvements to the city councils and boards of supervisors within the jurisdiction of which those facilities and improvements lie and to other state, regional, and local agencies and commissions as may be deemed appropriate by the authority. The authority shall give due consideration to all recommendations submitted.

SEC. 122. Section 66540.54 of the Government Code is amended to read:

66540.54. (a) The authority shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles as adopted by the Governmental Accounting Standards Board (GASB) of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

(b) The authority shall contract with an independent certified public accountant for an annual audit of the financial records, books, and performance of the authority. The accountant shall submit a report of the audit to the board and the board shall make copies of the report available to the public and the appropriate policy and fiscal committees of the Legislature.

SEC. 123. Section 69615 of the Government Code is amended to read:

69615. (a) It is the intent of the Legislature in enacting this section to restore an appropriate balance between subordinate judicial officers and judges in the trial courts by providing for the conversion, as needed, of subordinate judicial officer positions to judgeships in courts that assign subordinate judicial officers to act as temporary judges. The Legislature finds that these positions must be converted to judgeships in order to ensure that critical case types, including family, probate, and juvenile law matters, can be heard by judges.

(b) (1) (A) Sixteen subordinate judicial officer positions in eligible superior courts, as determined by the Judicial Council pursuant to uniform criteria for determining the need for converting existing subordinate judicial officer positions to superior court judgeships, shall be converted to judgeships as set forth in paragraph (2).

(B) Upon subsequent authorization by the Legislature, 146 subordinate judicial officer positions in eligible superior courts, as determined by

the Judicial Council pursuant to uniform criteria for determining the need for converting existing subordinate judicial officer positions to superior court judgeships, shall be converted to judgeships as set forth in paragraphs (2) and (3), except that no more than 16 subordinate judicial officer positions may be converted in any fiscal year.

(2) The positions for conversion shall be allocated each fiscal year pursuant to uniform allocation standards to be developed by the Judicial Council for factually determining the relative judicial need for conversion of a subordinate judicial officer position that becomes vacant to a superior court judgeship position.

(3) Beginning in the 2008–09 fiscal year, a subordinate judicial officer position shall be converted to a judgeship when all of the following conditions are met:

(A) A vacancy occurs in a subordinate judicial officer position in an eligible superior court as determined by the uniform allocation standards described in paragraph (2).

(B) The Judicial Council files notice of the vacancies and allocations with the Chairperson of the Senate Committee on Rules, the Speaker of the Assembly, and the Chairpersons of the Senate and Assembly Committees on Judiciary.

(C) The proposed action is ratified by the Legislature, either in the annual Budget Act or another legislative measure.

(4) Section 12011.5 shall apply to an appointment to a superior court judgeship converted from a subordinate judicial officer position.

(c) For purposes of this section, "subordinate judicial officer" means an officer appointed under the authority of Section 22 of Article VI of the California Constitution. This section shall not apply to a subordinate judicial officer position established by Section 4251 of the Family Code.

(d) It is the intent of the Legislature that no subordinate judicial officer shall involuntarily lose his or her position solely due to operation of this section. This section does not change the employment relationship between subordinate judicial officers and the trial courts established by law.

(e) This section does not limit the authority of the Governor to appoint a person to fill a vacancy pursuant to subdivision (c) of Section 16 of Article VI of the California Constitution.

(f) This section does not entitle a court to an increase in funding.

(g) The operation of this section shall neither increase nor decrease the number of judicial and subordinate judicial officer positions and court support positions for which a county is responsible by law.

SEC. 124. Section 70375 of the Government Code is amended to read:

70375. (a) This article shall take effect on January 1, 2003, and the fund, penalty, and fee assessment established by this article shall become operative on January 1, 2003, except as otherwise provided in this article.

(b) In each county, the five-dollar ($5) penalty amount authorized by subdivision (a) of Section 70372 shall be reduced by the following:

(1) The amount collected for deposit into the local courthouse construction fund established pursuant to Section 76100. If a county board of supervisors elects to distribute part of the county penalty authorized by Section 76000 to the local courthouse construction fund, the amount of the contribution for each seven dollars ($7) is the difference between seven dollars ($7) and the amount shown for the county penalty in subdivision (e) of Section 76000.

(2) The amount collected for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401 to the extent it is funded by moneys from the local courthouse construction fund.

(c) The authority for all of the following shall expire proportionally on June 30 following the date of transfer of responsibility for facilities from the county to the Judicial Council, except so long as moneys are needed to pay for construction provided for in those sections and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council:

(1) An additional penalty for a local courthouse construction fund established pursuant to Section 76100.

(2) A filing fee surcharge in the County of Riverside established pursuant to Section 70622.

(3) A filing fee surcharge in the County of San Bernardino established pursuant to Section 70624.

(4) A filing fee surcharge in the City and County of San Francisco established pursuant to Section 70625.

(d) For purposes of subdivision (c), "proportionally" means the proportion of the fee or surcharge that shall expire upon the transfer of responsibility for a facility that is the same proportion as the square footage that facility bears to the total square footage of court facilities in that county.

SEC. 125. Section 70391 of the Government Code is amended to read:

70391. The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to court facilities, in addition to any other responsibilities or authorities established by law:

(a) Exercise full responsibility, jurisdiction, control, and authority as an owner would have over trial court facilities the title of which is held

by the state, including, but not limited to, the acquisition and development of facilities.

(b) Exercise the full range of policymaking authority over trial court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not expressly otherwise limited by law.

(c) Dispose of surplus court facilities following the transfer of responsibility under Article 3 (commencing with Section 70321), subject to all of the following:

(1) If the property was a court facility previously the responsibility of the county, the Judicial Council shall comply with the requirements of Section 11011, and as follows, except that, notwithstanding any other provision of law, the proportion of the net proceeds that represents the proportion of other state funds used on the property other than for operation and maintenance shall be returned to the fund from which it came and the remainder of the proceeds shall be deposited in the State Court Facilities Construction Fund.

(2) The Judicial Council shall consult with the county concerning the disposition of the facility. Notwithstanding any other law, including Section 11011, when requested by the transferring county, a surplus facility shall be offered to that county at fair market value prior to being offered to another state agency or local government agency.

(3) The Judicial Council shall consider whether the potential new or planned use of the facility:

(A) Is compatible with the use of other adjacent public buildings.

(B) Unreasonably departs from the historic or local character of the surrounding property or local community.

(C) Has a negative impact on the local community.

(D) Unreasonably interferes with other governmental agencies that use or are located in or adjacent to the building containing the court facility.

(E) Is of sufficient benefit to outweigh the public good in maintaining it as a court facility or building.

(4) All funds received for disposal of surplus court facilities shall be deposited by the Judicial Council in the State Court Facilities Construction Fund.

(5) If the facility was acquired, rehabilitated, or constructed, in whole or in part, with moneys in the State Court Facilities Construction Fund that were deposited in that fund from the state fund, any funds received for disposal of that facility shall be apportioned to the state fund and the State Court Facilities Construction Fund in the same proportion that the original cost of the building was paid from the state fund and other sources of the State Court Facilities Construction Fund.

(6) Submission of a plan to the Legislature for the disposition of court facilities transferred to the state prior to, or as part of, a budget submission to fund a new courthouse that will replace the existing court facilities transferred to the state.

(d) Conduct audits of all of the following:

(1) The collection of fees by the local courts.

(2) The moneys in local courthouse construction funds established pursuant to Section 76100.

(e) Establish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities, including, but not limited to, facilities planning, acquisition, construction, design, operation, and maintenance.

(f) Establish and consult with local project advisory groups on the construction of new trial court facilities, including the trial court, the county, state agencies, bar groups, and members of the community.

(g) Manage court facilities in consultation with the trial courts.

(h) Allocate appropriated funds for court facilities maintenance and construction, subject to the other provisions of this chapter.

(i) Manage shared-use facilities to the extent required by the agreement under Section 70343.

(j) Prepare funding requests for court facility construction, repair, and maintenance.

(k) Implement the design, bid, award, and construction of all court construction projects, except as delegated to others.

(*l*) Provide for capital outlay projects that may be built with funds appropriated or otherwise available for these purposes as follows:

(1) Approve five-year and master plans for each district.

(2) Establish priorities for construction.

(3) Recommend to the Governor and the Legislature the projects to be funded by the State Court Facilities Construction Fund.

(4) Submit the cost of projects proposed to be funded to the Department of Finance for inclusion in the Governor's Budget.

(m) In carrying out its responsibilities and authority under this section, the Judicial Council shall consult with the local court for:

(1) Selecting and contracting with facility consultants.

(2) Preparing and reviewing architectural programs and designs for court facilities.

(3) Preparing strategic master and five-year capital facilities plans.

(4) Major maintenance of a facility.

SEC. 126. Section 76000 of the Government Code is amended to read:

76000. (a) (1) Except as otherwise provided in this section, in each county there shall be levied an additional penalty in the amount of seven

dollars ($7) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code.

(2) The additional penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. The moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(3) This additional penalty does not apply to the following:

(A) A restitution fine.

(B) A penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50). The moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In cities, districts, or other issuing agencies that elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, the city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency that elects to process parking violations shall pay to the county treasurer two dollars and fifty

cents ($2.50) for each fund for each parking penalty collected on each violation that is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. An issuing agency shall not be required to contribute revenues to a fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall deposit one dollar ($1) of every two dollars and fifty cents ($2.50) collected pursuant to subdivision (b) into the general fund of the county.

(d) The authority to impose the two-dollar-and-fifty-cent ($2.50) penalty authorized by subdivision (b) shall be reduced to one dollar ($1) as of the date of transfer of responsibility for facilities from the county to the Judicial Council pursuant to Article 3 (commencing with Section 70321) of Chapter 5.1, except as moneys are needed to pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.

(e) The seven-dollar ($7) additional penalty authorized by subdivision (a) shall be reduced in each county by the additional penalty amount assessed by the county for the local courthouse construction fund established by Section 76100 as of January 1, 1998, when the moneys in that fund are transferred to the state under Section 70402. The amount each county shall charge as an additional penalty under this section shall be as follows:

| | | | | | |
|---|---|---|---|---|---|
| Alameda | $5.00 | Marin | $5.00 | San Luis Obispo | $6.00 |
| Alpine | $5.00 | Mariposa | $2.00 | San Mateo | $4.75 |
| Amador | $5.00 | Mendocino | $7.00 | Santa Barbara | $3.50 |
| Butte | $6.00 | Merced | $5.00 | Santa Clara | $5.50 |
| Calaveras | $3.00 | Modoc | $4.00 | Santa Cruz | $7.00 |
| Colusa | $6.00 | Mono | $5.00 | Shasta | $3.50 |
| Contra Costa | $5.00 | Monterey | $5.00 | Sierra | $7.00 |
| Del Norte | $5.00 | Napa | $3.00 | Siskiyou | $5.00 |
| El Dorado | $5.00 | Nevada | $5.00 | Solano | $5.00 |
| Fresno | $7.00 | Orange | $3.50 | Sonoma | $5.00 |
| Glenn | $4.06 | Placer | $4.75 | Stanislaus | $5.00 |
| Humboldt | $5.00 | Plumas | $5.00 | Sutter | $3.00 |
| Imperial | $6.00 | Riverside | $4.60 | Tehama | $7.00 |
| Inyo | $4.00 | Sacramento | $5.00 | Trinity | $4.26 |
| Kern | $7.00 | San Benito | $5.00 | Tulare | $5.00 |
| Kings | $7.00 | San Bernardino | $5.00 | Tuolumne | $5.00 |

| | | | | | |
|---|---|---|---|---|---|
| Lake | $7.00 | San Diego | $5.00 | Ventura | $5.00 |
| Lassen | $2.00 | San Francisco | $6.99 | Yolo | $7.00 |
| Los Angeles | $5.00 | San Joaquin | $3.75 | Yuba | $3.00 |
| Madera | $4.50 | | | | |

SEC. 127. Section 76000.5 of the Government Code is amended to read:

76000.5. (a) (1) Except as otherwise provided in this section, 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, in addition to the penalties set forth in Section 76000, the county board of supervisors may elect to levy an additional penalty in the amount of two dollars ($2) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including violations of Division 9 (commencing with Section 23000) of the Business and Professions Code relating to the control of alcoholic beverages, and all offenses involving a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code. This penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code.

(2) This additional penalty does not apply to the following:

(A) A restitution fine.

(B) A penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) Funds shall be collected pursuant to subdivision (a) only if the county board of supervisors provides that the increased penalties do not offset or reduce the funding of other programs from other sources, but that these additional revenues result in increased funding to those programs.

(c) Moneys collected pursuant to subdivision (a) shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(d) Funds collected pursuant to this section shall be deposited into the Maddy Emergency Medical Services (EMS) Fund established pursuant to Section 1797.98a of the Health and Safety Code.

(e) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is chaptered before January 1, 2009, deletes or extends that date.

SEC. 128. Section 76104.1 of the Government Code is amended to read:

76104.1. (a) (1) Except as otherwise provided in this section, and notwithstanding any other provision of law, 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, in Santa Barbara County, a penalty in the amount of five dollars ($5) for every ten dollars ($10), or part of ten dollars ($10), shall be imposed on every fine, penalty, or forfeiture collected for all criminal offenses, including all offenses involving a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code. This penalty assessment shall be collected together with and in the same manner as the amount established by Section 1464 of the Penal Code.

(2) The penalty imposed by this section does not apply to the following:

(A) A restitution fine.

(B) A penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) Notwithstanding any other provision of law, 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, in Santa Barbara County, for every parking offense, as defined in subdivision (i) of Section 1463 of the Penal Code, where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture, together with and in the same manner as the amount established pursuant to subdivision (b) of Section 76000.

(c) The moneys collected pursuant to this section shall be held by the county treasurer in the same manner, and shall be payable for the same purposes, described in subdivision (e) of Section 76104.

(d) (1) Notwithstanding any provision of law to the contrary, in the County of Santa Barbara, the distribution set forth in subparagraph (B) of paragraph (5) of subdivision (b) of Section 1797.98a of the Health and Safety Code shall, instead, be 42 percent of the fund to hospitals providing disproportionate trauma and emergency medical services to uninsured patients who do not make any payment for services.

(2) Notwithstanding any provision of law to the contrary, in the County of Santa Barbara, the 17-percent distribution set forth in

subparagraph (C) of paragraph (5) of subdivision (b) of Section 1797.98a of the Health and Safety Code shall not apply.

(e) This section shall be implemented only if the Santa Barbara County Board of Supervisors adopts a resolution stating that implementation of this section is necessary to the county for purposes of providing payment for emergency medical services.

(f) This section shall remain in effect only until January 1, 2009, and as of that date is repealed.

SEC. 129. Section 76104.6 of the Government Code is amended to read:

76104.6. (a) (1) Except as otherwise provided in this section, for the purpose of implementing the DNA Fingerprint, Unsolved Crime and Innocence Protection Act (Proposition 69), as approved by the voters at the November 2, 2004, statewide general election, there shall be levied an additional penalty of one dollar ($1) for every ten dollars ($10), or part of ten dollars ($10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code.

(2) The penalty imposed by this section shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. The moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The board of supervisors shall establish in the county treasury a DNA Identification Fund into which shall be deposited the moneys collected pursuant to this section. The moneys of the fund shall be allocated pursuant to subdivision (b).

(3) The additional penalty does not apply to the following:

(A) A restitution fine.

(B) A penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) (1) 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.

(2) On the last day of each calendar quarter of the year specified in this subdivision, the county treasurer shall transfer fund moneys in the county's DNA Identification Fund to the Controller for credit to the state's DNA Identification Fund, which is hereby established in the State Treasury, as follows:

(A) In the first two calendar years following the effective date of this section, 70 percent of the amounts collected, including interest earned thereon.

(B) In the third calendar year following the effective date of this section, 50 percent of the amounts collected, including interest earned thereon.

(C) In the fourth calendar year following the effective date of this section and in each calendar year thereafter, 25 percent of the amounts collected, including interest earned thereon.

(3) Funds remaining in the county's DNA Identification Fund shall be used only to reimburse local sheriff or other law enforcement agencies to collect DNA specimens, samples, and print impressions pursuant to this chapter; for expenditures and administrative costs made or incurred to comply with the requirements of paragraph (5) of subdivision (b) of Section 298 of the Penal Code, including the procurement of equipment and software integral to confirming that a person qualifies for entry into the Department of Justice DNA and Forensic Identification Database and Data Bank Program; and to local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene samples from unsolved cases.

(4) The state's DNA Identification Fund shall be administered by the Department of Justice. Funds in the state's DNA Identification Fund, upon appropriation by the Legislature, shall be used by the Attorney General only to support DNA testing in the state and to offset the impacts of increased testing and shall be allocated as follows:

(A) Of the amount transferred pursuant to subparagraph (A) of paragraph (2) of subdivision (b), 90 percent to the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA

and Forensic Identification Database and Data Bank Act of 1998, as amended (Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code, and 10 percent to the Department of Justice Information Bureau Criminal History Unit for expenditures and administrative costs that have been approved by the Chief of the Department of Justice Bureau of Forensic Services made or incurred to update equipment and software to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(B) Of the amount transferred pursuant to subparagraph (B) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended.

(C) Of the amount transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice to the DNA Laboratory to comply with the requirements of Section 298.3 of the Penal Code and for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended.

(c) On or before April 1 in the year following adoption of this section, and annually thereafter, the board of supervisors of each county shall submit a report to the Legislature and the Department of Justice. The report shall include the total amount of fines collected and allocated pursuant to this section, and the amounts expended by the county for each program authorized pursuant to paragraph (3) of subdivision (b). The Department of Justice shall make the reports publicly available on the department's Internet Web site.

(d) All requirements imposed on the Department of Justice pursuant to the DNA Fingerprint, Unsolved Crime and Innocence Protection Act are contingent upon the availability of funding and are limited by revenue, on a fiscal year basis, received by the Department of Justice pursuant to this section and any additional appropriation approved by the Legislature for purposes related to implementing this act.

(e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the Legislature shall lend the Department of Justice General Fund in the amount of seven million dollars ($7,000,000) for purposes of implementing the act. The loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time the loan is made. Principal and interest on the loan shall be repaid in full no later than four years from the date the loan was made and shall be repaid from revenue generated pursuant to this section.

SEC. 130. Section 77200 of the Government Code is amended to read:

77200. On and after July 1, 1997, the state shall assume sole responsibility for the funding of court operations, as defined in Section 77003 and Rule 10.810 of the California Rules of Court as it read on January 1, 2007. In meeting this responsibility, the state shall do all of the following:

(a) Deposit in the Trial Court Trust Fund, for subsequent allocation to or for the trial courts, all county funds remitted to the state pursuant to Section 77201 until June 30, 1998, pursuant to Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive, and pursuant to Section 77201.3, thereafter.

(b) Be responsible for the cost of court operations incurred by the trial courts in the 1997–98 fiscal year and subsequent fiscal years.

(c) Allocate funds to the individual trial courts pursuant to an allocation schedule adopted by the Judicial Council, but in no case shall the amount allocated to the trial court in a county be less than the amount remitted to the state by the county in which that court is located pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201 until June 30, 1998, pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive, and pursuant to paragraphs (1) and (2) of subdivision (a) of Section 77201.3, thereafter.

(d) The Judicial Council shall submit its allocation schedule to the Controller at least five days before the due date of any allocation.

SEC. 131. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 10.810 of the California Rules of Court as it read on January 1, 2007.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter until the 2006–07 fiscal year, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2). For the purpose of determining the counties' payments commencing in the

2006–07 fiscal year, and each fiscal year thereafter, the amounts listed in subdivision (a) of Section 77201.3 shall be used in lieu of the amounts listed in this subdivision.

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below, which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

| Jurisdiction | Amount |
|---|---|
| Alameda | $ 22,509,905 |
| Alpine | - |
| Amador | - |
| Butte | - |
| Calaveras | - |
| Colusa | - |
| Contra Costa | 11,974,535 |
| Del Norte | - |
| El Dorado | - |
| Fresno | 11,222,780 |
| Glenn | - |
| Humboldt | - |
| Imperial | - |
| Inyo | - |
| Kern | 9,234,511 |
| Kings | - |
| Lake | - |
| Lassen | - |
| Los Angeles | 175,330,647 |
| Madera | - |
| Marin | - |
| Mariposa | - |
| Mendocino | - |
| Merced | - |
| Modoc | - |
| Mono | - |
| Monterey | 4,520,911 |
| Napa | - |
| Nevada | - |
| Orange | 38,846,003 |
| Placer | - |
| Plumas | - |
| Riverside | 17,857,241 |
| Sacramento | 20,733,264 |

| Jurisdiction | Amount |
|---|---|
| San Benito | - |
| San Bernardino | 20,227,102 |
| San Diego | 43,495,932 |
| San Francisco | 19,295,303 |
| San Joaquin | 6,543,068 |
| San Luis Obispo | - |
| San Mateo | 12,181,079 |
| Santa Barbara | 6,764,792 |
| Santa Clara | 28,689,450 |
| Santa Cruz | - |
| Shasta | - |
| Sierra | - |
| Siskiyou | - |
| Solano | 6,242,661 |
| Sonoma | 6,162,466 |
| Stanislaus | 3,506,297 |
| Sutter | - |
| Tehama | - |
| Trinity | - |
| Tulare | - |
| Tuolumne | - |
| Ventura | 9,734,190 |
| Yolo | - |
| Yuba | - |

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below, which is based on an amount of fee, fine, and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

| Jurisdiction | Amount |
|---|---|
| Alameda | $ 9,912,156 |
| Alpine | 58,757 |
| Amador | 265,707 |
| Butte | 1,217,052 |
| Calaveras | 310,331 |
| Colusa | 397,468 |
| Contra Costa | 4,486,486 |
| Del Norte | 124,085 |
| El Dorado | 1,028,349 |

| Jurisdiction | Amount |
|---|---|
| Fresno | 3,695,633 |
| Glenn | 360,974 |
| Humboldt | 1,025,583 |
| Imperial | 1,144,661 |
| Inyo | 614,920 |
| Kern | 5,530,972 |
| Kings | 982,208 |
| Lake | 375,570 |
| Lassen | 430,163 |
| Los Angeles | 71,002,129 |
| Madera | 1,042,797 |
| Marin | 2,111,712 |
| Mariposa | 135,457 |
| Mendocino | 717,075 |
| Merced | 1,733,156 |
| Modoc | 104,729 |
| Mono | 415,136 |
| Monterey | 3,330,125 |
| Napa | 719,168 |
| Nevada | 1,220,686 |
| Orange | 19,572,810 |
| Placer | 1,243,754 |
| Plumas | 193,772 |
| Riverside | 7,681,744 |
| Sacramento | 5,937,204 |
| San Benito | 302,324 |
| San Bernardino | 8,163,193 |
| San Diego | 16,166,735 |
| San Francisco | 4,046,107 |
| San Joaquin | 3,562,835 |
| San Luis Obispo | 2,036,515 |
| San Mateo | 4,831,497 |
| Santa Barbara | 3,277,610 |
| Santa Clara | 11,597,583 |
| Santa Cruz | 1,902,096 |
| Shasta | 1,044,700 |
| Sierra | 42,533 |
| Siskiyou | 615,581 |
| Solano | 2,708,758 |
| Sonoma | 2,316,999 |
| Stanislaus | 1,855,169 |
| Sutter | 678,681 |

| Jurisdiction | Amount |
|---|---|
| Tehama | 640,303 |
| Trinity | 137,087 |
| Tulare | 1,840,422 |
| Tuolumne | 361,665 |
| Ventura | 4,575,349 |
| Yolo | 880,798 |
| Yuba | 289,325 |

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000 or fewer on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) A change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. This paragraph is not intended to limit judicial sentencing discretion.

(6) In the 2005–06 fiscal year, the amount that the County of Santa Clara is required to remit to the state under paragraph (2) shall be reduced as described in this paragraph, rather than as described in subdivision (b) of Section 68085.7. It is the intent of the Legislature that this paragraph have retroactive effect.

(A) For the County of Santa Clara, the remittance under this subdivision for the 2005–06 fiscal year shall be reduced by an amount equal to one-half of the amount calculated by subtracting the budget reduction for the Superior Court of Santa Clara County for that fiscal year attributable to the reduction of the counties' payment obligation from thirty-one million dollars ($31,000,000) pursuant to subdivision (a) of Section 68085.6 from the net civil assessments received in that county in that fiscal year. "Net civil assessments" as used in this paragraph means the amount of civil assessments collected minus the

costs of collecting those civil assessments, under the guidelines of the Controller.

(B) The reduction under this paragraph of the amount that the County of Santa Clara is required to remit to the state for the 2005–06 fiscal year shall not exceed two million five hundred thousand dollars ($2,500,000). If the reduction reaches two million five hundred thousand dollars ($2,500,000), the amount the county is required to remit to the state under paragraph (2) of subdivision (a) of Section 77201.3 in each subsequent fiscal year shall be eight million four hundred sixty-one thousand two hundred ninety-three dollars ($8,461,293).

(C) This paragraph does not affect the reduction of the annual remittance for the County of Santa Clara as provided in Section 68085.2.

(7) Notwithstanding the changes to the amounts in paragraph (2) made by Section 68085.7 or any other section, the amounts in paragraph (2) shall not be changed for purposes of the calculation required by subdivision (a) of Section 77205.

(c) This section is not intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 70311.

(d) This section is not intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of juvenile justice charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to paragraph (2) of subdivision (b), the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000 of this code.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding

allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

SEC. 132. Section 95001 of the Government Code is amended to read:

95001. (a) The Legislature hereby finds and declares all of the following:

(1) There is a need to provide appropriate early intervention services individually designed for infants and toddlers from birth to two years of age, inclusive, who have disabilities or are at risk of having disabilities, to enhance their development and to minimize the potential for developmental delays.

(2) Early intervention services for infants and toddlers with disabilities or who are at risk of having disabilities represent an investment of resources, in that these services reduce the ultimate costs to our society, by minimizing the need for special education and related services in later school years and by minimizing the likelihood of institutionalization. These services also maximize the ability of families to better provide for the special needs of their children. Early intervention services for infants and toddlers with disabilities maximize the potential of the individuals to be effective in the context of daily life and activities, including the potential to live independently, and exercise the full rights of citizenship. The earlier intervention is started, the greater is the ultimate cost-effectiveness and the higher is the educational attainment and quality of life achieved by children with disabilities.

(3) The family is the constant in the child's life, while the service system and personnel within those systems fluctuate. Because the primary responsibility of an infant's or toddler's well-being rests with the family, services should support and enhance the family's capability to meet the special developmental needs of their infant or toddler with disabilities.

(4) Family-to-family support strengthens families' ability to fully participate in services planning and their capacity to care for their infants or toddlers with disabilities.

(5) Meeting the complex needs of infants with disabilities and their families requires active state and local coordinated, collaborative, and accessible service delivery systems that are flexible, culturally competent, and responsive to family-identified needs. When health, developmental, educational, and social programs are coordinated, they are proven to be cost effective, not only for systems, but for families as well.

(6) Family-professional collaboration contributes to changing the ways that early intervention services are provided and to enhancing their effectiveness.

(7) Infants and toddlers with disabilities are a part of their communities, and as citizens make valuable contributions to society as a whole.

(b) Therefore, it is the intent of the Legislature that:

(1) Funding provided under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) be used to improve and enhance early intervention services as defined in this title by developing innovative ways of providing family focused, coordinated services, which are built upon existing systems.

(2) The State Department of Developmental Services, the State Department of Education, the State Department of Health Care Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Alcohol and Drug Programs coordinate services to infants and toddlers with disabilities and their families. These agencies need to collaborate with families and communities to provide a family-centered, comprehensive, multidisciplinary, interagency, community-based, early intervention system for infants and toddlers with disabilities.

(3) Families be well informed, supported, and respected as capable and collaborative decisionmakers regarding services for their child.

(4) Professionals be supported to enhance their training and maintain a high level of expertise in their field, as well as knowledge of what constitutes most effective early intervention practices.

(5) Families and professionals join in collaborative partnerships to develop early intervention services that meet the needs of infants and toddlers with disabilities, and that those partnerships be the basis for the development of services that meet the needs of the culturally and linguistically diverse population of California.

(6) To the maximum extent possible, infants and toddlers with disabilities and their families be provided services in the most natural

environment, and include the use of natural supports and existing community resources.

(7) The services delivery system be responsive to the families and children it serves within the context of cooperation and coordination among the various agencies.

(8) Early intervention program quality be ensured and maintained through established early intervention program and personnel standards.

(9) The early intervention system be responsive to public input and participation in the development of implementation policies and procedures for early intervention services through the forum of an interagency coordinating council established pursuant to federal regulations under Part C of the federal Individuals with Disabilities Education Act.

(c) It is not the intent of the Legislature to require the State Department of Education to implement this title unless adequate reimbursement, as specified and agreed to by the department, is provided to the department from federal funds from Part C of the federal Individuals with Disabilities Education Act.

SEC. 133. Section 95003 of the Government Code, as amended by Section 106 of Chapter 56 of the Statutes of 2007, is amended to read:

95003. (a) The state's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) shall be contingent on the receipt of federal funds to cover the costs of complying with the federal statutes and regulations that impose new requirements on the state. The State Department of Developmental Services and the State Department of Education annually shall report to the Department of Finance during preparation of the Governor's Budget, and the May Revision, the budget year costs and federal funds projected to be available.

(b) If the amount of funding provided by the federal government pursuant to Part C of the federal Individuals with Disabilities Education Act for the 1993–94 fiscal year, or any fiscal year thereafter, is not sufficient to fund the full increased costs of participation in this federal program by the local educational agencies, as required pursuant to this title, for infants and toddlers from birth to two years of age, inclusive, identified pursuant to Section 95014, and that lack of federal funding would require an increased contribution from the General Fund or a contribution from a local educational agency in order to fund those required and supplemental costs, the state shall terminate its participation in the program. Termination of the program shall occur on July 1 if local educational agencies have been notified of the termination prior to March 10 of that calendar year. If this notification is provided after March 10 of a calendar year, then termination shall not occur earlier than July 1

of the subsequent calendar year. The voluntary contribution by a state or local agency of funding for any of the programs or services required pursuant to this title shall not constitute grounds for terminating the state's participation in that federal program. It is the intent of the Legislature that if the program terminates, the termination shall be carried out in an orderly manner with notification of parents and certificated personnel.

(c) This title shall remain in effect only until the state terminates its participation in Part C of the federal Individuals with Disabilities Education Act for individuals from birth to two years of age, inclusive, and notifies the Secretary of the Senate of the termination, and as of that later date is repealed. As the lead agency, the State Department of Developmental Services, upon notification by the Department of Finance or the State Department of Education as to the insufficiency of federal funds and the termination of this program, shall be responsible for the payment of services pursuant to this title when no other agency or department is required to make these payments.

SEC. 134. Section 95020 of the Government Code is amended to read:

95020. (a) An eligible infant or toddler shall have an individualized family service plan. The individualized family service plan shall be used in place of an individualized education program required pursuant to Sections 4646 and 4646.5 of the Welfare and Institutions Code, the individualized program plan required pursuant to Section 56340 of the Education Code, or any other applicable service plan.

(b) For an infant or toddler who has been evaluated for the first time, a meeting to share the results of the evaluation, to determine eligibility and, for children who are eligible, to develop the initial individualized family service plan shall be conducted within 45 calendar days of receipt of the written referral. Evaluation results and determination of eligibility may be shared in a meeting with the family prior to the individualized family service plan. Written parent consent to evaluate and assess shall be obtained within the 45-day timeline. A regional center, local educational agency, or the designee of one of those entities shall initiate and conduct this meeting. Families shall be afforded the opportunity to participate in all decisions regarding eligibility and services.

(c) Parents shall be fully informed of their rights, including the right to invite another person, including a family member or an advocate or peer parent, or any or all of them, to accompany them to any or all individualized family service plan meetings. With parental consent, a referral shall be made to the local family resource center or network.

(d) The individualized family service plan shall be in writing and shall address all of the following:

(1) A statement of the infant's or toddler's present levels of physical development including vision, hearing, and health status, cognitive development, communication development, social and emotional development, and adaptive developments.

(2) With the concurrence of the family, a statement of the family's concerns, priorities, and resources related to meeting the special developmental needs of the eligible infant or toddler.

(3) A statement of the major outcomes expected to be achieved for the infant or toddler and family where services for the family are related to meeting the special developmental needs of the eligible infant or toddler.

(4) The criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions are necessary.

(5) A statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler as identified in paragraph (3), including, but not limited to, the frequency, intensity, location, duration, and method of delivering the services, and ways of providing services in natural environments.

(6) A statement of the agency responsible for providing the identified services.

(7) The name of the service coordinator who shall be responsible for facilitating implementation of the plan and coordinating with other agencies and persons.

(8) The steps to be taken to ensure transition of the infant or toddler upon reaching three years of age to other appropriate services. These may include, as appropriate, special education or other services offered in natural environments.

(9) The projected dates for the initiation of services in paragraph (5) and the anticipated duration of those services.

(e) Each service identified on the individualized family service plan shall be designated as one of three types:

(1) An early intervention service, as defined in subsection (4) of Section 1432 of Title 20 of the United States Code, and applicable regulations, that is provided or purchased through the regional center, local educational agency, or other participating agency. The State Department of Health Care Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall provide services in accordance with state and federal law and applicable regulations, and up to the level of funding as appropriated by the Legislature. Early intervention services identified on an individualized family service plan that exceed the funding, statutory, and regulatory requirements of these departments shall be

provided or purchased by regional centers or local educational agencies under subdivisions (b) and (c) of Section 95014. The State Department of Health Care Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall not be required to provide early intervention services over their existing funding, statutory, and regulatory requirements.

(2) Another service, other than those specified in paragraph (1), which the eligible infant or toddler or his or her family may receive from other state programs, subject to the eligibility standards of those programs.

(3) A referral to a nonrequired service that may be provided to an eligible infant or toddler or his or her family. Nonrequired services are those services that are not defined as early intervention services or do not relate to meeting the special developmental needs of an eligible infant or toddler related to the disability, but which may be helpful to the family. The granting or denial of nonrequired services by a public or private agency is not subject to appeal under this title.

(f) An annual review, and other periodic reviews, of the individualized family service plan for an infant or toddler and the infant's or toddler's family shall be conducted to determine the degree of progress that is being made in achieving the outcomes specified in the plan and whether modification or revision of the outcomes or services is necessary. The frequency, participants, purpose, and required processes for annual and periodic reviews shall be consistent with the statutes and regulations under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and this title, and shall be specified in regulations adopted pursuant to Section 95028.

SEC. 135. Section 1180.1 of the Health and Safety Code is amended to read:

1180.1. For purposes of this division, the following definitions apply:

(a) "Behavioral restraint" means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a person presents an immediate danger to self or to others. It does not include restraints used for medical purposes, including, but not limited to, securing an intravenous needle or immobilizing a person for a surgical procedure, or postural restraints, or devices used to prevent injury or to improve a person's mobility and independent functioning rather than to restrict movement.

(b) "Containment" means a brief physical restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others.

(c) "Mechanical restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the person's body that he or she cannot easily remove and that restricts the freedom of movement

of all or part of a person's body or restricts normal access to the person's body, and that is used as a behavioral restraint.

(d) "Physical restraint" means the use of a manual hold to restrict freedom of movement of all or part of a person's body, or to restrict normal access to the person's body, and that is used as a behavioral restraint. "Physical restraint" is staff-to-person physical contact in which the person unwillingly participates. "Physical restraint" does not include briefly holding a person without undue force in order to calm or comfort, or physical contact intended to gently assist a person in performing tasks or to guide or assist a person from one area to another.

(e) "Seclusion" means the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. "Seclusion" does not include a "timeout," as defined in regulations relating to facilities operated by the State Department of Developmental Services.

(f) "Secretary" means the Secretary of California Health and Human Services.

(g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

SEC. 136. Section 1250.8 of the Health and Safety Code is amended to read:

1250.8. (a) Notwithstanding subdivision (a) of Section 127170, the department, upon application of a general acute care hospital that meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital that includes more than one physical plant maintained and operated on separate premises or that has multiple licenses for a single health facility on the same premises. A single consolidated license shall not be issued where the separate freestanding physical plant is a skilled nursing facility or an intermediate care facility, whether or not the location of the skilled nursing facility or intermediate care facility is contiguous to the general acute care hospital unless the hospital is exempt from the requirements of subdivision (b) of Section 1254, or the facility is part of the physical structure licensed to provide acute care.

(b) The issuance of a single consolidated license shall be based on the following criteria:

(1) There is a single governing body for all the facilities maintained and operated by the licensee.

(2) There is a single administration for all the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) Except as provided otherwise in this paragraph, the physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more than 15 miles apart. If an applicant provides evidence satisfactory to the department that it can comply with all requirements of licensure and provide quality care and adequate administrative and professional supervision, the director may issue a single consolidated license to a general acute care hospital that operates two or more physical plants located more than 15 miles apart under any of the following circumstances:

(A) One or more of the physical plants is located in a rural area, as defined by regulations of the director.

(B) One or more of the physical plants provides only outpatient services, as defined by the department.

(C) If Section 14105.986 of the Welfare and Institutions Code is implemented and the applicant meets all of the following criteria:

(i) The applicant is a nonprofit corporation.

(ii) The applicant is a children's hospital listed in Section 10727 of the Welfare and Institutions Code.

(iii) The applicant is affiliated with a major university medical school and located adjacent thereto.

(iv) The applicant operates a regional tertiary care facility.

(v) One of the physical plants is located in a county that has a consolidated and county government structure.

(vi) One of the physical plants is located in a county having a population between 1,000,000 and 2,000,000.

(vii) The applicant is located in a city with a population between 50,000 and 100,000.

(c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee. The single consolidated license shall be renewed annually.

(d) To the extent required by Chapter 1 (commencing with Section127125) of Part 2 of Division 107, a general acute care hospital that has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide

Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 127170.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 127170.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Chapter 1 (commencing with Section 127125) of Part 2 of Division 107, or as authorized in an approved certificate of need pursuant to that chapter, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transferor facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Chapter 1 (commencing with Section 127125) of Part 2 of Division 107.

(e) Transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations that are necessary to implement this section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means a physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital that is issued a single consolidated license pursuant to this section may, at its option, be enrolled in the Medi-Cal program as a single business address or as separate business addresses for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is enrolled at one or more business addresses, the department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

(i) The amendments made to this section during the 1985–86 Regular Session of the Legislature pertaining to the issuance of a single consolidated license to a general acute care hospital in the case where the separate physical plant is a skilled nursing facility or intermediate care facility shall not apply to the following facilities:

(1) A facility that obtained a certificate of need after August 1, 1984, and prior to February 14, 1985, as described in this subdivision. The certificate of need shall be for the construction of a skilled nursing facility or intermediate care facility that is the same facility for which the hospital applies for a single consolidated license, pursuant to subdivision (a).

(2) A facility for which a single consolidated license has been issued pursuant to subdivision (a), as described in this subdivision, prior to the effective date of the amendments made to this section during the 1985–86 Regular Session of the Legislature.

A facility that has been issued a single consolidated license pursuant to subdivision (a), as described in this subdivision, shall be granted renewal licenses based upon the same criteria used for the initial consolidated license.

(j) If the state department issues a single consolidated license pursuant to this section, the state department may take any action authorized by this chapter, including, but not limited to, any action specified in Article 5 (commencing with Section 1294), with respect to a facility, or a service provided in a facility, that is included in the consolidated license.

(k) The eligibility for participation in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the

Welfare and Institutions Code) of a facility that is included in a consolidated license issued pursuant to this section, provides outpatient services, and is located more than 15 miles from the health facility issued the consolidated license shall be subject to a determination of eligibility by the state department. This subdivision shall not apply to a facility that is located in a rural area and is included in a consolidated license issued pursuant to subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b). Regardless of whether a facility has received or not received a determination of eligibility pursuant to this subdivision, this subdivision shall not affect the ability of a licensed professional, providing services covered by the Medi-Cal program to a person eligible for Medi-Cal in a facility subject to a determination of eligibility pursuant to this subdivision, to bill the Medi-Cal program for those services provided in accordance with applicable regulations.

(*l*) Notwithstanding any other provision of law, the director may issue a single consolidated license for a general acute care hospital to Children's Hospital Oakland and San Ramon Regional Medical Center.

(m) Notwithstanding any other provision of law, the director may issue a single consolidated license for a general acute care hospital to Children's Hospital Oakland and the John Muir Medical Center, Concord Campus.

(n) (1) To the extent permitted by federal law, payments made to Children's Hospital Oakland pursuant to Section 14166.11 of the Welfare and Institutions Code shall be adjusted as follows:

(A) The number of Medi-Cal payment days and net revenues calculated for the John Muir Medical Center, Concord Campus under the consolidated license shall not be used for eligibility purposes for the private hospital disproportionate share hospital replacement funds for Children's Hospital Oakland.

(B) The number of Medi-Cal payment days calculated for hospital beds located at John Muir Medical Center, Concord Campus that are included in the consolidated license beginning in the 2007–08 fiscal year shall only be used for purposes of calculating disproportionate share hospital payments authorized under Section 14166.11 of the Welfare and Institutions Code at Children's Hospital Oakland to the extent that the inclusion of those days does not exceed the total Medi-Cal payment days used to calculate Children's Hospital Oakland payments for the 2006–07 fiscal year disproportionate share replacement.

(2) This subdivision shall become inoperative in the event that the two facilities covered under the consolidated license described in subdivision (a) are located within a 15-mile radius of each other.

SEC. 137. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) A health care service plan that provides, operates, or contracts for, telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a dentist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a dental hygienist pursuant to Article 7 (commencing with Section 1740) of Chapter 4 of Division 2 of the Business and Professions Code, as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this

chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 of the Business and Professions Code unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Requires that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

(c) For purposes of this section, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is

to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

SEC. 138. Section 1357.03 of the Health and Safety Code is amended to read:

1357.03. (a) Upon the effective date of this article, a plan shall fairly and affirmatively offer, market, and sell all of the plan's health care service plan contracts that are sold to small employers or to associations that include small employers to all small employers in each service area in which the plan provides or arranges for the provision of health care services. A plan contracting to participate in the voluntary purchasing pool for small employers provided for under Article 4 (commencing with Section 10730) of Chapter 8 of Part 2 of Division 2 of the Insurance Code shall be deemed in compliance with this requirement for a contract offered through the voluntary purchasing pool established under Article 4 (commencing with Section 10730) of Chapter 8 of Part 2 of Division 2 of the Insurance Code in those geographic regions in which plans participate in the pool, if the contract is offered exclusively through the pool. Each plan shall make available to each small employer all small employer health care service plan contracts that the plan offers and sells to small employers or to associations that include small employers in this state. No plan or solicitor shall induce or otherwise encourage a small employer to separate or otherwise exclude an eligible employee from a health care service plan contract that is provided in connection with the employee's employment or membership in a guaranteed association.

(b) Every plan shall file with the director the reasonable employee participation requirements and employer contribution requirements that will be applied in offering its plan contracts. Participation requirements shall be applied uniformly among all small employer groups, except that a plan may vary application of minimum employee participation requirements by the size of the small employer group and whether the employer contributes 100 percent of the eligible employee's premium. Employer contribution requirements shall not vary by employer size. A health care service plan shall not establish a participation requirement that (1) requires a person who meets the definition of a dependent in subdivision (a) of Section 1357 to enroll as a dependent if he or she is otherwise eligible for coverage and wishes to enroll as an eligible employee and (2) allows a plan to reject an otherwise eligible small employer because of the number of persons that waive coverage due to coverage through another employer. Members of an association eligible for health coverage under subdivision (o) of Section 1357, but not

electing any health coverage through the association, shall not be counted as eligible employees for purposes of determining whether the guaranteed association meets a plan's reasonable participation standards.

(c) The plan shall not reject an application from a small employer for a health care service plan contract if all of the following are met:

(1) The small employer, as defined by paragraph (1) of subdivision (*l*) of Section 1357, offers health benefits to 100 percent of its eligible employees, as defined by paragraph (1) of subdivision (b) of Section 1357. Employees who waive coverage on the grounds that they have other group coverage shall not be counted as eligible employees.

(2) The small employer agrees to make the required premium payments.

(3) The small employer agrees to inform the small employers' employees of the availability of coverage and the provision that those not electing coverage must wait one year to obtain coverage through the group if they later decide they would like to have coverage.

(4) The employees and their dependents who are to be covered by the plan contract work or reside in the service area in which the plan provides or otherwise arranges for the provision of health care services.

(d) No plan or solicitor shall, directly or indirectly, engage in the following activities:

(1) Encourage or direct small employers to refrain from filing an application for coverage with a plan because of the health status, claims experience, industry, occupation of the small employer, or geographic location provided that it is within the plan's approved service area.

(2) Encourage or direct small employers to seek coverage from another plan or the voluntary purchasing pool established under Article 4 (commencing with Section 10730) of Chapter 8 of Part 2 of Division 2 of the Insurance Code because of the health status, claims experience, industry, occupation of the small employer, or geographic location provided that it is within the plan's approved service area.

(e) A plan shall not, directly or indirectly, enter into any contract, agreement, or arrangement with a solicitor that provides for or results in the compensation paid to a solicitor for the sale of a health care service plan contract to be varied because of the health status, claims experience, industry, occupation, or geographic location of the small employer. This subdivision does not apply to a compensation arrangement that provides compensation to a solicitor on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation, or geographic area of the small employer.

(f) A policy or contract that covers two or more employees shall not establish rules for eligibility, including continued eligibility, of an

individual, or dependent of an individual, to enroll under the terms of the plan based on any of the following health status-related factors:

(1) Health status.

(2) Medical condition, including physical and mental illnesses.

(3) Claims experience.

(4) Receipt of health care.

(5) Medical history.

(6) Genetic information.

(7) Evidence of insurability, including conditions arising out of acts of domestic violence.

(8) Disability.

(g) A plan shall comply with the requirements of Section 1374.3.

SEC. 139. Section 1367.07 of the Health and Safety Code is amended to read:

1367.07. Within one year after a health care service plan's assessment pursuant to subdivision (b) of Section 1367.04, the health care service plan shall report to the department, in a format specified by the department, regarding internal policies and procedures related to cultural appropriateness in each of the following contexts:

(a) Collection of data regarding the enrollee population pursuant to the health care service plan's assessment conducted in accordance with subdivision (b) of Section 1367.04.

(b) Education of health care service plan staff who have routine contact with enrollees regarding the diverse needs of the enrollee population.

(c) Recruitment and retention efforts that encourage workforce diversity.

(d) Evaluation of the health care service plan's programs and services with respect to the plan's enrollee population, using processes such as an analysis of complaints and satisfaction survey results.

(e) The periodic provision of information regarding the ethnic diversity of the plan's enrollee population and any related strategies to plan providers. Plans may use existing means of communication.

(f) The periodic provision of educational information to plan enrollees on the plan's services and programs. Plans may use existing means of communication.

SEC. 140. Section 1417.2 of the Health and Safety Code is amended to read:

1417.2. (a) Notwithstanding Section 1428, moneys collected as a result of state and federal civil penalties imposed under this chapter or federal law shall be deposited into accounts that are hereby established in the Special Deposit Fund created pursuant to Section 16370 of the Government Code. These accounts are titled the State Health Facilities Citation Penalties Account, into which moneys derived from civil

penalties for violations of state law shall be deposited, and the Federal Health Facilities Citation Penalties Account, into which moneys derived from civil penalties for violations of federal law shall be deposited. Moneys from these accounts shall be used, notwithstanding Section 16370 of the Government Code, upon appropriation by the Legislature, in accordance with state and federal law for the protection of health or property of residents of long-term health care facilities, including, but not limited to, the following:

(1) Relocation expenses incurred by the department, in the event of a facility closure.

(2) Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management or receivership, in the event that the revenues of the facility are insufficient.

(3) Reimbursing residents for personal funds lost. In the event that the loss is a result of the actions of a long-term health care facility or its employees, the revenues of the facility shall first be used.

(4) The costs associated with informational meetings required under Section 1327.2.

(b) Notwithstanding subdivision (a), the balance in the State Health Facilities Citation Penalties Account shall not, at any time, exceed ten million dollars ($10,000,000).

(c) Moneys from the Federal Health Facilities Citation Penalties Account, in the amount not to exceed one hundred thirty thousand dollars ($130,000), may also be used, notwithstanding Section 16370 of the Government Code, upon appropriation by the Legislature, in accordance with state and federal law for the improvement of quality of care and quality of life for long-term health care facilities residents pursuant to Section 1417.3.

(d) The department shall post on its Internet Web site, and shall update on a quarterly basis, all of the following regarding the funds in the State Health Facilities Citation Penalties Account and the Federal Health Facilities Citation Penalties Account:

(1) The specific sources of funds deposited into the account.

(2) The amount of funds in the account that have not been allocated.

(3) A detailed description of how funds in the account have been allocated and expended, including, but not limited to, the names of persons or entities that received the funds, the amount of salaries paid to temporary managers, and a description of equipment purchased with the funds. However, the description shall not include the names of residents.

SEC. 141. Section 1538.5 of the Health and Safety Code is amended to read:

1538.5. (a) (1) Not less than 30 days prior to the anniversary of the effective date of a residential community care facility license, except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, clients' rights advocates, or placement agencies, as designated in each resident's placement agreement, of all inspection reports given to the facility by the department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(2) The department may transmit copies of the inspection reports referred to in paragraph (1) concerning group homes, as defined by regulations of the department, to the county in which a group home facility is located, if requested by that county.

(3) A group home facility shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility.

(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision (a) in the following cases:

(1) In the case of a substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days from the date the facility receives the licensing report from the state department to comply.

(2) In any case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

(c) A residential facility shall retain a copy of the notices transmitted pursuant to subdivision (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

(d) If a residential facility to which this section applies fails to comply with this section, as determined by the department, the department shall initiate civil penalty action against the facility in accordance with this article and the related rules and regulations.

(e) Not less than 30 days prior to the anniversary of the effective date of the license of any group home facility, as defined by regulations of the department, at the request of the county in which the group home facility is located, a group home facility shall transmit to the county a

copy of all incident reports prepared by the group home facility and transmitted to a placement agency, as described in subdivision (f) of Section 1536.1, in a county other than the county in which the group home facility is located that involved a response by local law enforcement or emergency services personnel. The county shall designate an official for the receipt of the incident reports and shall notify the group home of the designation. Prior to transmitting copies of incident reports to the county, the group home facility shall redact the name of any child referenced in the incident reports, and other identifying information regarding any child referenced in the reports, and the identity and location of the placement agency of any child referenced in the reports. The county may review the incident reports to ensure that the group home facilities have taken appropriate action to ensure the health and safety of the residents of the facility.

(f) The department shall notify the residential community care facility of its obligation when it is required to comply with this section.

SEC. 142. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the electronic fingerprint images of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

It is the intent of the Legislature, in enacting this section, to require the electronic fingerprint images of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a residential care facility for persons with chronic, life-threatening illnesses.

(a) (1) Before issuing a license to a person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or another person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or another person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by this subdivision. If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to subdivision (a) of Section 1568.082. The department may also suspend the license pending an administrative hearing pursuant to subdivision (b) of Section 1568.082.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) A person, other than a resident, residing in the facility.

(3) A person who provides resident assistance in dressing, grooming, bathing, or personal hygiene. A nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the residential care facility for persons with chronic, life-threatening illness. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. This paragraph does not restrict the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for persons with chronic, life-threatening illness pursuant to Section 1568.092.

(4) (A) A staff person, volunteer, or employee who has contact with the residents.

(B) A volunteer shall be exempt from the requirements of this subdivision if he or she is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer does not provide direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, close friend, or family member and provides direct care and supervision to that resident only at the request of the resident. The department may define in regulations persons similar to those described in this subparagraph who may be exempt from the requirements of this subdivision.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) (1) (A) Subsequent to initial licensure, a person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for

a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (g), prior to the person's employment, residence, or initial presence in the residential care facility.

(B) These fingerprint images and related information shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and the Department of Justice, for the purpose of obtaining a permanent set of fingerprints. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082. The State Department of Social Services may assess civil penalties for continued violations as allowed in Section 1568.0822. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. The licensee shall maintain and make available for inspection documentation of the individual's clearance or exemption.

(2) A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082. The department may assess civil penalties for continued violations as permitted by Section 1568.0822.

(3) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprint images were illegible. The Department of Justice shall notify the department, as required by Section 1522.04, and shall

notify the licensee by mail within 14 days of electronic transmission of the fingerprint images to the Department of Justice, if the person has no criminal history record.

(4) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprint images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (A) terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (B) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082.

(5) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(6) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain arrest or conviction records or reports from a law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption shall

not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with Section 1568.092.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) (1) The Department of Justice shall charge a fee sufficient to cover its cost in providing services to comply with the 14-day requirement contained in subdivision (c) for provision to the department of criminal record information.

(2) Paragraph (1) shall cease to be implemented when the department adopts emergency regulations pursuant to Section 1522.04, and shall become inoperative when permanent regulations are adopted under that section.

(j) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 143. Section 1569.145 of the Health and Safety Code is amended to read:

1569.145. This chapter shall not apply to any of the following:

(a) A health facility, as defined by Section 1250.

(b) A clinic, as defined by Section 1200.

(c) A facility conducted by and for the adherents of a well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(d) A house, institution, hotel, congregate housing project for the elderly, or other similar place that is limited to providing one or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities, or that have residents independently accessing supportive services, provided, however, that no resident thereof requires an element of care and supervision or protective supervision as determined by the director. This subdivision shall not include a home or residence that is described in subdivision (f).

(e) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(f) (1) An arrangement for the care and supervision of a person or persons by a family member.

(2) An arrangement for the care and supervision of a person or persons from only one family by a close friend, whose friendship preexisted the contact between the provider and the recipient, and both of the following are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient.

(B) The arrangement is not of a business nature and occurs only as long as the needs of the recipient for care and supervision are adequately met.

(g) Housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.

(h) A similar facility determined by the director.

(i) For purposes of this section, "family member" means a spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half brother, half sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a person denoted by the prefix "grand" or "great," or the spouse of one of these persons.

(j) A person shall not be exempted from this chapter's licensure requirements if he or she has been appointed as conservator of the person, estate of the person, or both, if the person is receiving care and supervision from the conservator as regulated by this chapter, unless the conservator is otherwise exempted under other provisions of this section.

SEC. 144. Section 1728.8 of the Health and Safety Code is amended to read:

1728.8. (a) It is the intent of the Legislature to ensure that the department licenses and certifies home health agencies in a reasonable and timely manner to ensure that Californians have access to critical home- and community-based services. Home health agencies have significant startup costs and regulatory requirements, which make home health agencies vulnerable to delays in licensing and certification surveys. Home health agencies help the state protect against the unnecessary institutionalization of individuals and are integral in ensuring the state's compliance with the United States Supreme Court decision in Olmstead v. L.C. (1999) 527 U.S. 581, which requires public agencies to provide services in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(b) No later than 90 calendar days after the department receives an initial and complete parent, branch, or change of ownership home health agency application, the department shall make every effort to complete the application paperwork and conduct a licensure survey, if necessary, to inspect the agency and evaluate the agency's compliance with state requirements. The department shall forward its recommendation, if necessary, and all other information, to the federal Centers for Medicare and Medicaid Services within the same 90 calendar days.

(c) (1) For those applicants seeking to receive reimbursement under the Medicare or Medi-Cal programs, the department shall make every effort to complete the initial application paperwork and conduct an unannounced certification survey, if necessary, no later than 90 calendar days after the department conducts the licensure survey required by subdivision (a), or no later than 90 days after the department's receipt of a letter from the home health agency notifying the department of its readiness for the certification survey from a parent or branch agency.

(2) No later than 30 calendar days after the certification survey, the department shall forward the results of its licensure and certification surveys and all other information necessary for certification to the federal Centers for Medicare and Medicaid Services.

(d) This section shall apply to all licensing and certification entities, including a county that contracts with the state to provide licensing and certification services on behalf of the state.

(e) If the department is unable to meet the 90-day timelines for licensing or certification required pursuant to this section, the department shall notify the applicant in writing of the delay and the anticipated date of the survey.

(f) This section shall become operative on July 1, 2008.

SEC. 145. Section 11752.1 of the Health and Safety Code is amended to read:

11752.1. (a) "County board of supervisors" includes county boards of supervisors in the case of counties acting jointly.

(b) "Agency" means the California Health and Human Services Agency.

(c) "Secretary" means the Secretary of California Health and Human Services.

(d) "County plan for alcohol and other drug services" or "county plan" means the county plan, including a budget, adopted by the board of supervisors pursuant to Chapter 4 (commencing with Section 11795).

(e) "Advisory board" means the county advisory board on alcohol and other drug problems established at the sole discretion of the county board of supervisors pursuant to Section 11805. If a county does not establish an advisory board, then any provision of this chapter relative

to the activities, duties, and functions of the advisory board shall be inapplicable to that county.

(f) "Alcohol and drug program administrator" means the county program administrator designated pursuant to Section 11800.

(g) "State alcohol and other drug program" includes all state alcohol and other drug projects administered by the department and all county alcohol and other drug programs funded under this division.

(h) "Health systems agency" means the health planning agency established pursuant to Public Law 93-641.

(i) "Alcohol and other drug problems" means problems of individuals, families, and the community that are related to the abuse of alcohol and other drugs.

(j) "Alcohol abuser" means anyone who has a problem related to the consumption of alcoholic beverages whether or not it is of a periodic or continuing nature. This definition includes, but is not limited to, persons referred to as "alcoholics" and "drinking drivers." These problems may be evidenced by substantial impairment to the person's physical, mental, or social well-being, which impairment adversely affects his or her abilities to function in the community.

(k) "Drug abuser" means anyone who has a problem related to the consumption of illicit, illegal, legal, or prescription drugs or over-the-counter medications in a manner other than prescribed, whether or not it is of a periodic or continuing nature. This definition includes, but is not limited to, persons referred to as "drug addicts." The drug-consumption-related problems of these persons may be evidenced by substantial impairment to the person's physical, mental, or social well-being, which impairment adversely affects his or her abilities to function in the community.

(*l*) "Alcohol and other drug service" means a service that is designed to encourage recovery from the abuse of alcohol and other drugs and to alleviate or preclude problems in the individual, his or her family, and the community.

(m) "Alcohol and other drug abuse program" means a collection of alcohol and other drug services that are coordinated to achieve the specified objectives of this part.

(n) "Driving-under-the-influence program," "DUI program," or "licensed program" means an alcohol and other drug service that has been issued a valid license by the department to provide services pursuant to Chapter 9 (commencing with Section 11836) of Part 2.

(o) "Clients-participants" means recipients of alcohol and other drug prevention, treatment, and recovery program services.

(p) "Substance Abuse and Mental Health Services Administration" means that agency of the United States Department of Health and Human Services.

SEC. 146. Section 25210.9 of the Health and Safety Code is amended to read:

25210.9. (a) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not manufacture general purpose lights for sale in this state that contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(b) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not sell or offer for sale in this state a general purpose light under any of the following circumstances:

(1) The general purpose light being sold or offered for sale was manufactured on and after January 1, 2010, and contains levels of hazardous substances that would result in the prohibition of that general purpose light being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(2) The manufacturer of the general purpose light sold or being offered for sale fails to provide the documentation to the department required by subdivision (h).

(3) The manufacturer of the general purpose light being sold or offered for sale does not provide the certification required in subdivision (i).

(c) For the purposes of this section, "RoHS Directive" means Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, on the restriction of certain hazardous substances in electrical and electronic equipment, as amended thereafter by the Commission of European Communities (13.2.2003 Official Journal of the European Union).

(d) The department shall determine the products covered by the RoHS Directive by reference to authoritative guidance published by the United Kingdom implementing the RoHS Directive in that country.

(e) (1) Except as provided in paragraph (2), subdivisions (a), (b), (h), and (i) do not apply to high output and very high output linear fluorescent lamps greater than 32 millimeters in diameter and preheat linear fluorescent lamps.

(2) On or after January 1, 2014, the department shall determine, in consultation with companies that manufacture lamps specified in paragraph (1) in the United States, if those lamps should be subject to the requirements of subdivisions (a), (b), (h), and (i), taking into consideration changes in lamp design or manufacturing technology that will allow for the removal or reduction of mercury.

(f) On and after January 1, 2012, for high intensity discharge lamps and compact fluorescent lamps greater than nine inches in length, subdivisions (a), (b), (h), and (i) shall be applicable.

(g) On and after January 1, 2014, for state-regulated general service incandescent lamps and enhanced spectrum lamps as defined in subdivision (k) of Section 1602 of Title 20 of the California Code of Regulations, subdivisions (a), (b), (h), and (i) shall be applicable.

(h) A manufacturer of general purpose lights sold or being offered for sale in California shall prepare and, at the request of the department, submit within 28 days of the date of the request, technical documentation or other information showing that the manufacturer's general purpose lights sold or offered for sale in this state comply with the requirements of the RoHS Directive.

(i) A manufacturer of general purpose lights sold or being offered for sale in California shall provide, upon request, a certification to a person who sells or offers for sale that manufacturer's general purpose lights. The certification shall attest that the general purpose lights do not contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in California. Alternatively, the manufacturer may display the certification required by this subdivision prominently on the shipping container or on the packaging of general purpose lights.

(j) The department may adopt regulations to implement and administer this article.

SEC. 147. Section 25270.2 of the Health and Safety Code is amended to read:

25270.2. For purposes of this chapter, the following definitions apply:

(a) "Aboveground storage tank" or "storage tank" means a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground. "Aboveground storage tank" does not include any of the following:

(1) A pressure vessel or boiler that is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A tank containing hazardous waste, as defined in subdivision (g) of Section 25316, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank.

(3) An aboveground oil production tank that is subject to Section 3106 of the Public Resources Code.

(4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:

(A) The equipment contains less than 10,000 gallons of dielectric fluid.

(B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

(5) A tank regulated as an underground storage tank under Chapter 6.7 (commencing with Section 25280) of this code and Chapter 16 (commencing with Section 2610) of Division 3 of Title 23 of the California Code of Regulations.

(6) A transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, dated November 24, 1971, set forth in Appendix A to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(b) "Board" means the State Water Resources Control Board.

(c) (1) "Certified Unified Program Agency" or "CUPA" means the agency certified by the Secretary for Environmental Protection to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

(2) "Participating Agency" or "PA" means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement and enforce the unified program element specified in paragraph (2) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.

(3) (A) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent that each PA has been designated by the CUPA, pursuant to a written agreement, to implement and enforce the unified program element specified in paragraph (2) of subdivision (c) of Section 25404. The UPAs have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce the requirements of this chapter.

(B) After a CUPA has been certified by the secretary, the unified program agency shall be the only agency authorized to enforce the requirements of this chapter.

(C) This paragraph does not limit the authority or responsibility granted to the board and the regional boards by this chapter.

(d) "Operator" means the person responsible for the overall operation of a tank facility.

(e) "Owner" means the person who owns the tank facility or part of the tank facility.

(f) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the University of California, the California State University, the state, any department or agency thereof, and the United States, to the extent authorized by federal law.

(g) "Petroleum" means crude oil, or a fraction thereof, that is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure.

(h) "Regional board" means a California regional water quality control board.

(i) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, or disposing into the environment.

(j) "Secretary" means the Secretary for Environmental Protection.

(k) "Storage" or "store" means the containment, handling, or treatment of petroleum, for a period of time, including on a temporary basis.

(*l*) "Storage capacity" means the aggregate capacity of all aboveground tanks at a tank facility.

(m) "Tank facility" means one or more aboveground storage tanks, including any piping that is integral to the tanks, that contain petroleum and that are used by a single business entity at a single location or site. For purposes of this chapter, a pipe is integrally related to an aboveground storage tank if the pipe is connected to the tank and meets any of the following:

(1) The pipe is within the dike or containment area.

(2) The pipe is between the containment area and the first flange or valve outside the containment area.

(3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

SEC. 148. Section 25299.57 of the Health and Safety Code is amended to read:

25299.57. (a) If the board makes the determination specified in subdivision (d), the board may pay only for the costs of a corrective action that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars ($1,500,000) for each occurrence. In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who

is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article. The board shall notify claimants applying for satisfaction of claims from the fund of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement shall follow the notice of eligibility as soon thereafter as possible.

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary. At least 15 days before the board proposes to disapprove the reimbursement of corrective action costs that have been incurred on the grounds that the costs were unreasonable or unnecessary, the board shall issue a notice advising the claimant and the lead agency of the proposed disallowance, to allow review and comment.

(2) The board shall not reject actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following apply:

(A) Auxiliary documentation is provided that documents to the board's satisfaction that the invoice is for necessary corrective action work.

(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work performed during the same time period covered by the invoice for which reimbursement is sought.

(C) The invoices include a brief description of the work performed, the date that the work was performed, the vendor, and the amount.

(c) (1) For claims eligible for prepayment pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate.

(2) If the claim is for reimbursement of costs incurred pursuant to a performance-based contract, Article 6.5 (commencing with Section 25299.64) shall apply to that claim.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, or, as of January 1, 1988, the

claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B) and (C), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later.

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant who is exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, with subdivision

(a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than ten thousand dollars ($10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than twenty thousand dollars ($20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to the causing of any contamination. The demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(5) The board has approved either the costs incurred for the corrective action pursuant to subdivision (b) or the estimated costs for corrective action pursuant to subdivision (c).

(6) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 29299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(e) The board shall provide the claimant, whose cost estimate has been approved, a letter of commitment authorizing payment of the costs from the fund.

(f) The claimant may submit a request for partial payment to cover the costs of corrective action performed in stages, as approved by the board.

(g) (1) A claimant who submits a claim for payment to the board shall submit multiple bids for prospective costs as prescribed in regulations adopted by the board pursuant to Section 25299.77.

(2) A claimant who submits a claim to the board for the payment of professional engineering and geologic work shall submit multiple

proposals and fee estimates, as required by the regulations adopted by the board pursuant to Section 25299.77. The claimant's selection of the provider of these services is not required to be based on the lowest estimated fee, if the fee estimate conforms with the range of acceptable costs established by the board.

(3) A claimant who submits a claim for payment to the board for remediation construction contracting work shall submit multiple bids, as required in the regulations adopted by the board pursuant to Section 25299.77.

(4) Paragraphs (1), (2), and (3) do not apply to a tank owned or operated by a public agency if the prospective costs are for private professional services within the meaning of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and those services are procured in accordance with the requirements of that chapter.

(h) The board shall provide, upon the request of a claimant, assistance to the claimant in the selection of contractors retained by the claimant to conduct reimbursable work related to corrective actions. The board shall develop a summary of expected costs for common corrective actions. This summary of expected costs may be used by claimants as a guide in the selection and supervision of consultants and contractors.

(i) The board shall pay, within 60 days from the date of receipt of an invoice of expenditures, all costs specified in the work plan developed pursuant to Section 25296.10, and all costs that are otherwise necessary to comply with an order issued by a local, state, or federal agency.

(j) (1) The board shall pay a claim of not more than three thousand dollars ($3,000) per occurrence for regulatory technical assistance to an owner or operator who is otherwise eligible for reimbursement under this chapter.

(2) For purposes of this subdivision, regulatory technical assistance is limited to assistance from a person, other than the claimant, in the preparation and submission of a claim to the fund. Regulatory technical assistance does not include assistance in connection with proceedings under Section 25296.40, 25299.39.2, or 25299.56 or any action in court.

(k) (1) Notwithstanding any other provision of this section, the board shall pay a claim for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been the subject of a completed corrective action and for which additional corrective action is required because of additionally discovered contamination from the previous release, only if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to subdivision (b), and only to the extent that the amount of reimbursement for the

earlier corrective action did not exceed the amount of reimbursement authorized by subdivision (a). Reimbursement to a claimant on a reopened site shall occur when funds are available, and reimbursement commitment shall be made ahead of any new letters of commitment to be issued, as of the date of the reopening of the claim, if funding has occurred on the original claim, in which case funding shall occur at the time it would have occurred under the original claim.

(2) For purposes of this subdivision, a corrective action is completed when the local agency or regional board with jurisdiction over the site or the board issues a closure letter pursuant to subdivision (g) of Section 25296.10.

SEC. 149. Section 25299.58 of the Health and Safety Code is amended to read:

25299.58. (a) Except as provided in subdivision (d), if the board makes the determination specified in subdivision (b), the board may reimburse only those costs that are related to the compensation of third parties for bodily injury and property damages and that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million dollars ($1,000,000) for each occurrence.

(b) A claim may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant has been ordered to pay a settlement or final judgment for third-party bodily injury or property damage arising from operating an underground storage tank.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B) and (C), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later.

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the

underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant who is exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility in an amount twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than ten thousand dollars ($10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than twenty thousand dollars ($20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to any contamination having been caused. The demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner as may be acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to

applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(5) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280).

(6) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 29299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(c) A claimant may be reimbursed by the fund for compensation of third parties for only the following:

(1) Medical expenses.

(2) Actual lost wages or business income.

(3) Actual expenses for remedial action to remedy the effects of damage to the property of the third party caused by the unauthorized release of petroleum from an underground storage tank.

(4) The fair market value of the property rendered permanently unsuitable for use by the unauthorized release of petroleum from an underground storage tank.

(d) The board shall pay a claim submitted pursuant to subdivision (d) of Section 25299.54 for the costs related to the compensation of third parties for bodily injury and property damages that exceed the level of financial responsibility required to be obtained pursuant to paragraph (2) of subdivision (a) of Section 25299.32, but not more than one million dollars ($1,000,000) for each occurrence.

SEC. 150. Section 39625.02 of the Health and Safety Code is amended to read:

39625.02. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, the following terms have the following meanings:

(1) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, as specified in subdivision (c).

(2) Unless otherwise specified in this chapter, "project" includes equipment purchase, right-of-way acquisition, and project delivery costs.

(3) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code that is responsible for implementation of an approved project.

(4) "Fund" shall have the meaning as defined in subdivision (c) of Section 8879.22 of the Government Code.

(b) Administrative costs, including audit and program oversight costs for the agency administering the program funded pursuant to this chapter, recoverable by bond funds shall not exceed 5 percent of the program's costs.

(c) The State Air Resources Board is the administrative agency for the goods movement emission reduction program pursuant to paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code.

(d) The administrative agency shall not approve project fund allocations for a project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for usable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and shall do all of the following:

(1) Provide for audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely

fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

SEC. 151. Section 43869 of the Health and Safety Code is amended to read:

43869. (a) The state board shall, no later than July 1, 2008, develop and, after at least two public workshops, adopt hydrogen fuel regulations to ensure the following:

(1) That state funding for the production and use of hydrogen fuel, as described in the California Hydrogen Highway Blueprint Plan, contributes to the reduction of greenhouse gas emissions, criteria air pollutant emissions, and toxic air contaminant emissions. The regulations, at a minimum, shall do all of the following:

(A) Require that, on a statewide basis, well-to-wheel emissions of greenhouse gases for the average hydrogen-powered vehicle fueled by hydrogen from fueling stations that receive state funds are at least 30 percent lower than emissions for the average new gasoline vehicle in California when measured on a per-mile basis.

(B) (i) Require that, on a statewide basis, no less than 33.3 percent of the hydrogen produced for, or dispensed by, fueling stations that receive state funds be made from eligible renewable energy resources as defined in Section 399.12 of the Public Utilities Code.

(ii) If the state board determines that there is insufficient availability of hydrogen fuel from eligible renewable resources to meet the 33.3-percent requirement of this subparagraph, the state board may, after at least one public workshop and on a one-time basis, reduce the requirement by an amount, not to exceed 10 percentage points, that the state board determines is necessary to result in a renewable percentage requirement for hydrogen fuel that is achievable.

(iii) If the executive officer of the state board determines that it is not feasible for a public transit operator to use hydrogen fuel made from eligible renewable resources, the executive officer may exempt the operator from the requirements of this subparagraph for a period of not more than five years and may extend the exemption for up to five additional years.

(C) Prohibit hydrogen fuel producers from counting as a renewable energy resource, pursuant to clause (i) of subparagraph (B), any electricity produced from sources previously procured by a retail seller and verifiably counted by the retail seller towards meeting the renewables portfolio standard obligation, as required by Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(D) Require that all hydrogen fuel dispensed from fueling stations that receive state funds be generated in a manner so that local well-to-tank emissions of nitrogen oxides plus reactive organic gases are at least 50 percent lower than well-to-tank emissions of the average motor gasoline sold in California when measured on an energy equivalent basis.

(E) Require that well-to-tank emissions of relevant toxic air contaminants for hydrogen fuel dispensed from fueling stations that receive state funds be reduced to the maximum extent feasible at each site when compared to well-to-tank emissions of toxic air contaminants of the average motor gasoline fuel on an energy equivalent basis. In no case shall the toxic emissions be greater than the emissions from gasoline on an energy equivalent basis.

(F) Require that providers of hydrogen fuel for transportation in the state report to the state board the annual mass of hydrogen fuel dispensed and the method by which the dispensed hydrogen was produced and delivered.

(G) Authorize the state board, after at least one public workshop, to grant authority to the executive officer of the state board to exempt from this paragraph, for a period of no more than five years, hydrogen dispensing facilities constructed for small demonstration or temporary purposes. The exemption may be extended on a case-by-case basis upon a finding that the extension will not harm public health. The executive officer may limit the total number of exemptions by geographic region, including by air district, but the average annual mass of hydrogen dispensed from exempted facilities shall not exceed 10 percent of the total mass of hydrogen fuel dispensed for transportation purposes in the state.

(2) That, in any year immediately following a 12-month period in which the mass of hydrogen fuel dispensed for transportation purposes in California exceeds 3,500 metric tons, the production and direct use

of hydrogen fuels for motor vehicles in the state, including, but not limited to, any hydrogen highway network that is developed pursuant to the California Hydrogen Highway Blueprint Plan, contributes to a reduced dependence on petroleum, as well as reductions in greenhouse gas emissions, criteria air pollutant emissions, and toxic air contaminant emissions. For the purpose of this paragraph, the regulations, at a minimum, shall do all of the following:

(A) Require that, on a statewide basis, well-to-wheel emissions of greenhouse gases for the average hydrogen-powered vehicle in California are at least 30 percent lower than emissions for the average new gasoline vehicle in California when measured on a per-mile basis.

(B) Require that, on a statewide basis, no less than 33.3 percent of the hydrogen produced or dispensed in California for motor vehicles be made from eligible renewable energy resources as defined in Section 399.12 of the Public Utilities Code.

(C) Prohibit hydrogen fuel producers from counting as a renewable energy resource, for purposes of subparagraph (B), any electricity produced from sources previously procured by a retail seller and verifiably counted by the retail seller towards meeting the requirements established by the California Renewables Portfolio Standard Program, as set forth in Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(D) Require that all hydrogen fuel dispensed in California for motor vehicles be generated in a manner so that local well-to-tank emissions of nitrogen oxides plus reactive organic gases are at least 50 percent lower than well-to-tank emissions of the average motor gasoline sold in California when measured on an energy equivalent basis.

(E) Require that well-to-tank emissions of relevant toxic air contaminants from hydrogen fuel produced or dispensed in California be reduced to the maximum extent feasible at each site when compared to well-to-tank emissions of toxic air contaminants of the average motor gasoline fuel on an energy equivalent basis. In no case shall the toxic emissions from hydrogen fuel be greater than the toxic emissions from gasoline on an energy equivalent basis.

(F) Authorize the state board, after at least one public workshop, to grant authority to the executive officer of the state board to exempt from this paragraph, for a period of no more than five years, hydrogen dispensing facilities that dispense an average of no more than 100 kilograms of hydrogen fuel per month. The exemption may be extended on a case-by-case basis by the executive officer upon a finding that the extension will not harm public health. The executive officer may limit the total number of exemptions by geographic region, including by air district, but the average annual mass of hydrogen dispensed statewide

from exempted facilities shall not exceed 10 percent of the total mass of hydrogen fuel dispensed for transportation purposes in the state.

(G) Authorize the state board, if it determines that reporting is necessary to facilitate enforcement of the requirements of this paragraph, to require that providers of hydrogen fuel for transportation in the state report to the state board the annual mass of hydrogen fuel dispensed and the method by which the dispensed hydrogen was produced and delivered.

(b) Notwithstanding paragraph (2) of subdivision (a), the state board may increase the 3,500-metric-ton threshold in paragraph (2) of subdivision (a) by no more than 1,500 metric tons if at least one of the following requirements is met:

(1) The 3,500-metric-ton threshold is first met prior to January 1, 2011.

(2) The state board determines that the 3,500-metric-ton threshold has been met primarily due to hydrogen fuel consumed in heavy duty vehicles.

(3) The state board determines at a public hearing that increasing the threshold would accelerate the deployment of hydrogen fuel cell vehicles in the state.

(c) The state board, in consultation with other relevant agencies as appropriate, shall review the renewable resource requirements adopted pursuant to this section every four years and shall increase the renewable resource percentage requirements if it determines that it is technologically feasible to do so and will not substantially hinder the development of hydrogen as a transportation fuel in a manner that is consistent with this section.

(d) The state board shall review the emission requirements adopted pursuant to this section every four years and shall strengthen the requirements if it determines it is technologically feasible to do so and will not substantially hinder the development of hydrogen as a transportation fuel in a manner that otherwise is consistent with this section.

(e) The state board shall produce and periodically update a handbook to inform and educate motor vehicle manufacturers, hydrogen fuel producers, hydrogen service station operators, and other interested parties on how to comply with the requirements set forth in this section. This handbook shall be made available on the agency's Internet Web site on or before July 1, 2009.

(f) The Secretary for Environmental Protection shall convene the California Environmental Protection Agency's Environmental Justice Advisory Committee at least once annually to solicit the committee's

comments on the production and distribution of hydrogen fuel in the state.

(g) The Secretary for Environmental Protection, in consultation with the state board, shall recommend to the Legislature and the Governor, on or before January 1, 2010, incentives that could be offered to businesses within the hydrogen fuel industry and consumers to spur the development of clean sources of hydrogen fuel.

(h) Unless the context requires otherwise, the definitions set forth in this subdivision govern the construction of this section:

(1) "Well-to-tank emissions" means emissions resulting from production of a fuel, including resource extraction, initial processing, transport, fuel production, distribution and marketing, and delivery into the fuel tank of a consumer vehicle.

(2) "Well-to-wheel emissions" means emissions resulting from production of a fuel, including resource extraction, initial processing, transport, fuel production, distribution and marketing, and delivery and use in a consumer vehicle.

SEC. 152. Section 44125 of the Health and Safety Code is amended to read:

44125. (a) No later than July 1, 2009, the state board, in consultation with the Bureau of Automotive Repair (BAR), shall adopt a program to commence on January 1, 2010, that allows for the voluntary retirement of passenger vehicles and light-duty and medium-duty trucks that are high polluters. The program shall be administered by the BAR pursuant to guidelines adopted by the state board.

(b) The guidelines shall ensure all of the following:

(1) Vehicles retired pursuant to the program are permanently removed from operation and retired at a dismantler under contract with the BAR.

(2) Districts retain their authority to administer vehicle retirement programs otherwise authorized under law.

(3) The program is available for high polluting passenger vehicles and light-duty and medium-duty trucks that have been continuously registered in California for two years prior to acceptance into the program or otherwise proven to have been driven primarily in California for the last two years and have not been registered in another state or country in the last two years.

(4) The program is focused where the greatest air quality impact can be identified.

(5) Compensation levels for retired vehicles are flexible, taking into account factors including, but not limited to, the age of the vehicle, the emission benefits of the vehicle's retirement, the emission impact of any replacement vehicle, and the location of vehicles in areas of the state with the poorest air quality.

(6) Cost-effectiveness and impacts on disadvantaged and low-income populations are considered.

SEC. 153. Section 44272 of the Health and Safety Code is amended to read:

44272. (a) The Alternative and Renewable Fuel and Vehicle Technology Program is hereby created. The program shall be administered by the commission. The program shall provide, upon appropriation by the Legislature, grants, revolving loans, loan guarantees, loans, or other appropriate measures, to public agencies, vehicle and technology consortia, businesses and projects, public-private partnerships, workforce training partnerships and collaboratives, fleet owners, consumers, recreational boaters, and academic institutions to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. The emphasis of this program shall be to develop and deploy technology and alternative and renewable fuels in the marketplace, without adopting any one preferred fuel or technology.

(b) The commission shall provide preferences to those projects that maximize the goals of the Alternative and Renewable Fuel and Vehicle Technology Program, based on the following criteria, as appropriate:

(1) The project's ability to provide a measurable transition from the nearly exclusive use of petroleum fuels to a diverse portfolio of viable alternative fuels that meet petroleum reduction and alternative fuel use goals.

(2) The project's consistency with existing and future state climate change policy and low-carbon fuel standards.

(3) The project's ability to reduce criteria air pollutants and air toxics and reduce or avoid multimedia environmental impacts.

(4) The project's ability to decrease, on a life-cycle basis, the emissions of water pollutants or any other substances known to damage human health or the environment, in comparison to the production and use of California Phase 2 Reformulated Gasoline or diesel fuel produced and sold pursuant to California diesel fuel regulations set forth in Article 2 (commencing with Section 2280) of Chapter 5 of Division 3 of Title 13 of the California Code of Regulations.

(5) The project does not adversely impact the sustainability of the state's natural resources, especially state and federal lands.

(6) The project provides nonstate matching funds.

(7) The project provides economic benefits for California by promoting California-based technology firms, jobs, and businesses.

(8) The project uses existing or proposed fueling infrastructure to maximize the outcome of the project.

(9) The project's ability to reduce on a life-cycle assessment greenhouse gas emissions by at least 10 percent, and higher percentages in the future, from current reformulated gasoline and diesel fuel standards established by the state board.

(10) The project's use of alternative fuel blends of at least 20 percent, and higher blend ratios in the future, with a preference for projects with higher blends.

(11) The project drives new technology advancement for vehicles, vessels, engines, and other equipment, and promotes the deployment of that technology in the marketplace.

(c) All of the following shall be eligible for funding:

(1) Alternative and renewable fuel projects to develop and improve alternative and renewable low-carbon fuels, including electricity, ethanol, dimethyl ether, renewable diesel, natural gas, hydrogen, and biomethane, among others, and their feedstocks that have high potential for long-term or short-term commercialization, including projects that lead to sustainable feedstocks.

(2) Demonstration and deployment projects that optimize alternative and renewable fuels for existing and developing engine technologies.

(3) Projects to produce alternative and renewable low-carbon fuels in California.

(4) Projects to decrease the overall impact of an alternative and renewable fuel's life-cycle carbon footprint and increase sustainability.

(5) Alternative and renewable fuel infrastructure, fueling stations, and equipment. The preference in paragraph (10) of subdivision (b) shall not apply to these projects.

(6) Projects to develop and improve light-, medium-, and heavy-duty vehicle technologies that provide for better fuel efficiency and lower greenhouse gas emissions, alternative fuel usage and storage, or emission reductions, including propulsion systems, advanced internal combustion engines with a 40 percent or better efficiency level over the current market standard, lightweight materials, energy storage, control systems and system integration, physical measurement and metering systems and software, development of design standards and testing and certification protocols, battery recycling and reuse, engine and fuel optimization electronic and electrified components, hybrid technology, plug-in hybrid technology, fuel cell technology, and conversions of hybrid technology to plug-in technology through the installation of safety certified supplemental battery modules.

(7) Programs and projects that accelerate the commercialization of vehicles and alternative and renewable fuels including buy-down programs through near-market and market-path deployments, advanced

technology warranty or replacement insurance, development of market niches, and supply-chain development.

(8) Programs and projects to retrofit medium- and heavy-duty on-road and nonroad vehicle fleets with technologies that create higher fuel efficiencies, including alternative and renewable fuel vehicles and technologies, idle management technology, and aerodynamic retrofits that decrease fuel consumption.

(9) Infrastructure projects that promote alternative and renewable fuel infrastructure development connected with existing fleets, public transit, and existing transportation corridors, including physical measurement or metering equipment and truck stop electrification.

(10) Workforce training programs related to alternative and renewable fuel feedstock production and extraction, renewable fuel production, distribution, transport, and storage, high-performance and low-emission vehicle technology and high tower electronics, automotive computer systems, mass transit fleet conversion, servicing, and maintenance, and other sectors or occupations related to the purposes of this chapter.

(11) Block grants administered by not-for-profit technology consortia for multiple projects, education and program promotion within California, and development of alternative and renewable fuel and vehicle technology centers.

(d) The same requirements in Section 25620.5 of the Public Resources Code shall apply to awards made on a single source basis or a sole sources basis.

SEC. 154. Section 101317 of the Health and Safety Code is amended to read:

101317. (a) For purposes of this article, allocations shall be made to the administrative bodies of qualifying local health jurisdictions described as public health administrative organizations in Section 101185, and pursuant to Section 101315, in the following manner:

(1) (A) For the 2003–04 fiscal year and subsequent fiscal years, to the administrative bodies of each local health jurisdiction, a basic allotment of one hundred thousand dollars ($100,000), subject to the availability of funds appropriated in the annual Budget Act or another act.

(B) For the 2002–03 fiscal year, the basic allotment of one hundred thousand dollars ($100,000) shall be reduced by the amount of federal funding allocated as part of a basic allotment for the purposes of this article to local health jurisdictions in the 2001–02 fiscal year.

(2) (A) Except as provided in subdivision (c), after determining the amount allowed for the basic allotment as provided in paragraph (1), the balance of the annual appropriation for purposes of this article, if any, shall be allotted on a per capita basis to the administrative bodies of each

local health jurisdiction in the proportion that the population of that local health jurisdiction bears to the population of all eligible local health jurisdictions of the state.

(B) The population estimates used for the calculation of the per capita allotment pursuant to subparagraph (A) shall be based on the Department of Finance's E-1 Report, "City/County Population Estimates with Annual Percentage Change," as of January 1 of the previous year. However, if within a local health jurisdiction there are one or more city health jurisdictions, the local health jurisdiction shall subtract the population of the city or cities from the local health jurisdiction total population for purposes of calculating the per capita total.

(b) If the amounts appropriated are insufficient to fully fund the allocations specified in subdivision (a), the department shall prorate and adjust each local health jurisdiction's allocation so that the total amount allocated equals the amount appropriated.

(c) For the 2002–03 fiscal year and subsequent fiscal years, where the federally approved collaborative state-local plan identifies an allocation method, other than the basic allotment and per capita method described in subdivision (a), for specific funding to a local public health jurisdiction, including, but not limited to, funding laboratory training, chemical and nuclear terrorism preparedness, smallpox preparedness, and information technology approaches, that funding shall be paid to the administrative bodies of those local health jurisdictions in accordance with the federally approved collaborative state-local plan for bioterrorism preparedness and other public health threats in the state.

(d) Funds appropriated pursuant to the annual Budget Act or another act for allocation to local health jurisdictions pursuant to this article shall be disbursed quarterly to local health jurisdictions beginning July 1, 2002, using the following process:

(1) Each fiscal year, upon the submission of an application for funding by the administrative body of a local health jurisdiction, the department shall make the first quarterly payment to each eligible local health jurisdiction. Initially, that application shall include a plan and budget for the local program that is in accordance with the department's plans and priorities for bioterrorism preparedness and response, and other public health threats and emergencies, and a certification by the chairperson of the board of supervisors or the mayor of a city with a local health department that the funds received pursuant to this article will not be used to supplant other funding sources in violation of subdivision (d) of Section 101315. In subsequent years, the department shall develop a streamlined process for continuation of funding that will address new federal requirements and will assure the continuity of local plan activities.

(2) The department shall establish procedures and a format for the submission of the local health jurisdiction's plan and budget. The local health jurisdiction's plan shall be consistent with the department's plans and priorities for bioterrorism preparedness and response and other public health threats and emergencies in accordance with requirements specified in the department's federal grant award. Payments to local health jurisdictions beyond the first quarter shall be contingent upon the approval of the department of the local health jurisdiction's plan and the local health jurisdiction's progress in implementing the provisions of the local health jurisdiction's plan, as determined by the department.

(3) If a local health jurisdiction does not apply or submits a noncompliant application for its allocation, those funds provided under this article may be redistributed according to subdivision (a) to the remaining local health jurisdictions.

(e) Funds shall be used for activities to improve and enhance local health jurisdictions' preparedness for and response to bioterrorism and other public health threats and emergencies, and for other purposes, as determined by the department, that are consistent with the purposes for which the funds were appropriated.

(f) A local health jurisdiction that receives funds pursuant to this article shall deposit them in a special local public health preparedness trust fund established solely for this purpose before transferring or expending the funds for any of the uses allowed pursuant to this article. The interest earned on moneys in the fund shall accrue to the benefit of the fund and shall be expended for the same purposes as other moneys in the fund.

(g) (1) A local health jurisdiction that receives funding pursuant to this article shall submit reports that display cost data and the activities funded by moneys deposited in its local public health preparedness trust fund to the department on a regular basis in a form and according to procedures prescribed by the department.

(2) The department, in consultation with local health jurisdictions, shall develop required content for the reports required under paragraph (1), which shall include, but shall not be limited to, data and information needed to implement this article and to satisfy federal reporting requirements. The chairperson of the board of supervisors or the mayor of a city with a local health department shall certify the accuracy of the reports and that the moneys appropriated for the purposes of this article have not been used to supplant other funding sources.

(3) It is the intent of the Legislature that the department shall audit the cost reports every three years, commencing in January 2007, to determine compliance with federal requirements and consistency with local health jurisdiction budgets, contingent upon the availability of

federal funds for this activity, and contingent upon the continuation of federal funding for emergency preparedness and bioterrorism preparedness. All cost-compliance reports and audit exceptions or related analyses or reports issued by the State Department of Public Health regarding the expenditure of funding for emergency and bioterrorism preparedness by local health jurisdictions shall be made available to the Legislature upon request.

(h) The administrative body of a local health jurisdiction may enter into a contract with the department and the department may enter into a contract with that local health jurisdiction for the department to administer all or a portion of the moneys allocated to the local health jurisdiction pursuant to this article. The department may use funds retained on behalf of a local health jurisdiction pursuant to this subdivision solely for purposes of administering the jurisdiction's bioterrorism preparedness activities. The funds appropriated pursuant to this article and retained by the department pursuant to this subdivision are available for expenditure and encumbrance for purposes of support or local assistance.

(i) The department may recoup from a local health jurisdiction moneys allocated pursuant to this article that are unspent or that are not expended for purposes specified in subdivision (d). The department may also recoup funds expended by a local health jurisdiction in violation of subdivision (d) of Section 101315. The department may withhold quarterly payments of moneys to a local health jurisdiction if the local health jurisdiction is not in compliance with this article or the terms of that local health jurisdiction's plan as approved by the department. Before any funds are recouped or withheld from a local health jurisdiction, the department shall meet with local health officials to discuss the status of the unspent moneys or the disputed use of the funds, or both.

(j) Notwithstanding any other provision of law, moneys made available for bioterrorism preparedness pursuant to this article in the 2001–02 fiscal year shall be available for expenditure and encumbrance until June 30, 2003. Moneys made available for bioterrorism preparedness pursuant to this article from July 1, 2002, to August 30, 2003, inclusive, shall be available for expenditure and encumbrance until August 30, 2004. Moneys made available in the 2003–04 Budget Act for bioterrorism preparedness shall be available for expenditure and encumbrance until August 30, 2005.

SEC. 155. Section 111071 of the Health and Safety Code is amended to read:

111071. (a) As a condition of licensure, each bottled water plant, which has the same meaning as the definition in subdivision (c) of Section

111070, shall annually prepare a bottled water report and shall, upon request, make that report available to each customer.

(b) The report shall be prepared in English, Spanish, and in the appropriate languages for each non-English-speaking group other than Spanish that exceeds 10 percent of the state's population.

(c) For purposes of complying with this section, when bottled water comes from a municipal source, the relevant information from the consumer confidence report or water quality report prepared for that year by the public water system pursuant to Section 116470 may be used.

(d) The bottled water report shall include, but not be limited to, all of the following:

(1) The source of the bottled water, consistent with applicable state and federal regulations.

(2) A brief and plainly worded definition of the terms "statement of quality," "maximum contaminant level," "primary drinking water standard," and "public health goal."

(3) A brief description of the treatment process.

(4) A reference to the United States Food and Drug Administration Internet Web site that provides product recall information.

(5) The bottled water company's address and telephone number that enables customers to obtain further information concerning contaminants and potential health effects.

(6) Information on the levels of unregulated substances, if any, for which water bottlers are required to monitor pursuant to state or federal law or regulation.

(7) (A) The following statement:

"Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the United States Food and Drug Administration, Food and Cosmetic Hotline (1-888-723-3366)."

(B) If the telephone number for the United States Food and Drug Administration, Food and Cosmetic Hotline changes, the statement shall be updated to reflect the new telephone number.

(8) The following statement:

"Some persons may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons, including, but not limited to, persons with cancer who are undergoing chemotherapy, persons who have undergone organ transplants, persons with HIV/AIDS or other immune system

disorders, some elderly persons, and infants can be particularly at risk from infections. These persons should seek advice about drinking water from their health care providers. The United States Environmental Protection Agency and the federal Centers for Disease Control and Prevention guidelines on appropriate means to lessen the risk of infection by cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (1-800-426-4791)."

(9) The following statement:

"The sources of bottled water include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water naturally travels over the surface of the land or through the ground, it can pick up naturally occurring substances as well as substances that are present due to animal and human activity.

Substances that may be present in the source water include any of the following:

(1) Inorganic substances, including, but not limited to, salts and metals, that can be naturally occurring or result from farming, urban stormwater runoff, industrial or domestic wastewater discharges, or oil and gas production.

(2) Pesticides and herbicides that may come from a variety of sources, including, but not limited to, agriculture, urban stormwater runoff, and residential uses.

(3) Organic substances that are byproducts of industrial processes and petroleum production and can also come from gas stations, urban stormwater runoff, agricultural application, and septic systems.

(4) Microbial organisms that may come from wildlife, agricultural livestock operations, sewage treatment plants, and septic systems.

(5) Substances with radioactive properties that can be naturally occurring or be the result of oil and gas production and mining activities."

(10) The following statement:

"In order to ensure that bottled water is safe to drink, the United States Food and Drug Administration and the State Department of Public Health prescribe regulations that limit the amount of certain contaminants in water provided by bottled water companies."

(11) (A) The following statement, if nitrate ($NO_3$) levels above 23 ppm but below 45 ppm (the maximum contaminant level for nitrate ($NO_3$)) are detected:

"Nitrate in drinking water at levels above 45 mg/L is a health risk for infants of less than six months of age. These nitrate levels in drinking water can interfere with the capacity of the infant's blood to carry oxygen, resulting in a serious illness. Symptoms include

shortness of breath and blueness of the skin. Nitrate levels above 45 mg/L may also affect the ability of the blood to carry oxygen in other individuals, including, but not limited to, pregnant women and those with certain specific enzyme deficiencies. If you are caring for an infant, or you are pregnant, you should ask advice from your health care provider."

(B) If the nitrate disclosure requirements for municipal water suppliers are revised by the State Department of Public Health, this statement shall be updated to reflect the revision.

(12) (A) The following statement, if arsenic levels above 5 ppb, but below 10 ppb (the maximum contaminant level for arsenic), are detected:

"Arsenic levels above 5 ppb and up to 10 ppb are present in your drinking water. While your drinking water meets the current EPA standard for arsenic, it does contain low levels of arsenic. The standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. The State Department of Public Health continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects, including, but not limited to, skin damage and circulatory problems."

(B) If the arsenic disclosure requirements for municipal water suppliers are revised by the State Department of Public Health, this statement shall be updated to reflect the revision.

(13) A full disclosure of any exemption or variance that has been granted to the bottler by the State Department of Public Health, including an explanation of reasons for each exemption or variance and the date of the exemption or variance.

SEC. 156. Section 116033 of the Health and Safety Code is amended to read:

116033. Persons providing aquatic instruction, including, but not limited to, swimming instruction, water safety instruction, water contact activities, and competitive aquatic sports, at a public swimming pool shall possess current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or have equivalent qualifications, as determined by the department. In addition, these persons shall be certified in standard first aid and cardiopulmonary resuscitation (CPR). All these persons shall meet these qualifications by January 1, 1991. Persons who only disseminate written materials relating to water safety are not persons providing aquatic instruction within the meaning of this section.

The requirements of this section shall be waived under either of the following circumstances: (a) when one or more aquatic instructors

possessing the current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or the equivalent, are in attendance continuously during periods of aquatic instruction, or (b) when one or more lifeguards meeting the requirements of Section 116028 are in attendance continuously during periods of aquatic instruction.

SEC. 157. Section 121530 of the Health and Safety Code is amended to read:

121530. The examination shall consist of either an approved intradermal tuberculin test or any other test for tuberculosis infection that has been recommended by the CDC and licensed by the FDA, that, if positive, shall be followed by an X-ray of the lungs.

SEC. 158. Section 122354 of the Health and Safety Code is amended to read:

122354. (a) The pet store operator or at least one of his or her employees shall be present in the store at least once daily, regardless of whether the store is open, for care and maintenance of the animals in the pet store.

(b) A pet store operator shall comply with the following animal care requirements:

(1) House only compatible animals in the same enclosure.

(2) Observe each animal at regular intervals, at least once a day, in order to recognize and evaluate general symptoms of sickness, injury, or abnormal behavior.

(3) Take reasonable measures to house intact mammals that have reached sexual maturity in a manner to prevent unplanned reproduction.

(4) (A) Maintain and abide by written animal husbandry procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventive care, emergency care, veterinary treatment, euthanasia, and disaster planning, evacuation, and recovery that is applicable to the location of the pet store. These procedures shall be reviewed with employees who provide animal care and shall be present in writing, either electronically or physically, in the store and made available to all store employees.

(B) Sections 122356 and 122358 do not apply to subparagraph (A) if other local, state, or federal laws apply to those procedures.

(5) (A) If there is a determination that an animal may need to be euthanized, ensure that veterinary treatment is provided without delay.

(B) Notwithstanding subparagraph (A), an animal intended as food for another animal may be destroyed using a method or methods of euthanasia that are humane, involve painless loss of consciousness and immediate death as specified in Appendix 2 of the American Veterinary Medical Association (AVMA) 2000 Report of the AVMA Panel on

Euthanasia, and as authorized for the species in the documented program prescribed in paragraph (7).

(C) Each employee who performs euthanasia shall receive adequate training in the method or methods used and proof of successful completion of that training shall be documented in writing and retained by the pet store. All training records shall be maintained by the pet store for two years, and shall be made available, upon request, to appropriate law enforcement officers exercising authority pursuant to Section 122356.

(D) Subparagraphs (A) to (C), inclusive, shall be implemented in a manner consistent with California law and in accordance with Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code.

(6) Isolate and not offer for sale those animals that have or are suspected of having a contagious condition. This paragraph shall not apply to those animals that are effectively isolated by their primary enclosure, including, but not limited to, fish, provided that a sign is posted on the enclosure that indicates that these animals are not for sale, or otherwise marked in a manner to prevent their sale to customers during their treatment for the contagious condition.

(7) Have a documented program of routine care, preventive care, and emergency care, disease control and prevention, and veterinary treatment and euthanasia, as outlined in paragraph (5), that is established and maintained by the pet store in consultation with a licensed veterinarian employed by the pet store or a California-licensed veterinarian, to ensure adherence to the program with respect to each animal. The program shall also include a documented onsite visit to the pet store premises by a California-licensed veterinarian at least once a year.

(8) Ensure that each diseased, ill, or injured animal is evaluated and treated without delay. If necessary for the humane care and treatment of the animal, the animal shall be provided with veterinary treatment without delay.

(9) In the event of a natural disaster, an emergency evacuation, or other similar occurrence, the humane care and treatment of each animal is provided for, as required by this chapter, to the extent access to the animal is reasonably available.

(c) Subdivisions (a) and (b) shall be implemented to the extent consistent with California law.

SEC. 159. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) (1) The State Department of Health Care Services shall select primary care clinics that are licensed under subparagraph (A) or (B) of paragraph (1) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed

for delivering medical services, including preventive health care, and smoking prevention and cessation health education, to program beneficiaries.

(2) In order to be eligible to receive funds under this article a clinic shall meet all of the following conditions, at a minimum:

(A) Provide medical diagnosis and treatment.

(B) Provide medical support services of patients in all stages of illness.

(C) Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provide maintenance of patients with chronic illness.

(E) Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meet one or both of the following conditions:

(i) Be located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii) Be a clinic that is able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations that have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) A primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year, or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, "uncompensated care" means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims.

(3) The department shall allocate available funds, for a three-year period, as follows:

(A) Clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that the funding award is substantiated by the clinics' reported levels of uncompensated care.

(B) The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). The department shall seek input from stakeholders to discuss adjustments to award levels that the department deems reasonable, such as including base amounts for new applicant clinics.

(C) New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). New applicants include applicants for new site expansions by existing applicants.

(4) In assessing reported levels of uncompensated care, the department shall utilize the data available from the Office of Statewide Health Planning and Development's (OSHPD's) completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data. If this data is unavailable for an existing applicant to assess reported levels of uncompensated care, the existing applicant shall receive an allocation pursuant to subparagraph (A) of paragraph (3).

(A) The department shall utilize the most recent data available from OSHPD's completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data.

(B) If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(5) The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars ($35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, "frontier clinics" means clinics located in a medical services study area with a population of fewer than 11 persons per square mile.

(6) The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The department shall allocate the unused funds remaining on October 30, for the prior fiscal year to other participating clinics to reimburse for uncompensated care.

(e) In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may claim reimbursement only for services provided at a program-eligible clinic site identified in the corporate entity's application for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f) Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one of more licensed primary care clinics participating in the program.

(g) A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only provider's application shall include a memorandum of understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental clinic and from the dental clinic to the primary care clinic, and ensure that case management services are provided and that the patient is being provided comprehensive primary care as described in subdivision (a).

(h) (1) For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health

assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents ($71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than June 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal rights. A primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 160. Section 124991 of the Health and Safety Code is amended to read:

124991. (a) (1) The State Department of Public Health shall provide any umbilical cord blood samples it receives pursuant to Section 123371 to the Birth Defects Monitoring Program, established pursuant to Chapter 1 (commencing with Section 103825) of Part 2 of Division 102, for storage and research. In administering this section the department shall ensure that the Birth Defects Monitoring Program meets at least one of the following conditions:

(A) The fees paid by researchers, investigators, and health care services providers pursuant to subdivision (c) shall be used to cover the cost of collecting and storing blood, including umbilical cord blood.

(B) The department receives confirmation that an investigator, researcher, or health care provider has requested umbilical cord blood

samples for research or has requested cord blood samples to be included within a request for pregnancy and newborn blood samples through the program.

(C) The department receives federal grant moneys to pay for initial startup costs for the collection and storage of umbilical cord blood samples.

(2) The department may limit the number of units the program collects each year.

(b) (1) All information relating to umbilical cord blood samples collected and utilized by the Birth Defects Monitoring Program shall be confidential, and shall be used solely for the purposes of the program. Access to confidential information shall be limited to authorized persons who agree, in writing, to maintain the confidentiality of that information.

(2) The department shall maintain an accurate record of all persons who are given confidential information pursuant to this section, and disclosure of confidential information shall be made only upon written agreement that the information will be kept confidential, used for its approved purpose, and not be further disclosed.

(3) A person who, in violation of a written agreement to maintain confidentiality, discloses information provided pursuant to this section, or who uses information provided pursuant to this section in a manner other than as approved pursuant to this section may be denied further access to confidential information maintained by the department, and shall be subject to a civil penalty not exceeding one thousand dollars ($1,000). The penalty provided in this section does not limit or otherwise restrict a remedy, provisional or otherwise, provided by law for the benefit of the department or a person covered by this section.

(c) In order to implement this program, the department shall establish fees of an amount that shall not exceed the costs of administering the program, which the department shall collect from researchers, investigators, and health care providers who have been approved by the department and who seek to use the following types of blood samples, collected by the Birth Defects Monitoring Program, for research:

(1) Umbilical cord blood.

(2) Pregnancy blood.

(3) Newborn blood.

(d) Fees collected pursuant to subdivision (c) shall be deposited into the Birth Defects Monitoring Program Fund created pursuant to paragraph (7) of subdivision (b) of Section 124977. Moneys deposited into the fund pursuant to this section may be used by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (e).

(e) Moneys in the fund shall be used for the costs related to data management, including data linkage and entry, and umbilical cord blood storage, retrieval, processing, inventory, and shipping.

(f) The department shall adopt rules and regulations pursuant to existing requirements in the Birth Defects Monitoring Program.

(g) The department, health care providers, and local health departments shall maintain the confidentiality of patient information in accordance with existing law and in the same manner as other medical record information with patient identification that they possess, and shall use the information only for the following purposes:

(1) Research to identify risk factors for children's and women's diseases.

(2) Research to develop and evaluate screening tests.

(3) Research to develop and evaluate prevention strategies.

(4) Research to develop and evaluate treatments.

(h) (1) For purposes of ensuring the security of a donor's personal information, before any umbilical cord blood samples are released pursuant to this section for research purposes, the State Committee for the Protection of Human Subjects (CPHS) shall determine if all of the following criteria have been met:

(A) The Birth Defects Monitoring Program contractors or other entities approved by the department have provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect personal information from reasonable anticipated threats to the security or confidentiality of the information.

(B) The Birth Defects Monitoring Program contractors or other entities approved by the department have provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research activity, unless the program contractors or other entities approved by the department have demonstrated an ongoing need for the personal information for the research activity and have provided a long-term plan sufficient to protect the confidentiality of that information.

(C) The Birth Defects Monitoring Program contractors or other entities approved by the department have provided sufficient written assurances that the personal information will not be reused or disclosed to a person or entity, or used in a manner not approved in the research protocol, except as required by law or for authorized oversight of the research activity.

(2) As part of its review and approval of the research activity for the purpose of protecting personal information held in agency databases, CPHS shall accomplish at least all of the following:

(A) Determine whether the requested personal information is needed to conduct the research.

(B) Permit access to personal information only if it is needed for the research activity.

(C) Permit access only to the minimum personal information necessary for the research activity.

(D) Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can be conducted without social security numbers.

(E) If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information.

(i) In addition to the fees described in subdivision (c), the department may bill a researcher for the costs associated with the department's process of protecting personal information, including, but not limited to, the department's costs for conducting a portion of the data processing for the researcher, removing personal information, encrypting or otherwise securing personal information, or assigning subject codes.

(j) This section does not prohibit the department from using its existing authority to enter into written agreements to enable other institutional review boards to approve research activities, projects, or classes of projects for the department, provided that the data security requirements set forth in this section are satisfied.

SEC. 161. Section 127400 of the Health and Safety Code is amended to read:

127400. As used in this article, the following terms have the following meanings:

(a) "Allowance for financially qualified patient" means, with respect to services rendered to a financially qualified patient, an allowance that is applied after the hospital's charges are imposed on the patient, due to the patient's determined financial inability to pay the charges.

(b) "Federal poverty level" means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(c) "Financially qualified patient" means a patient who is both of the following:

(1) A patient who is a self-pay patient, as defined in subdivision (f) or a patient with high medical costs, as defined in subdivision (g).

(2) A patient who has a family income that does not exceed 350 percent of the federal poverty level.

(d) "Hospital" means a facility that is required to be licensed under subdivision (a), (b), or (f) of Section 1250, except a facility operated by

the State Department of Mental Health or the Department of Corrections and Rehabilitation.

(e) "Office" means the Office of Statewide Health Planning and Development.

(f) "Self-pay patient" means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of workers' compensation, automobile insurance, or other insurance as determined and documented by the hospital. Self-pay patients may include charity care patients.

(g) "A patient with high medical costs" means a person whose family income does not exceed 350 percent of the federal poverty level, as defined in subdivision (b), if that individual does not receive a discounted rate from the hospital as a result of his or her third-party coverage. For these purposes, "high medical costs" means any of the following:

(1) Annual out-of-pocket costs incurred by the individual at the hospital that exceed 10 percent of the patient's family income in the prior 12 months.

(2) Annual out-of-pocket expenses that exceed 10 percent of the patient's family income, if the patient provides documentation of the patient's medical expenses paid by the patient or the patient's family in the prior 12 months.

(3) A lower level determined by the hospital in accordance with the hospital's charity care policy.

(h) "Patient's family" means the following:

(1) For persons 18 years of age and older, spouse, domestic partner, as defined in Section 297 of the Family Code, and dependent children under 21 years of age, whether living at home or not.

(2) For persons under 18 years of age, parent, caretaker relatives, and other children under 21 years of age of the parent or caretaker relative.

SEC. 162. Section 127405 of the Health and Safety Code is amended to read:

127405. (a) (1) Each hospital shall maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 127400, shall be eligible to apply for participation under a hospital's charity care policy or discount payment policy. Notwithstanding any other provision of this article, a hospital may choose to grant eligibility for its discount payment policy or charity care policies to patients with incomes over 350 percent of the federal poverty level. Both the charity care policy and the discount payment policy shall state

the process used by the hospital to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy.

(2) Rural hospitals, as defined in Section 124840, may establish eligibility levels for financial assistance and charity care at less than 350 percent of the federal poverty level as appropriate to maintain their financial and operational integrity.

(b) A hospital's discount payment policy shall clearly state eligibility criteria based upon income consistent with the application of the federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient may negotiate the terms of the payment plan.

(c) The charity care policy shall state clearly the eligibility criteria for charity care. In determining eligibility under its charity care policy, a hospital may consider income and monetary assets of the patient. For purposes of this determination, monetary assets shall not include retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. Furthermore, the first ten thousand dollars ($10,000) of a patient's monetary assets shall not be counted in determining eligibility, nor shall 50 percent of a patient's monetary assets over the first ten thousand dollars ($10,000) be counted in determining eligibility.

(d) A hospital shall limit expected payment for services it provides to a patient at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 124700, eligible under its discount payment policy to the amount of payment the hospital would expect, in good faith, to receive for providing services from Medicare, Medi-Cal, Healthy Families, or another government-sponsored health program of health benefits in which the hospital participates, whichever is greater. If the hospital provides a service for which there is no established payment by Medicare or any other government-sponsored program of health benefits in which the hospital participates, the hospital shall establish an appropriate discounted payment.

(e) A patient, or patient's legal representative, who requests a discounted payment, charity care, or other assistance in meeting his or her financial obligation to the hospital shall make every reasonable effort to provide the hospital with documentation of income and health benefits coverage. If the person requests charity care or a discounted payment and fails to provide information that is reasonable and necessary for the

hospital to make a determination, the hospital may consider that failure in making its determination.

(1) For purposes of determining eligibility for discounted payment, documentation of income shall be limited to recent pay stubs or income tax returns.

(2) For purposes of determining eligibility for charity care, documentation of assets may include information on all monetary assets, but shall not include statements on retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. A hospital may require waivers or releases from the patient or the patient's family, authorizing the hospital to obtain account information from financial or commercial institutions, or other entities that hold or maintain the monetary assets, to verify their value.

(3) Information obtained pursuant to paragraph (1) or (2) shall not be used for collections activities. This paragraph does not prohibit the use of information obtained by the hospital, collection agency, or assignee independently of the eligibility process for charity care or discounted payment.

(4) Eligibility for discounted payments or charity care may be determined at any time the hospital is in receipt of information specified in paragraph (1) or (2), respectively.

SEC. 163. Section 128735 of the Health and Safety Code is amended to read:

128735. An organization that operates, conducts, owns, or maintains a health facility, and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office that shall be in accord, if applicable, with the systems of accounting and uniform reporting required by this part, except that the reports required pursuant to subdivision (g) shall be limited to hospitals:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center, except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 128760 are not required to report revenue by revenue center.

(d) A statement of cashflows, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization, except those hospitals authorized to report as a group pursuant to subdivision (d) of Section 128760.

(f) Data reporting requirements established by the office shall be consistent with national standards, as applicable.

(g) A Hospital Discharge Abstract Data Record that includes all of the following:

(1) Date of birth.

(2) Sex.

(3) Race.

(4) ZIP Code.

(5) Principal language spoken.

(6) Patient social security number, if it is contained in the patient's medical record.

(7) Prehospital care and resuscitation, if any, including all of the following:

(A) "Do not resuscitate" (DNR) order at admission.

(B) "Do not resuscitate" (DNR) order after admission.

(8) Admission date.

(9) Source of admission.

(10) Type of admission.

(11) Discharge date.

(12) Principal diagnosis and whether the condition was present at admission.

(13) Other diagnoses and whether the conditions were present at admission.

(14) External cause of injury.

(15) Principal procedure and date.

(16) Other procedures and dates.

(17) Total charges.

(18) Disposition of patient.

(19) Expected source of payment.

(20) Elements added pursuant to Section 128738.

(h) It is the intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) A person reporting data pursuant to this section shall not be liable for damages in an action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (g).

(j) A hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures.

SEC. 164. Section 131540 of the Health and Safety Code is amended to read:

131540. (a) (1) The cost of the health care coverage provided through the program shall be paid through a combination of contributions paid by the small business, premiums paid by participating employees, and county, federal, state, or private sector funding made available for this purpose.

(2) The local initiative may determine the amount of the employer contribution for each participating eligible employee, which shall not exceed one hundred fifty dollars ($150) per month, and the amount of the employee premium, which shall not exceed seventy-five dollars ($75) per month. The local initiative may adjust employer contribution and employee premium levels after the first year if necessary for changes in health care costs.

(3) The local initiative may structure the required employee premium amounts according to a schedule that takes into account the individual employee's age or income level, or both, in a manner similar, but not necessarily identical, to that described in Section 12693.43 of the Insurance Code, pertaining to the Healthy Families Program.

(4) The local initiative shall establish copayment levels and amounts in a manner substantially similar to that described in Section 12693.615 of the Insurance Code, pertaining to the Healthy Families Program.

(5) For purposes of the program, "applicable rate charged for a covered employee" in Section 1366.26 means the total premium amount paid to the health plan on behalf of an employee, including amounts paid by the small business on behalf of the employee, the premium paid by the employee, and any county, federal, state, or private sector funding, which funding shall include the value of the discounted rates negotiated pursuant to subdivision (b), as apportioned to the employee. The program shall submit to the Department of Managed Health Care the procedures the local initiative will use for purposes of establishing the rates to be paid by a person eligible for continuation coverage under Section 1366.26, and the department shall only approve those procedures if it determines that they are consistent with the requirements of the Cal-COBRA program.

(b) In order to enhance the affordability of coverage offered through the program to eligible small businesses and employees, the county and

the local initiative shall negotiate discounted rates for services provided to participants in the program by providers operated by the county or by providers with whom, or with which, the county has contracted to provide health care services.

SEC. 165. Section 739.3 of the Insurance Code is amended to read:

739.3. (a) "Company Action Level Event" means any of the following events:

(1) The filing of an RBC Report by an insurer that indicates any of the following:

(A) The insurer's Total Adjusted Capital is greater than or equal to its Regulatory Action Level RBC but less than its Company Action Level RBC.

(B) If a life or health insurer, the insurer has Total Adjusted Capital that is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 2.5, and has a negative trend.

(C) If a property and casualty insurer, the insurer has Total Adjusted Capital that is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 3.0, and triggers the trend test determined in accordance with the trend test calculation included in the Property and Casualty RBC instructions.

(2) The notification by the commissioner to the insurer of an Adjusted RBC Report that indicates the event in subparagraph (A) or (B) of paragraph (1), provided that the insurer does not challenge the Adjusted RBC Report under Section 739.7.

(3) If the insurer challenges an Adjusted RBC Report that indicates the event in subparagraph (A) or (B) of paragraph (1) under Section 739.7, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(b) In the event of a Company Action Level Event, the insurer shall prepare and submit to the commissioner a comprehensive financial plan, which shall do all of the following:

(1) Identify the conditions in the insurer that contribute to the Company Action Level Event.

(2) Contain proposals of corrective actions that the insurer intends to take and would be expected to result in the elimination of the Company Action Level Event.

(3) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, or surplus, or a combination. The projections for both new and renewal business may include separate projections for each major line

of business and separately identify each significant income, expense, and benefit component.

(4) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions.

(5) Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance in each case, if any.

(c) The RBC Plan shall be submitted as follows:

(1) Within 45 days of the Company Action Level Event.

(2) If the insurer challenges an Adjusted RBC Report pursuant to Section 739.7, within 45 days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(d) Within 60 days after the submission by an insurer of an RBC Plan to the commissioner, the commissioner shall notify the insurer whether the RBC Plan shall be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines that the RBC Plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions that will render the RBC Plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a Revised RBC Plan, which may incorporate by reference revisions proposed by the commissioner, and shall submit the Revised RBC Plan to the commissioner as follows:

(1) Within 45 days after the notification from the commissioner.

(2) If the insurer challenges the notification from the commissioner under Section 739.7, within 45 days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(e) In the event of a notification by the commissioner to an insurer that the insurer's RBC Plan or Revised RBC Plan is unsatisfactory, the commissioner may, at his or her discretion, subject to the insurer's right to a hearing under Section 739.7, specify in the notification that the notification constitutes a Regulatory Action Level Event.

(f) Every domestic insurer that files an RBC Plan or Revised RBC Plan with the commissioner shall file a copy of the RBC Plan or Revised RBC Plan with the insurance commissioner in any state in which the insurer is authorized to do business if both of the following apply:

(1) That state has an RBC provision substantially similar to subdivision (a) of Section 739.8.

(2) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file

a copy of the RBC Plan or Revised RBC Plan in that state no later than the later of:

(A) Fifteen days after the receipt of notice to file a copy of its RBC Plan or Revised RBC Plan with the state.

(B) The date on which the RBC Plan or Revised RBC Plan is filed under subdivision (c) of Section 739.7.

SEC. 166. 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 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 an insurer that was a member insurer of the association, consistent with paragraph (11) of subdivision (c), either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation or receivership with a finding of insolvency has been entered by a court of competent jurisdiction, or, in the case of the State Compensation Insurance Fund, if a finding of insolvency is made by a duly enacted legislative measure.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, that satisfy all of the following requirements:

(A) Imposed by law and within the coverage of an insurance policy of the insolvent insurer.

(B) Which were unpaid by the insolvent insurer.

(C) 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.

(D) 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.

(E) For which the assets of the insolvent insurer are insufficient to discharge in full.

(F) In the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the workers' compensation law of this state.

(G) 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" also includes the obligations assumed by an assuming insurer from a ceding insurer where the assuming insurer subsequently becomes an insolvent insurer if, at the time of the insolvency of the assuming insurer, the ceding insurer is no longer

admitted to transact business in this state. Both the assuming insurer and the ceding insurer shall have been member insurers at the time the assumption was made. "Covered claims" under this paragraph shall be required to satisfy the requirements of subparagraphs (A) to (G), inclusive, of paragraph (1), except for the requirement that the claims be against policies of the insolvent insurer. The association shall have a right to recover any deposit, bond, or other assets that may have been required to be posted by the ceding company to the extent of covered claim payments and shall be subrogated to any rights the policyholders may have against the ceding insurer.

(3) "Covered claims" does not include obligations arising from the following:

(A) Life, annuity, health, or disability insurance.

(B) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

(C) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.

(D) Credit insurance.

(E) Title insurance.

(F) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), or another similar federal statutory enactment, or an endorsement or policy affording protection and indemnity coverage.

(G) A 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 subdivision (c) of Section 3702.8 of the Labor Code that covers all or any part of workers' compensation liabilities of an employer that is issued, or was previously issued, a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(4) "Covered claims" does not include obligations of the insolvent insurer arising out of reinsurance contracts, nor 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 obligations to a state or to the federal government.

(5) "Covered claims" does not include 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.

An insurer, insurance pool, or underwriting association shall not maintain, in its own name or in the name of its insured, a 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 is entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer's policy, or in the amount of the limits remaining, where those limits have been diminished by the payment of other claims.

(6) "Covered claims," except in cases involving a claim for workers' compensation benefits or for unearned premiums, does not include a claim in an amount of one hundred dollars ($100) or less, nor that portion of a claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(7) "Covered claims" does not include that portion of a claim, other than a claim for workers' compensation benefits, that is in excess of five hundred thousand dollars ($500,000).

(8) "Covered claims" does not include an amount awarded as punitive or exemplary damages, nor an amount awarded by the Workers' Compensation Appeals Board pursuant to Section 5814 or 5814.5 of the Labor Code because payment of compensation was unreasonably delayed or refused by the insolvent insurer.

(9) "Covered claims" does not include (A) a claim to the extent it is covered by any other insurance of a class covered by this article available to the claimant or insured nor (B) a claim by a 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 does not include a claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(10) "Covered claims" does not include obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to Sections 11802 and 11803.

(11) "Covered claims" does not include 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.

(12) "Covered claims" does not include surplus deposits of subscribers as defined in Section 1374.1.

(13) "Covered claims" shall also include obligations arising under an insurance policy written to indemnify a permissibly self-insured employer pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code for its liability to pay workers' compensation benefits in excess of a specific or aggregate retention, provided, however, that for purposes of this article, those claims shall not be considered workers' compensation claims and therefore are subject to the per claim limit in paragraph (7) and any payments and expenses related thereto shall be allocated to category (c) of Section 1063.5, which is for claims other than workers' compensation, homeowners, and automobile, as provided in that section.

These provisions shall apply to obligations arising under any policy as described herein issued to a permissibly self-insured employer or group of self-insured employers pursuant to Section 3700 of the Labor Code and notwithstanding any other provision of the Insurance Code, those obligations shall be governed by this provision in the event that the Self-Insurers' Security Fund is ordered to assume the liabilities of a permissibly self-insured employer or group of self-insured employers pursuant to Section 3701.5 of the Labor Code. The provisions of this paragraph apply only to insurance policies written to indemnify a permissibly self-insured employer or group of self-insured employers under subdivision (b) or (c) of Section 3700, for its liability to pay workers' compensation benefits in excess of a specific or aggregate retention, and this paragraph does not apply to special excess workers' compensation insurance policies unless issued pursuant to authority granted in subdivision (c) of Section 3702.8 of the Labor Code, and as provided for in subparagraph (G) of paragraph (3). In addition, this paragraph does not apply to a claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses as are excluded in subparagraph (G) of paragraph (3).

Each permissibly self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall, to the extent required by the Labor Code, be responsible for paying, adjusting, and defending each claim arising under policies of insurance covered under this section, unless the benefits paid on a claim exceed the specific or aggregate retention, in which case:

(A) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy requires the insurer to defend and adjust the claim, the California Insurance Guarantee Association (CIGA) shall be solely responsible for adjusting and defending the claim, and shall make all payments due under the claim, subject to the limitations and exclusions of this article with regards to covered claims. As to each claim subject to this paragraph, notwithstanding any other provisions of this code or the Labor Code, and regardless of whether the amount paid by CIGA is

adequate to discharge a claim obligation, neither the self-insured employer, group of employers, nor the Self-Insurers' Security Fund shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in subdivision (c).

(B) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy does not require the insurer to defend and adjust the claim, the permissibly self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall not have further payment obligations with respect to the claim, but shall continue defending and adjusting the claim, and shall have the right, but not the obligation, in any proceeding to assert all applicable statutory limitations and exclusions as contained in this article with regard to the covered claim. CIGA shall have the right, but not the obligation, to intervene in any proceeding where the self-insured employer, group of self-insured employers, or the Self-Insurers' Security Fund is defending any such claim and shall be permitted to raise the appropriate statutory limitations and exclusions as contained in this article with respect to covered claims. Regardless of whether the self-insured employer or group of employers, or the Self-Insurers' Security Fund, asserts the applicable statutory limitations and exclusions, or whether CIGA intervenes in any such proceeding, CIGA shall be solely responsible for paying all benefits due on the claim, subject to the exclusions and limitations of this article with respect to covered claims. As to each claim subject to this paragraph, notwithstanding any other provision of this code or the Labor Code and regardless of whether the amount paid by CIGA is adequate to discharge a claim obligation, neither the self-insured employer, group of employers, nor the Self-Insurers' Security Fund shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in this subdivision.

(d) In the event that the benefits paid on the covered claim exceed the per claim limit in paragraph (7) of subdivision (c), the responsibility for paying, adjusting, and defending the claim shall be returned to the permissibly self-insured employer or group of employers, or the Self-Insurers' Security Fund.

These provisions shall apply to all pending and future insolvencies. For purposes of this paragraph, a pending insolvency is one involving a company that is currently receiving benefits from the guarantee association.

(e) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the department.

(f) "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.

(g) "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 is presumed to exist if a 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 another person. This presumption may be rebutted by showing that control does not in fact exist.

(h) "Claimant" means an insured making a first party claim or a person instituting a liability claim, provided that no person who is an affiliate of the insolvent insurer may be a claimant.

(i) "Ocean marine insurance" includes marine insurance as defined in Section 103, except for inland marine insurance, as well as any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance, such as hull and machinery, marine builders' risks, and marine protection and indemnity. Those perils and risks insured against include, without limitation, loss, damage, or expense or legal liability of the insured arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death for loss or damage to the property of the insured or another person.

(j) "Unearned premium" means that portion of a premium as calculated by the liquidator that had not been earned because of the cancellation of the insolvent insurer's policy and is that premium remaining for the unexpired term of the insolvent insurer's policy. "Unearned premium" does not include an amount sought as return of a premium under a policy providing retroactive insurance of a known loss or return of a premium under a retrospectively rated policy or a policy subject to a contingent surcharge or a policy in which the final determination of the premium cost is computed after expiration of the policy and is calculated on the basis of actual loss experience during the policy period.

SEC. 167. Section 1626 of the Insurance Code is amended to read:

1626. (a) A life licensee is a person authorized to act as a life agent. Licenses to act as a life agent under this chapter shall be of the following types:

(1) Life-only, which license shall entitle the licensee to transact insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health, which license shall entitle the licensee to transact insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(b) An accident and health agent licensee also is authorized to transact 24-hour care coverage, as defined in Section 1749.02, pursuant to subdivision (d) of Section 1749 or subdivision (d) of Section 1749.33.

SEC. 168. Section 1764.1 of the Insurance Code is amended to read:

1764.1. (a) (1) Every nonadmitted insurer, in the case of insurance to be purchased by a resident of this state pursuant to Section 1760, and surplus line broker, in the case of any insurance with a nonadmitted carrier to be transacted by the surplus line broker, shall be responsible to ensure that, at the time of accepting an application for an insurance policy, other than a renewal of that policy, issued by a nonadmitted insurer, the signature of the applicant on the disclosure statement set forth in subdivision (b) is obtained. In fulfillment of this responsibility, the nonadmitted insurer and the surplus line broker may rely, if it is reasonable under all the circumstances to do so, on the disclosure statement received from a licensee involved in the transaction as prima facie evidence that the disclosure statement and appropriate signature from the applicant have been obtained. The surplus line broker shall maintain a copy of the signed disclosure statement in his or her records for a period of at least five years. These records shall be made available to the commissioner and the insured upon request. 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 line broker. The disclosure statement shall be in boldface 16-point type on a freestanding document. In addition, every policy issued by a nonadmitted insurer and every certificate evidencing the placement of insurance shall contain, or have affixed to it by the insurer or surplus line broker, the disclosure statement set forth in subdivision (b) in boldface 16-point type on the front page of the policy.

(2) In a case in which the applicant has not received and completed the signed disclosure form required by this section, he or she may cancel the insurance so placed. The cancellation shall be on a pro rata basis as to premium, and the applicant shall be entitled to the return of any broker's fees charged for the placement.

(b) The following notice shall be provided to policyholders and applicants for insurance as provided by subdivision (a), and shall be printed in English and in the language principally used by the surplus

line broker and nonadmitted insurer to advertise, solicit, or negotiate the sale and purchase of surplus line insurance. The surplus line 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 INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.

2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT THAT APPLY TO CALIFORNIA LICENSED INSURERS.

3. THE INSURER 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 INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.

4. CALIFORNIA MAINTAINS A LIST OF ELIGIBLE SURPLUS LINE INSURERS APPROVED BY THE INSURANCE COMMISSIONER. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE INTERNET WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE: www.insurance.ca.gov.

5. FOR ADDITIONAL INFORMATION ABOUT THE INSURER, YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE, AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: ____.

6. IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM WILL BE PRORATED AND ANY BROKER'S FEE

CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU."

(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. The producer shall ensure that the notice affixed to the confirmation of insurance, certificate of placement, or the policy is provided to the insured. The producer shall insert the current toll-free telephone number of the Department of Insurance as provided in paragraph 5 of the notice.

(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) an agent or broker through whom the insurance is being placed, (ii) a subagent or subproducer involved in the transaction, or (iii) an agent or broker that is a business organization employing or contracting with a person mentioned in clauses (i) and (ii).

(2) The surplus line broker shall be responsible to ensure that the applicant is an industrial insured. A surplus line broker who reasonably relies on information provided in good faith by the applicant, whether directly or through the producer, shall be deemed to be in compliance with this requirement.

(d) For purposes of compliance with the requirement of subdivision (a) that the signature of the applicant be obtained, the following shall apply:

(1) If 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) In the case of commercial lines coverage, or personal insurance coverage subject to Section 675 and any umbrella coverage associated therewith, 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. When a policy is canceled, the broker shall inform the applicant that the broker's fee must be returned and that the premium must be prorated.

(e) Notwithstanding subdivision (a), this section shall not apply to insurance issued or delivered in this state by a nonadmitted Mexican insurer by and through a surplus line broker affording coverage exclusively in the Republic of Mexico on property located temporarily or permanently in, or operations conducted temporarily or permanently within, the Republic of Mexico.

SEC. 169. Section 1765 of the Insurance Code is amended to read:

1765. (a) A license under this chapter shall be applied for and renewed by the filing with the commissioner of a written application therefor, in accordance with Section 1652.

(b) Subject to subdivision (f), the commissioner shall issue a license authorizing an applicant who is trustworthy and competent to transact an insurance brokerage business in a manner to safeguard the interest of the insured, to act as a surplus line broker from the date of the license until the expiration date specified in Section 1630. In order to transact surplus line brokerage business, an individual shall be licensed as a surplus line broker.

(c) An applicant for a surplus line broker's license, as part of the application and a condition of the issuance of the license, shall file a bond to the people of the State of California in the sum of fifty thousand dollars ($50,000), conditioned that the licensee will fully and faithfully comply with the requirements of this chapter, and all applicable provisions of this code. The bond shall be subject to Sections 1662 and 1663. A surplus line broker bond is not required for an individual licensed as a surplus line broker who transacts only on behalf of a licensed surplus line broker organization.

(d) The filing fee for a license to act as a surplus line broker shall be seven hundred dollars ($700) every two years, or for any initial fractional license year. An applicant for a business entity license, as provided in subdivision (a) of Section 1765.2, shall provide the names of all persons who may exercise the power and perform the duties under the license. Whenever an organization licensed as a surplus line broker desires to change, remove, or add to the natural person or persons who are to

transact insurance under authority of its license, it shall immediately file an application or notice with the commissioner for an endorsement changing its license accordingly, on a form prescribed by the commissioner. The fee for adding or removing from a surplus line broker's license issued to an organization the name of a natural person, named thereon, shall be twenty-four dollars ($24). The commissioner shall require that the qualifying examination provided by subdivision (a) of Section 1676 be taken by a natural person named by the organization to exercise its agency or brokerage powers who would be required to take and pass the qualifying examination. That natural person or persons and the organization are in all other respects subject to the provisions of this chapter and the insurance laws.

(e) The license shall be renewed in accordance with, and subject to, Sections 1717, 1718, 1719, and 1720.

(f) The commissioner may deny, suspend, or revoke a license applied for or granted pursuant to this chapter on all or any one of the grounds and in accordance with the procedures provided in Article 6 (commencing with Section 1666) and Article 13 (commencing with Section 1737) of Chapter 5, if the commissioner finds that the applicant or licensee has committed a violation of a provision of this code.

SEC. 170. Section 1872.8 of the Insurance Code is amended to read:

1872.8. (a) An insurer doing business in this state shall pay an annual special purpose assessment to be determined by the commissioner, but not to exceed one dollar ($1) annually, for each vehicle insured under an insurance policy it issues in this state, in order to fund increased investigation and prosecution of fraudulent automobile insurance claims and economic automobile theft. Thirty-four percent of those funds received from ninety-five cents ($0.95) of the special purpose assessment per insured vehicle shall be distributed to the Fraud Division for enhanced investigative efforts, 15 percent of that ninety-five cents ($0.95) shall be deposited in the Motor Vehicle Account for appropriation to the Department of the California Highway Patrol for enhanced prevention and investigative efforts to deter economic automobile theft, and 51 percent of that ninety-five cents ($0.95) shall be distributed to district attorneys for purposes of investigation and prosecution of automobile insurance fraud cases, including fraud involving economic automobile theft.

(b) (1) The commissioner shall award funds to district attorneys according to population. The commissioner may alter this distribution formula as necessary to achieve the most effective distribution of funds. A local district attorney desiring a portion of those funds shall submit to the commissioner an application detailing the proposed use of any moneys that may be provided. The application shall include a detailed

accounting of assessment funds received and expended in prior years, including, at a minimum, all of the following:

(A) The amount of funds received and expended.

(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.

(C) The results achieved as a consequence of expenditures made, including the number of investigations, arrests, complaints filed, convictions, and the amounts originally claimed in cases prosecuted compared to payments actually made in those cases.

(D) Other relevant information as the commissioner may reasonably require.

A district attorney who fails to submit an application by the deadline set by the commissioner shall be subject to loss of distribution of the moneys. The commissioner may consider recommendations and advice of the Fraud Division and the Commissioner of the California Highway Patrol in allocating moneys to local district attorneys. A district attorney that receives funds shall submit an annual report to the commissioner, which may be made public, as to the success of the program administered. The report shall provide information and statistics on the number of active investigations, arrests, indictments, and convictions. Both the application for moneys and the distribution of moneys shall be public documents. The commissioner shall conduct a fiscal audit of the programs administered under this subdivision at least once every three years. The costs of a fiscal audit shall be shared equally between the department and the district attorney. Information submitted to the commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential. If the commissioner determines that a district attorney is unable or unwilling to investigate and prosecute automobile insurance fraud claims as provided by this subdivision or Section 1874.8, the commissioner may discontinue the distribution of funds allocated for that county and may redistribute those funds to other eligible district attorneys.

(2) The Department of the California Highway Patrol shall submit to the commissioner, for informational purposes only, a report detailing the department's proposed use of funds under this section and an annual report in the same format as required of district attorneys under paragraph (1).

(c) The remaining five cents ($0.05) shall be spent for enhanced automobile insurance fraud investigation by the Fraud Division.

(d) Except for funds to be deposited in the Motor Vehicle Account for allocation to the Department of the California Highway Patrol for purposes of the Motor Vehicle Theft Prevention Act (Chapter 5

(commencing with Section 10900) of Division 4 of the Vehicle Code), the funds received under this section shall be deposited in the Insurance Fund and be expended and distributed when appropriated by the Legislature.

(e) In the course of its investigations, the Fraud Division shall pursue aggressively all reported incidents of probable fraud and, in addition, shall forward to the appropriate disciplinary body the names of individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity along with all relevant supporting evidence.

(f) As used in this section, "economic automobile theft" means automobile theft perpetrated for financial gain, including, but not limited to, the following:

(1) Theft of a motor vehicle for financial gain.

(2) Reporting that a motor vehicle has been stolen for the purpose of filing a false insurance claim.

(3) Engaging in any act prohibited by Chapter 3.5 (commencing with Section 10801) of Division 4 of the Vehicle Code.

(4) Switching of vehicle identification numbers to obtain title to a stolen motor vehicle.

SEC. 171. Section 1872.81 of the Insurance Code is amended to read:

1872.81. In addition to the special purpose assessment imposed pursuant to Section 1872.8, an insurer doing business in this state shall pay to the commissioner an annual special purpose assessment of thirty cents ($0.30) for each vehicle insured under an insurance policy it issues in this state, for expenditure as follows:

(a) An amount equivalent to twenty cents ($0.20) of the special purpose assessment imposed per insured vehicle by this section shall be used for the purpose of paying for consumer service functions of the department that are related to automobile insurance. The revenues under this subdivision shall be used to improve service to consumers through the rating and underwriting services bureau, the claims services bureau, the investigations bureau, or any successor bureaus of the department that may assume the consumer service functions of these bureaus, and legal services in support of these bureaus. The department shall develop a plan for the use of the revenues available under this subdivision for the purposes authorized, and shall submit the plan to the Assembly and Senate Committees on Insurance.

(b) An amount equivalent to ten cents ($0.10) of the special purpose assessment imposed per insured vehicle by this section shall be used for the purpose of improving consumer functions of the department related to automobile insurance. Revenues available under this subdivision shall

be used to improve consumer functions through one or more of the following:

(1) The rating and underwriting services bureau.

(2) The claims services bureau.

(3) The investigations bureau.

(4) Any successor bureau of the department that may assume automobile insurance consumer functions of these bureaus, and legal services in support of these bureaus. These revenues also may be used for improving the ability of the department to respond to consumer complaints and information requests through the department's toll-free telephone number, and for improving the ability of the department to offer information about automobile insurance rates to the public. The department shall develop a plan for the use of the revenues available under this subdivision for the purpose authorized, and shall submit the plan to the Assembly and Senate Committees on Insurance.

(c) Notwithstanding subdivision (b), the Department of Insurance, after January 1, 2006, and the Department of Motor Vehicles, after that date, may propose to the budget committees of the Legislature a proposed use of up to five cents ($0.05) of the ten-cent ($0.10) special purpose assessment levied pursuant to subdivision (b) related to informing consumers about the existence of any low-cost automobile insurance program authorized in law pursuant to Section 11629.7 or other statutes that also establish a program of the type identified in Section 11629.7. Funds for this purpose shall not be expended without prior budget approval. The total amount of funds authorized to both departments in total, or to one department in total, for this purpose shall not exceed five cents ($0.05). The departments shall explain, with as much specificity as is reasonably possible, the objectives for the use of the funds and quantitative criteria by which the Legislature may evaluate the effectiveness of the department's use of funds.

(d) At least five cents ($0.05) of the ten-cent ($0.10) special purpose assessment shall be directed to the purpose set forth in subdivision (a) until January 1, 2009, and to the degree that funding for low-cost auto insurance is not fully appropriated up to five cents ($0.05), the difference thereof shall be additionally allocated to purposes set forth in subdivision (a).

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 172. Section 1872.86 of the Insurance Code is amended to read:

1872.86. (a) An insurer doing business in this state shall pay an annual special purpose assessment to be determined by the commissioner,

not to exceed five thousand one hundred dollars ($5,100), to be used exclusively for the support of the Fraud Division. All moneys received by the commissioner from insurers pursuant to this section shall be transmitted to the Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund.

(b) The Fraud Division shall report annually, on the department's Internet Web site, all of the following information:

(1) The number of suspected fraudulent claim referrals made to the Fraud Division pursuant to Section 1872.4, by line of insurance.

(2) The number of investigations opened by the Fraud Division, by line of insurance, at the local, state, and federal levels.

(3) The number of investigations referred by the Fraud Division for criminal prosecution, by line of insurance, at the local, state, and federal levels.

(4) The number of insurer fraud cases investigated by the department's Enforcement Branch.

(5) The number of criminal complaints filed by prosecutors at the local, state, and federal levels.

(6) The number of convictions at the local, state, and federal levels.

(7) The total amount of court-ordered restitution, and the amount collected by the courts for the victims.

(8) The number of training presentations focusing on the current schemes and trends, investigative tools and techniques, and proper reporting requirements needed to increase the quality of suspected fraudulent referrals by insurance industry special investigation units.

(9) The number of vacant peace officer positions, including information on the number and rate of vacancies for which an employment commitment has been made and on the number and rate of vacancies required to meet budgeted salary savings requirements.

SEC. 173. Section 15031 of the Insurance Code is amended to read:

15031. (a) A licensee shall not conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the commissioner to do so.

(b) The commissioner shall not authorize the use of a fictitious or other business name that is so similar to that of a public officer or agency or that used by another licensee that the public may be confused or misled thereby.

(c) The authorization shall require, as a condition precedent to the use of a fictitious name, that the licensee comply with Section 1724.5 of this code and Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

(d) A licensee desiring to conduct his or her business under more than one fictitious name shall obtain the authorization of the commissioner

in a manner prescribed in this section for the use of additional fictitious names.

(e) The licensee shall pay a fee of ten dollars ($10) for each authorization to use an additional fictitious name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name, the licensee shall pay a fee of ten dollars ($10) for that authorization.

SEC. 174. Section 77.7 of the Labor Code is amended to read:

77.7. (a) A study shall be undertaken to examine the causes of the number of insolvencies among workers' compensation insurers within the past 10 years. The study shall be conducted by an independent research organization under the direction of the commission. Not later than July 1, 2009, the commission and the department shall publish the report of the study on its Internet Web site and shall inform the Legislature and the Governor of the availability of the report.

(b) The study shall include an analysis of the following: the access to capital for workers' compensation insurance from all sources between 1993 and 2003; the availability, source, and risk assumed of reinsurers during this period; the use of deductible policies and their effect on solvency regulation; market activities by insurers and producers that affected market concentration; activities, including financial oversight of insurers, by insurance regulators and the National Association of Insurance Commissioners during this period; the quality of data reporting to the commissioner's designated statistical agent and the accuracy of recommendations provided by the commissioner's designated statistical agent during this period of time; and underwriting, claims adjusting, and reserving practices of insolvent insurers. The study shall also include a survey of reports of other state agencies analyzing the insurance market response to rising system costs within the applicable time period.

(c) Data reasonably required for the study shall be made available by the California Insurance Guarantee Association, Workers' Compensation Insurance Rating Bureau, third-party administrators for the insolvent insurers, whether prior to or after the insolvency, the State Compensation Insurance Fund, and the Department of Insurance. The commission shall also include a survey of reports by the commission and other state agencies analyzing the insurance market response to rising system costs within the applicable period of time.

(d) The cost of the study is not to exceed one million dollars ($1,000,000). Confidential information identifiable to a natural person or insurance company held by an agency, organization, association, or other person or entity shall be released to researchers upon satisfactory agreement to maintain confidentiality. Information or material that is

not subject to subpoena from the agency, organization, association, or other person or entity shall not be subject to subpoena from the commission or the contracted research organization.

(e) The costs of the study shall be borne one-half by the commission from funds derived from the Workers' Compensation Administration Revolving Fund and one-half by insurers from assessments allocated to each insurer based on the insurer's proportionate share of the market as shown by the Market Share Report for Calendar Year 2006 published by the Department of Insurance.

(f) In order to protect individual company trade secrets, this study shall not lead to the disclosure of, either directly or indirectly, the business practices of a company that provides data pursuant to this section. This prohibition shall not apply to insurance companies that have been ordered by a court of competent jurisdiction to be placed in liquidation under the supervision of a liquidator or other authority.

SEC. 175. Section 4604.5 of the Labor Code is amended to read:

4604.5. (a) Upon adoption by the administrative director of a medical treatment utilization schedule pursuant to Section 5307.27, the recommended guidelines set forth in the schedule shall be presumptively correct on the issue of extent and scope of medical treatment. The presumption is rebuttable and may be controverted by a preponderance of the scientific medical evidence establishing that a variance from the guidelines reasonably is required to cure or relieve the injured worker from the effects of his or her injury. The presumption created is one affecting the burden of proof.

(b) The recommended guidelines set forth in the schedule adopted pursuant to subdivision (a) shall reflect practices that are evidence and scientifically based, nationally recognized, and peer reviewed. The guidelines shall be designed to assist providers by offering an analytical framework for the evaluation and treatment of injured workers, and shall constitute care in accordance with Section 4600 for all injured workers diagnosed with industrial conditions.

(c) Three months after the publication date of the updated American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines, and continuing until the effective date of a medical treatment utilization schedule, pursuant to Section 5307.27, the recommended guidelines set forth in the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines shall be presumptively correct on the issue of extent and scope of medical treatment, regardless of date of injury. The presumption is rebuttable and may be controverted by a preponderance of the evidence establishing that a variance from the guidelines reasonably is required to cure and relieve the employee from the effects

of his or her injury, in accordance with Section 4600. The presumption created is one affecting the burden of proof.

(d) (1) Notwithstanding the medical treatment utilization schedule or the guidelines set forth in the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines, for injuries occurring on and after January 1, 2004, an employee shall be entitled to no more than 24 chiropractic, 24 occupational therapy, and 24 physical therapy visits per industrial injury.

(2) Paragraph (1) shall not apply when an employer authorizes, in writing, additional visits to a health care practitioner for physical medicine services.

(3) Paragraph (1) shall not apply to visits for postsurgical physical medicine and postsurgical rehabilitation services provided in compliance with a postsurgical treatment utilization schedule established by the administrative director pursuant to Section 5307.27.

(e) For all injuries not covered by the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines or the official utilization schedule after adoption pursuant to Section 5307.27, authorized treatment shall be in accordance with other evidence-based medical treatment guidelines that are recognized generally by the national medical community and scientifically based.

SEC. 176. Section 4658.5 of the Labor Code is amended to read:

4658.5. (a) Except as provided in Section 4658.6, if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability, the injured employee shall be eligible for a supplemental job displacement benefit in the form of a nontransferable voucher for education-related retraining or skill enhancement, or both, at state-approved or accredited schools, as follows:

(1) Up to four thousand dollars ($4,000) for permanent partial disability awards of less than 15 percent.

(2) Up to six thousand dollars ($6,000) for permanent partial disability awards between 15 and 25 percent.

(3) Up to eight thousand dollars ($8,000) for permanent partial disability awards between 26 and 49 percent.

(4) Up to ten thousand dollars ($10,000) for permanent partial disability awards between 50 and 99 percent.

(b) The voucher may be used for payment of tuition, fees, books, and other expenses required by the school for retraining or skill enhancement. No more than 10 percent of the voucher moneys may be used for vocational or return-to-work counseling. The administrative director shall adopt regulations governing the form of payment, direct

reimbursement to the injured employee upon presentation to the employer of appropriate documentation and receipts, and other matters necessary to the proper administration of the supplemental job displacement benefit.

(c) Within 10 days of the last payment of temporary disability, the employer shall provide to the employee, in the form and manner prescribed by the administrative director, information that provides notice of rights under this section. This notice shall be sent by certified mail.

(d) This section shall apply to injuries occurring on or after January 1, 2004.

SEC. 177. Section 293 of the Penal Code is amended to read:

293. (a) An employee of a law enforcement agency who personally receives a report from a 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) A 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) A law enforcement agency shall not disclose to a person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.

(d) A law enforcement agency shall not disclose to a person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation offices of county probation departments, or other persons or public agencies where authorized or required by law, 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.

(f) Parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, and probation officers of county probation departments shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense, the alleged perpetrator of which is a parolee who is alleged to have committed the sex offense while on parole, or in the case of a county probation officer,

the person who is alleged to have committed the sex offense is a probationer or is under investigation by a county probation department pursuant to Section 1203.

SEC. 178. Section 398 of the Penal Code is amended to read:

398. (a) If a person owning or having custody or control of an animal knows, or has reason to know, that the animal bit another person, he or she shall, as soon as is practicable, but no later than 48 hours thereafter, provide the other person with his or her name, address, telephone number, and the name and license tag number of the animal who bit the other person. If the person with custody or control of the animal at the time the bite occurs is a minor, he or she shall instead provide identification or contact information of an adult owner or responsible party. If the animal is required by law to be vaccinated against rabies, the person owning or having custody or control of the animal shall, within 48 hours of the bite, provide the other person with information regarding the status of the animal's vaccinations. Violation of this section is an infraction punishable by a fine of not more than one hundred dollars ($100).

(b) For purposes of this section, it is necessary for the skin of the person to be broken or punctured by the animal for the contact to be classified as a bite.

SEC. 179. Section 903.2 of the Penal Code is amended to read:

903.2. The jury commissioner shall diligently inquire and inform himself or herself in respect to the qualifications of persons resident in his or her county who may be liable to be summoned for grand jury duty. He or she may require a person to answer, under oath to be administered by him or her, all questions as he or she may address to that person, touching his or her name, age, residence, occupation, and qualifications as a grand juror, and also all questions as to similar matters concerning other persons of whose qualifications for grand jury duty he or she has knowledge.

The commissioner and his or her assistants, referred to in Sections 69895 and 69896 of the Government Code, shall have the power to administer oaths and shall be allowed actual traveling expenses incurred in the performance of their duties. Those traveling expenses shall be audited, allowed, and paid out of the general fund of the county.

SEC. 180. Section 1170 of the Penal Code, as amended by Section 1 of Chapter 740 of the Statutes of 2007, is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of

sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to promote successful return to the community to an inmate with a short remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In a case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given another disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. This article does not affect a provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In a case in which the amount of preimprisonment credit under Section 2900.5 or another provision of law is equal to or exceeds a sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the secretary. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall

rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall select the term that, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court shall not impose an upper term by using the fact of an enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court also shall inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the secretary, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided that the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings, or both, determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, or loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) A physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

(6) Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate

terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(7) A recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(8) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(9) If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

(10) The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that a prisoner who is given a prognosis of six months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

(f) A sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and other applicable provisions of law.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 181. Section 1369.1 of the Penal Code is amended to read:

1369.1. (a) As used in this chapter, for the sole purpose of administering antipsychotic medication pursuant to a court order, "treatment facility" includes a county jail. Upon the concurrence of the county board of supervisors, the county mental health director, and the county sheriff, the jail may be designated to provide medically approved medication to defendants found to be mentally incompetent and unable

to provide informed consent due to a mental disorder, pursuant to this chapter. In the case of Madera, Napa, and Santa Clara Counties, the concurrence shall be with the board of supervisors, the county mental health director, and the county sheriff or the chief of corrections. The provisions of Sections 1370 and 1370.01 shall apply to antipsychotic medications provided in a county jail, provided, however, that the maximum period of time a defendant may be treated in a treatment facility pursuant to this section shall not exceed six months.

(b) The State Department of Mental Health shall report to the Legislature on or before January 1, 2009, on all of the following:

(1) The number of defendants in the state who are incompetent to stand trial.

(2) The resources available at state hospitals and local mental health facilities, other than jails, for returning these defendants to competence.

(3) Additional resources that are necessary to reasonably treat, in a reasonable period of time, at the state and local levels, excluding jails, defendants who are incompetent to stand trial.

(4) What, if any, statewide standards and organizations exist concerning local treatment facilities that could treat defendants who are incompetent to stand trial.

(5) Address the concerns regarding defendants who are incompetent to stand trial who are currently being held in jail awaiting treatment.

(c) This section does not abrogate or limit any provision of law enacted to ensure the due process rights set forth in Sell v. United States (2003) 539 U.S. 166.

(d)This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 182. Section 11062 of the Penal Code is amended to read:

11062. (a) The Department of Justice shall establish and chair a task force to conduct a review of California's crime laboratory system.

(b) The task force shall be known as the "Crime Laboratory Review Task Force." The composition of the task force shall, except as specified in paragraph (16), be comprised of one representative of each of the following entities:

(1) The Department of Justice.

(2) The California Association of Crime Laboratory Directors.

(3) The California Association of Criminalists.

(4) The International Association for Identification.

(5) The American Society of Crime Laboratory Directors.

(6) The Department of the California Highway Patrol.

(7) The California State Sheriffs' Association, from a department with a crime laboratory.

(8) The California District Attorneys Association, from an office with a crime laboratory.

(9) The California Police Chiefs Association, from a department with a crime laboratory.

(10) The California Peace Officers' Association.

(11) The California Public Defenders Association.

(12) A private criminal defense attorney organization.

(13) The Judicial Council, to be appointed by the Chief Justice.

(14) The Office of the Speaker of the Assembly.

(15) The Office of the President pro Tempore of the Senate.

(16) Two representatives to be appointed by the Governor.

(c) The task force shall review and make recommendations as to how best to configure, fund, and improve the delivery of state and local crime laboratory services in the future. To the extent feasible, the review and recommendations shall include, but are not limited to, addressing the following issues:

(1) With respect to organization and management of crime laboratory services, consideration of the following:

(A) If the existing mix of state and local crime laboratories is the most effective and efficient means to meet California's future needs.

(B) Whether laboratories should be further consolidated. If consolidation occurs, who should have oversight of crime laboratories.

(C) If management responsibilities for some laboratories should be transferred.

(D) Whether all laboratories should provide similar services.

(E) How other states have addressed similar issues.

(2) With respect to staff and training, consideration of the following:

(A) How to address recruiting and retention problems of laboratory staff.

(B) Whether educational and training opportunities are adequate to supply the needs of fully trained forensic criminalists in the future.

(C) Whether continuing education is available to ensure that forensic science personnel are up-to-date in their fields of expertise.

(D) If crime laboratory personnel should be certified, and, if so, the appropriate agency to assume this responsibility.

(E) The future educational role, if any, for the University of California or the California State University.

(3) With respect to funding, consideration of the following:

(A) Whether the current method of funding laboratories is predictable, stable, and adequate to meet future growth demands and to provide accurate and timely testing results.

(B) The adequacy of salary structures to attract and retain competent analysts and examiners.

(4) With respect to performance standards and equipment, consideration of the following:

(A) Whether workload demands are being prioritized properly and whether there are important workload issues not being addressed.

(B) If existing laboratories have the necessary capabilities, staffing, and equipment.

(C) If statewide standards should be developed for the accreditation of forensic laboratories, including minimum staffing levels, and if so, a determination regarding what entity should serve as the sanctioning body.

(d) The task force also shall seek input from specialized law enforcement disciplines, other state and local agencies, relevant advocacy groups, and the public. The final report also shall include a complete inventory of existing California crime laboratories. This inventory shall contain sufficient details on staffing, workload, budget, major instrumentation, and organizational placement within the controlling agency.

(e) The first meeting of the task force shall occur no later than December 9, 2007.

(f) On or before July 1, 2009, the task force shall submit a final report of its findings to the Department of Finance and to the budget and public safety committees of both houses of the Legislature.

SEC. 183. Section 4584 of the Public Resources Code is amended to read:

4584. Upon determining that the exemption is consistent with the purposes of this chapter, the board may exempt from this chapter, or portions thereof, a person engaged in forest management whose activities are limited to any of the following:

(a) The cutting or removal of trees for the purpose of constructing or maintaining a right-of-way for utility lines.

(b) The planting, growing, nurturing, shaping, shearing, removal, or harvest of immature trees for Christmas trees or other ornamental purposes or minor forest products, including fuelwood.

(c) The cutting or removal of dead, dying, or diseased trees of any size.

(d) Site preparation.

(e) Maintenance of drainage facilities and soil stabilization treatments.

(f) Timber operations on land managed by the Department of Parks and Recreation.

(g) (1) The one-time conversion of less than three acres to a nontimber use. A person, whether acting as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, shall not obtain more than one exemption pursuant to this

subdivision in a five-year period. If a partnership has as a member, or if a corporation or other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this subdivision, means an individual, partnership, corporation, or other legal entity.

(2) (A) Notwithstanding Section 4554.5, the board shall adopt regulations that become effective and operative on or before July 1, 2002, and do all of the following:

(i) Identify the required documentation of a bona fide intent to complete the conversion that an applicant will need to submit in order to be eligible for the exemption in paragraph (1).

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

(iii) Require the exemption under this subdivision to expire if there is a change in timberland ownership. The person who originally submitted an application for an exemption under this subdivision shall notify the department of a change in timberland ownership on or before five calendar days after a change in ownership.

(iv) The board may adopt regulations allowing a waiver of the five-year limitation described in paragraph (1) upon finding that the imposition of the five-year limitation would impose an undue hardship on the applicant for the exemption. The board may adopt a process for an appeal of a denial of a waiver.

(B) The application form for the exemption pursuant to paragraph (1) shall prominently advise the public that a violation of the conversion exemption, including a conversion applied for in the name of someone other than the person or entity implementing the conversion in bona fide good faith, is a violation of this chapter and penalties may accrue up to ten thousand dollars ($10,000) for each violation pursuant to Article 8 (commencing with Section 4601).

(h) Easements granted by a right-of-way construction agreement administered by the federal government if any timber sales and operations within or affecting these areas are reviewed and conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(i) The cutting, removal, or sale of timber or other solid wood forest products from the species Taxus brevifolia (Pacific yew), if the known locations of any stands of this species three inches and larger in diameter at breast height are identified in the exemption notice submitted to the department. Nothing in this subdivision is intended to authorize the peeling of bark from, or the cutting or removal of, Taxus brevifolia within a watercourse and lake protection zone, special treatment area, buffer zone, or other area where timber harvesting is prohibited or otherwise restricted pursuant to board rules.

(j) (1) The cutting or removal of trees in compliance with Sections 4290 and 4291 that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuel break for a distance of not more than 150 feet on each side from an approved and legally permitted structure that complies with the California Building Standards Code, when that cutting or removal is conducted in compliance with this subdivision. For purposes of this subdivision, an "approved and legally permitted structure" includes only structures that are designed for human occupancy and garages, barns, stables, and structures used to enclose fuel tanks.

(2) (A) The cutting or removal of trees pursuant to this subdivision is limited to cutting or removal that will result in a reduction in the rate of fire spread, fire duration and intensity, fuel ignitability, or ignition of the tree crowns and shall be in accordance with any regulations adopted by the board pursuant to this section.

(B) Trees shall not be cut or removed pursuant to this subdivision by the clearcutting regeneration method, by the seed tree removal step of the seed tree regeneration method, or by the shelterwood removal step of the shelterwood regeneration method.

(3) (A) Surface fuels, including logging slash and debris, low brush, and deadwood, that could promote the spread of wildfire shall be chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations pursuant to this subdivision.

(B) (i) All surface fuels that are not chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations may be determined to be a nuisance and subject to abatement by the department or the city or county having jurisdiction.

(ii) The costs incurred by the department, city, or county, as the case may be, to abate the nuisance upon any parcel of land subject to the timber operations, including, but not limited to, investigation, boundary determination, measurement, and other related costs, may be recovered

by special assessment and lien against the parcel of land by the department, city, or county. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ad valorem taxes.

(4) All timber operations conducted pursuant to this subdivision shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances. This paragraph does not authorize the cutting, removal, or sale of timber or other solid wood forest products within an area where timber harvesting is prohibited or otherwise restricted pursuant to the rules or regulations adopted by the board.

(5) (A) The board shall adopt regulations, initially as emergency regulations in accordance with subparagraph (B), that the board considers necessary to implement and to obtain compliance with this subdivision.

(B) The emergency regulations adopted pursuant to subparagraph (A) shall be adopted 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 emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(k) (1) Until January 1, 2013, the harvesting of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns.

(2) The board may authorize an exemption pursuant to paragraph (1) only if the tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand, and the tree harvesting area will not exceed 300 acres.

(3) The notice of exemption, which shall be known as the Forest Fire Prevention Exemption, may be authorized only if all of the conditions specified in paragraphs (4) to (10), inclusive, are met.

(4) A registered professional forester shall prepare the notice of exemption and submit it to the director, and include a map of the area of timber operations that complies with the requirements of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision (x) of Section 1034 of Title 14 of the California Code of Regulations.

(5) (A) The registered professional forester who submits the notice of exemption shall include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels.

(B) The level of residual stocking shall be consistent with maximum sustained production of high-quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Stocking shall not be reduced below the standards required by any of the following provisions that apply to the exemption at issue:

(i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 913.3 of Title 14 of the California Code of Regulations.

(ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 933.3 of Title 14 of the California Code of Regulations.

(iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 953.3 of Title 14 of the California Code of Regulations.

(C) If the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches in diameter at breast height, a minimum of 100 trees over four inches in diameter at breast height shall be retained per acre for Site I, II, and III lands, and a minimum of 75 trees over four inches in diameter at breast height shall be retained per acre for Site IV and V lands.

(6) (A) The registered professional forester who submits the notice shall include selection criteria for the trees to be harvested or the trees to be retained. In the development of fuel reduction prescriptions, the registered professional forester should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations.

(B) All trees that are harvested or all trees that are retained shall be marked or sample marked by or under the supervision of a registered professional forester before felling operations begin. The board shall adopt regulations for sample marking for this section in Title 14 of the California Code of Regulations. Sample marking shall be limited to homogenous forest stand conditions typical of plantations.

(7) (A) The registered professional forester submitting the notice, upon submission of the notice, shall provide a confidential archaeology letter that includes all the information required by any of the following provisions that apply to the exemption at issue:

(i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 929.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 929.5 of Title 14 of the California Code of Regulations.

(ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 949.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 949.5 of Title 14 of the California Code of Regulations.

(iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 969.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 969.5 of Title 14 of the California Code of Regulations.

(B) The director shall submit a complete copy of the confidential archaeological letter and two copies of all required archaeological or historical site records to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of notice submittal to the director. Before submitting the notice to the director, the registered professional forester shall send a copy of the notice to Native Americans, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(8) Only trees less than 18 inches in stump diameter, measured at eight inches above ground level, may be removed. However, within 500 feet of a legally permitted structure, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches in stump diameter, trees less than 24 inches in stump diameter may be removed if that removal complies with this section and is necessary to achieve the goal of fuel reduction. A fuel reduction effort shall not violate the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(9) (A) This subparagraph applies to areas within 500 feet of a legally permitted structure and in areas prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency. The board shall adopt regulations for the treatment of surface and ladder fuels in the harvest area, including logging slash and debris, low brush, small trees, and deadwood, that could promote the spread of wildfire. The regulations adopted by the board shall be consistent with the standards in the board's "General Guidelines for Creating Defensible Space" described in Section 1299 of Title 14 of the California Code of Regulations. Postharvest standards shall include vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:

(i) Ladder and surface fuels shall be spaced to achieve a vertical clearance distance of eight feet or three times the height of the postharvest fuels, whichever is the greater distance, measured from the base of the

live crown of the postharvest dominant and codominant trees to the top of the surface fuels.

(ii) Horizontal spacing shall achieve a minimum separation of two to six times the height of the postharvest fuels, increasing spacing with increasing slope, measured from the outside branch edges of the fuels.

(iii) Dead surface fuel depth shall be less than nine inches.

(iv) Standing dead or dying trees and brush generally shall be removed. That material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subparagraph applies to all areas not described in subparagraph (A).

(i) The postharvest stand shall contain no more than 200 trees over three inches in diameter per acre.

(ii) Vertical spacing shall be achieved by treating dead fuels to a minimum clearance distance of eight feet measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the dead surface fuels.

(iii) All logging slash created by the timber operations shall be treated to achieve a maximum postharvest depth of nine inches above the ground.

(C) The standards required by subparagraphs (A) and (B) shall be achieved on approximately 80 percent of the treated area. The treatment shall include chipping, removing, or other methods necessary to achieve the standards. Ladder and surface fuel treatments, for any portion of the exemption area where timber operations have occurred, shall be done within 120 days from the start of timber operations on that portion of the exemption area or by April 1 of the year following surface fuel creation on that portion of the exemption area if the surface fuels are burned.

(10) Timber operations shall comply with the requirements of paragraphs (1) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations. Timber operations in the Lake Tahoe region shall comply instead with the requirements of paragraphs (1) to (16), inclusive, of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(11) After the timber operations are complete, the department shall conduct an onsite inspection to determine compliance with this subdivision and whether appropriate enforcement action should be initiated.

SEC. 184. Section 5818.2 of the Public Resources Code is amended to read:

5818.2. (a) (1) The funds in the Coastal Wetlands Fund may be expended by the Department of Fish and Game and the State Coastal

Conservancy, upon appropriation by the Legislature, for the maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(2) The funds in the Coastal Wetlands Fund may be expended by the state pursuant to this section in the form of grants.

(3) An applicant may apply to the State Coastal Conservancy for a grant pursuant to the grant application procedures in Division 21 (commencing with Section 31000) to perform maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(b) The Department of Fish and Game and the State Coastal Conservancy may accept contributions to the Coastal Wetlands Fund. The sources of contributions that may be accepted include, but are not limited to, private individuals and organizations, nonprofit organizations, and federal, state, and local agencies including special districts. The contributions accepted may include moneys identified pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) as acceptable mitigation for development projects. The Department of Fish and Game and the State Coastal Conservancy shall deposit a contribution accepted pursuant to this subdivision in the Coastal Wetlands Fund, subject to the requirements of Section 5818.1.

SEC. 185. Section 25402.5.4 of the Public Resources Code is amended to read:

25402.5.4. (a) On or before December 31, 2008, the commission shall adopt minimum energy efficiency standards for all general purpose lights on a schedule specified in the regulations. The regulations, in combination with other programs and activities affecting lighting use in the state, shall be structured to reduce average statewide electrical energy consumption by not less than 50 percent from the 2007 levels for indoor residential lighting and by not less than 25 percent from the 2007 levels for indoor commercial and outdoor lighting, by 2018.

(b) The commission shall make recommendations to the Governor and the Legislature regarding how to continue reductions in electrical consumption for lighting beyond 2018.

(c) The commission may establish programs to encourage the sale in this state of general purpose lights that meet or exceed the standards set forth in subdivision (a).

(d) (1) Except as provided in paragraph (2), the Department of General Services, and all other state agencies, as defined in Section 12200 of the Public Contract Code, in coordination with the commission, shall cease purchasing general purpose lights that do not meet the

standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(2) The Department of General Services, and all other state agencies, as defined in Section 12200 of the Public Contract Code, in coordination with the commission shall cease purchasing general purpose lights with an appearance that is historically appropriate for the facilities in which the lights are being used, and that do not meet the standards adopted pursuant to subdivision (a) within four years of those standards being adopted.

(e) It is the intent of the Legislature to encourage the Regents of the University of California, in coordination with the commission, to cease purchasing general purpose lights that do not meet the standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(f) (1) (A) For purposes of this section, "general purpose lights" means lamps, bulbs, tubes, or other electric devices that provide functional illumination for indoor residential, indoor commercial, and outdoor use.

(B) General purpose lights do not include any of the following types of specialty lighting: appliance, black light, bug, colored, infrared, left-hand thread, marine, marine signal service, mine service, plant light, reflector, rough service, shatter resistant, sign service, silver bowl, showcase, three-way, traffic signal, and vibration service or vibration resistant.

(2) The commission may, after one or more public workshops, with public notice and an opportunity for all interested parties to comment, provide for inclusion of a particular type of specialty light in its energy efficiency standards applicable to general purpose lighting, if it finds that there has been a significant increase in sales of that particular type of particular specialty light due to the use of that specialty light in general purpose lighting applications.

(3) General purpose lights do not include lights needed to provide special-needs lighting for individuals with exceptional needs.

SEC. 186. Section 25402.10 of the Public Resources Code is amended to read:

25402.10. (a) On and after January 1, 2009, electric and gas utilities shall maintain records of the energy consumption data of all nonresidential buildings to which they provide service. This data shall be maintained, in a format compatible for uploading to the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager, for at least the most recent 12 months.

(b) On and after January 1, 2009, upon the written authorization or secure electronic authorization of a nonresidential building owner or

operator, an electric or gas utility shall upload all of the energy consumption data for the account specified for a building to the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager in a manner that preserves the confidentiality of the customer.

(c) In carrying out this section, an electric or gas utility may use any method for providing the specified data in order to maximize efficiency and minimize overall program cost, and is encouraged to work with the United States Environmental Protection Agency and customers in developing reasonable reporting options.

(d) On and after January 1, 2010, an owner or operator of a nonresidential building shall disclose the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager benchmarking data and ratings for the most recent 12-month period to a prospective buyer, lessee of the entire building, or lender that would finance the entire building. If the data is delivered to a prospective buyer, lessee, or lender, a property owner, operator, or his or her agent is not required to provide additional information, and the information shall be deemed to be adequate to inform the prospective buyer, lessee, or lender regarding the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager benchmarking data and ratings for the most recent 12-month period for the building that is being sold, leased, financed, or refinanced.

(e) Notwithstanding subdivision (d), this section does not increase or decrease the duties, if any, of a property owner, operator, or his or her broker or agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

SEC. 187. Section 30253 of the Public Resources Code is amended to read:

30253. New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.

(d) Minimize energy consumption and vehicle miles traveled.

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

SEC. 188. Section 30327.5 of the Public Resources Code is amended to read:

30327.5. (a) An interested person shall not give, convey, or make available gifts aggregating more than ten dollars ($10) in a calendar month to a commissioner or a member of the commission's staff.

(b) A commissioner or member of the commission's staff shall not accept gifts aggregating more than ten dollars ($10) in a calendar month from an interested person.

(c) For purposes of this section, "interested person" shall have the same meaning as the term is defined in Section 30323.

(d) For purposes of this section, "gift" means, except as provided in subdivision (e), a payment, as defined in Section 82044 of the Government Code, that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. A person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(e) For purposes of this section, "gift" does not include any of the following:

(1) A gift that is not used and that, within 30 days after receipt, is either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, without being claimed as a charitable contribution for tax purposes.

(2) A gift from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of one of those individuals. However, a gift from one of those people shall be considered a gift if the donor is acting as an agent or intermediary for a person not covered in this paragraph.

(3) A cost associated with the provision of evidentiary material provided to the commission and its staff.

(4) An educational or training activity that has received prior approval from the commission.

(5) A field trip or site inspection that is made available on equal terms and conditions to all commissioners and appropriate staff.

(6) A reception or purely social event that is not offered in connection with or is not intended to influence a decision or action of the commission

and that is open to all commissioners, members of the staff, and members of the public and press.

SEC. 189. Section 30327.6 of the Public Resources Code is amended to read:

30327.6. (a) (1) Except as provided in paragraph (2), a person who for compensation attempts to influence or affect the outcome of a commission decision or action and who violates Section 30327.5 may, in addition to any other applicable penalty, be barred from any activity seeking to influence or affect the outcome of a commission decision or action for a period of up to one year from the date of the finding of the violation. Each violation shall be grounds for the person being barred from any activity seeking to influence or affect a commission decision or action for an additional year from the date of conviction.

(2) This section does not prohibit an individual from representing himself or herself in seeking to influence or affect the outcome of a commission decision or action if that individual is acting solely on his or her own personal behalf and not on behalf of another person or entity.

(b) A person who violates Section 30327.5 shall, in addition to any other applicable penalty, be subject to a civil fine not to exceed five hundred dollars ($500) for each violation.

SEC. 190. Section 31408 of the Public Resources Code is amended to read:

31408. (a) The conservancy shall, in consultation with the Department of Parks and Recreation, the California Coastal Commission, and the Department of Transportation, coordinate the development of the California Coastal Trail.

(b) To the extent feasible, and consistent with their individual mandates, each agency, board, department, or commission of the state with property interests or regulatory authority in coastal areas shall cooperate with the conservancy with respect to planning and making lands available for completion of the trail, including constructing trail links, placing signs, and managing the trail.

SEC. 191. Section 35615 of the Public Resources Code is amended to read:

35615. The council shall do all of the following:

(a) (1) Coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, consistent with Sections 35510 and 35515.

(2) Establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies.

(3) (A) Establish a science advisory team of distinguished scientists to assist the council in meeting the purposes of this division. At the request of the council, the science advisory team may convene to identify, develop, and prioritize subjects and questions for research or investigation, and review and evaluate results of research or investigations to provide information for the council's activities.

(B) The science advisory team shall include scientists from a range of disciplines that are a part of the council's purview.

(C) The science advisory team shall provide an independent and timely analysis of reports and studies, identifying areas of scientific consensus or uncertainty, using the best available science by drawing on state, national, and international experts.

(D) Scientists selected as members of the science advisory team shall serve without compensation, except for reimbursement of expenses and subject to the terms of an existing contract with the state.

(4) Contract with the California Ocean Science Trust and other nonprofit organizations, ocean science institutes, academic institutions, or others that have experience in conducting the scientific and educational tasks that are required by the council.

(5) Transmit the results of research and investigations to state agencies to provide information for policy decisions.

(6) Identify and recommend to the Legislature changes in law needed to achieve the goals of this section.

(b) (1) Identify changes in federal law and policy necessary to achieve the goals of this division and to improve protection, conservation, and restoration of ocean ecosystems in federal and state waters off the state's coast.

(2) Recommend to the Governor and the Legislature actions the state should take to encourage those changes in federal law and policy.

SEC. 192. Section 40117 of the Public Resources Code is amended to read:

40117. "Gasification" means a technology that uses a noncombustion thermal process to convert solid waste to a clean burning fuel for the purpose of generating electricity, and that, at minimum, meets all of the following criteria:

(a) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(b) The technology produces no discharges of air contaminants or emissions, including greenhouse gases, as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

(c) The technology produces no discharges to surface or groundwaters of the state.

(d) The technology produces no hazardous waste.

(e) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(f) The facility where the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(g) The facility certifies to the board that any local agency sending solid waste to the facility is in compliance with this division and has reduced, recycled, or composted solid waste to the maximum extent feasible, and the board makes a finding that the local agency has diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

SEC. 193. Section 353.1 of the Public Utilities Code is amended to read:

353.1. As used in this article, "distributed energy resources" means electric generation technology that meets all of the following criteria:

(a) Commences initial operation between May 1, 2001, and June 1, 2003, except that gas-fired distributed energy resources that are not operated in a combined heat and power application shall commence operation no later than September 1, 2002.

(b) Is located within a single facility.

(c) Is five megawatts or smaller in aggregate capacity.

(d) Serves onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

(e) Is powered by any fuel other than diesel.

(f) Complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purpose of this article, distributed energy resources shall meet emission levels equivalent to nine parts per million oxides of nitrogen, or the equivalent standard taking into account efficiency as determined by the State Air Resources Board, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower, except for distributed generation units that displace and therefore significantly reduce emissions from natural gas flares or reinjection compressors, as determined by the State Air Resources Board. These units shall comply with the applicable best available control technology as determined by the air pollution control district or air quality management district in which they are located.

SEC. 194. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Conduit hydroelectric facility" means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use.

(b) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(c) "Eligible renewable energy resource" means an electric generating facility that meets the definition of "in-state renewable electricity generation facility" in subdivision (b) of Section 25741 of the Public Resources Code, subject to the following limitations:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(B) Notwithstanding subparagraph (A), a conduit hydroelectric facility of 30 megawatts or less that commenced operation before January 1, 2006, is an eligible renewable energy resource. A conduit hydroelectric facility of 30 megawatts or less that commences operation after December 31, 2005, is an eligible renewable energy resource so long as it does not cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(2) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable energy resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

(d) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(e) "Local publicly owned electric utility" has the same meaning as provided in subdivision (d) of Section 9604.

(f) "Procure" means that a retail seller receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement. This article is not intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(g) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to this article.

(h) (1) "Renewable energy credit" means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emission reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.

(i) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. This paragraph shall not impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility.

SEC. 195. Section 884.5 of the Public Utilities Code is amended to read:

884.5. (a) This section shall apply to all customers eligible to receive discounts for telecommunications services under the federal Universal Service E-rate program administered by the Schools and Libraries Division of the Universal Service Administrative Company that also apply for discounts on telecommunications services provided through the California Teleconnect Fund Administrative Committee Fund program pursuant to subdivision (a) of Section 280.

(b) A teleconnect discount shall be applied after applying an E-rate discount. The commission shall first apply an E-rate discount, regardless of whether the customer has applied for an E-rate discount or has been approved, if the customer, in the determination of the commission, meets the eligibility requirements for an E-rate discount.

(c) Notwithstanding subdivision (b), the teleconnect discount shall be applied without regard to an E-rate discount for a school district that meets the conditions specified for compensation pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code, unless that school district has applied for, and been approved to receive, the E-rate discount.

(d) In establishing a discount under the California Teleconnect Fund Administrative Committee Fund program, the commission shall give priority to bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(e) As used in this section:

(1) "E-rate discount" means an actual discount under the E-rate program, or a representative discount figure as determined by the commission.

(2) "E-rate program" means the federal Universal Service E-rate program administered by the Schools and Libraries Division of the Universal Service Administrative Company.

(3) "Teleconnect discount" means a discount on telecommunications services provided through the California Teleconnect Fund Administrative Committee Fund program set forth in subdivision (a) of Section 280.

SEC. 196. Section 2829 of the Public Utilities Code is amended to read:

2829. (a) For purposes of this section, the following terms have the following meanings:

(1) "EBMUD" means the East Bay Municipal Utility District organized and operating pursuant to Division 6 (commencing with Section 11501).

(2) "Environmental attributes" associated with the generation of electricity include the credits, benefits, emissions reductions,

environmental air quality credits, and emissions reduction credits, offsets, and allowances, however entitled, resulting from the avoidance of the emissions of any gas, chemical, or other substance attributable to an electricity generation facility.

(b) To ensure that no electrical corporation operates its monopoly transmission and distribution system in a manner that impedes the ability of the EBMUD to reduce its electricity costs through the delivery of electricity generated by EBMUD, an electrical corporation shall meet the requirements of this section.

(c) An electrical corporation that owns and operates transmission and distribution facilities that deliver electricity at one or more locations to the EBMUD's system shall, upon request by EBMUD, and without discrimination or delay, use the same facilities to deliver electricity generated by EBMUD. EBMUD may elect to designate specific hydroelectric generation facilities owned by EBMUD for the generation of electricity to be delivered to EBMUD, if the following conditions are met:

(1) The amount of all electricity delivered to the electric grid by the designated EBMUD hydroelectric generation is the property of EBMUD.

(2) Ownership and use of the environmental attributes associated with the electricity delivered to the electric grid by EBMUD-designated hydroelectric generation is retained by EBMUD.

(d) (1) No rule, order, or tariff of the commission implementing direct transactions is applicable to electricity generated by EBMUD, that is delivered to EBMUD for its own use that is transported over the transmission and distribution system of an electrical corporation, pursuant to an election made by EBMUD pursuant to subdivision (c).

(2) Sections 365 and 366 are not applicable to electricity generated by EBMUD, that is delivered to EBMUD for its own use that is transported over the transmission and distribution system of an electrical corporation, pursuant to an election made by EBMUD pursuant to subdivision (c).

(e) To compensate an electrical corporation for the use of its facilities, EBMUD shall pay applicable rates approved by the commission for distribution, or distribution and transmission, or any transmission rates as required under federal law.

(f) On or before January 1, 2009, each electrical corporation that owns and operates transmission and distribution facilities that deliver electricity at one or more locations to the EBMUD system shall file an advice letter with the commission that complies with this section. The commission, within 150 days of the date of filing of the advice letter, shall approve the advice letter or specify conforming changes to be made by the

electrical corporation, to be filed in an amended advice letter within 60 days.

(g) The commission shall ensure that the delivery of electricity from EBMUD-designated hydroelectric generation to the EBMUD service territory pursuant to this section does not result in a shifting of costs to the bundled service customers of an electrical corporation, either immediately or over time.

SEC. 197. Section 107.7 of the Revenue and Taxation Code is amended to read:

107.7. (a) When valuing possessory interests in real property created by the right to place wires, conduits, and appurtenances along or across public streets, rights-of-way, or public easements contained in either a cable franchise or license granted pursuant to Section 53066 of the Government Code (a "cable possessory interest") or a state franchise to provide video service pursuant to Section 5840 of the Public Utilities Code (a "video possessory interest"), the assessor shall value these possessory interests consistent with the requirements of Section 401. The methods of valuation shall include, but not be limited to, the comparable sales method, the income method (including, but not limited to, capitalizing rent), or the cost method.

(b) (1) The preferred method of valuation of a cable television possessory interest or video service possessory interest by the assessor is capitalizing the annual rent, using an appropriate capitalization rate.

(2) For purposes of this section, the annual rent shall be that portion of that franchise fee received that is determined to be payment for the cable possessory interest or video service possessory interest for the actual remaining term or the reasonably anticipated term of the franchise or license or the appropriate economic rent. If the assessor does not use a portion of the franchise fee as the economic rent, the resulting assessments shall not benefit from any presumption of correctness.

(c) If the comparable sales method, which is not the preferred method, is used by the assessor to value a cable possessory interest or video service possessory interest when sold in combination with other property, including, but not limited to, intangible assets or rights, the resulting assessments shall not benefit from any presumption of correctness.

(d) Intangible assets or rights of a cable system or the provider of video services are not subject to ad valorem property taxation. These intangible assets or rights include, but are not limited to: franchises or licenses to construct, operate, and maintain a cable system or video service system for a specified franchise term (excepting therefrom that portion of the franchise or license which grants the possessory interest); subscribers, marketing, and programming contracts; nonreal property lease agreements; management and operating systems; a workforce in

place; going concern value; deferred, startup, or prematurity costs; covenants not to compete; and goodwill. However, a cable possessory interest or video service possessory interest may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the cable possessory interest or video service possessory interest to beneficial or productive use in an operating cable system or video service system.

(e) If a change in ownership of a cable possessory interest or video service possessory interest occurs, the person or legal entity required to file a statement pursuant to Section 480, 480.1, or 480.2 shall, at the request of the assessor, provide as a part of that statement the following, if applicable: confirmation of the sales price, allocation of the sales price among the counties, and gross revenue and franchise fee expenses of the cable system or video service system by county. Failure to provide the statement information shall result in a penalty as provided in Section 482, except that the maximum penalty shall be five thousand dollars ($5,000).

SEC. 198. Section 8352.6 of the Revenue and Taxation Code is amended to read:

8352.6. (a) Subject to Section 8352.1, on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(b) The amount transferred pursuant to subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006–07 fiscal year or the last adjustment, whichever is more recent:

(1) The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) The number of registered street-legal vehicles that are anticipated to be used off highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

(3) Attendance at the state vehicular recreation areas.

(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service's National Visitor Use Monitoring and the United States Bureau of Land Management's Recreation Management Information System.

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b) be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

SEC. 199. Section 8352.8 of the Revenue and Taxation Code is amended to read:

8352.8. (a) The Conservation and Enforcement Services Account is hereby established as an account in the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code.

(b) Funds in the Conservation and Enforcement Services Account shall be allocated to the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for expenditure, upon appropriation by the Legislature, for the following purposes:

(1) Up to 40 percent of the funds, for cooperative agreements or challenge cost-sharing agreements with the United States Forest Service and the United States Bureau of Land Management, to complete necessary route designation planning work and to implement route planning decisions.

(2) Up to one million one hundred thousand dollars ($1,100,000) for each grant cycle, to increase the amount of funds available for restoration grants in the program pursuant to paragraph (2) of subdivision (b) of Section 5090.50 of the Public Resources Code.

SEC. 200. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) (1) For a qualified renter, there shall be allowed a credit against his or her "net tax," as defined in Section 17039. The amount of the credit shall be as follows:

(A) For married couples filing joint returns, heads of household, and surviving spouses, as defined in Section 17046, the credit shall be equal to one hundred twenty dollars ($120) if adjusted gross income is fifty thousand dollars ($50,000) or less.

(B) For other individuals, the credit shall be equal to sixty dollars ($60) if adjusted gross income is twenty-five thousand dollars ($25,000) or less.

(2) Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) For a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who satisfies both of the following:

(1) Was a resident of this state, as defined in Section 17014.

(2) Rented and occupied premises in this state which constituted his or her principal place of residence during at least 50 percent of the taxable year.

(d) "Qualified renter" does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises that were exempt from property taxes, except that an individual, otherwise qualified, is deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes that are substantially equivalent to property taxes paid on properties of comparable market value.

(2) An individual whose principal place of residence for more than 50 percent of the taxable year is with another person who claimed that individual as a dependent for income tax purposes.

(3) An individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph does not apply to an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(e) An otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(f) A person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time prescribe.

(h) For purposes of this section, "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, unless the dwelling unit is a mobilehome. The credit is not allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

(i) This section shall become operative on January 1, 1998, and applies to any taxable year beginning on or after January 1, 1998.

(j) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the adjusted gross income amounts set forth in subdivision (a). The computation shall be made as follows:

(1) The Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the amount in subparagraph (B) of paragraph (1) of subdivision (d) for the preceding taxable year by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar ($1).

(4) In computing the amounts pursuant to this subdivision, the amounts provided in subparagraph (A) of paragraph (1) of subdivision (a) shall be twice the amount provided in subparagraph (B) of paragraph (1) of subdivision (a).

SEC. 201. Section 30182 of the Revenue and Taxation Code is amended to read:

30182. (a) Except as provided in subdivision (b), a distributor shall file, on or before the 25th day of each month, a report in the form as prescribed by the board, that may include, but not be limited to, electronic media with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part.

(b) Reports shall be authenticated in a form, or pursuant to methods, as may be prescribed by the board.

SEC. 202. Section 32258 of the Revenue and Taxation Code is amended to read:

32258. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax, including interest, penalties, and other amounts, to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to this part, but shall not apply to a calendar month, quarter, or year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a manufacturer, winegrower, importer, or seller of beer or wine, or as a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, or seller of distilled spirits to which the understatement is attributable. If neither spouse rendered substantial services as a manufacturer, winegrower, importer, or seller of beer or wine, or as a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, or seller of distilled spirits, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for an unpaid tax or any deficiency, or any portion of either, attributable to an item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to January 1, 2008.

SEC. 203. Section 41007 of the Revenue and Taxation Code is amended to read:

41007. (a) "Service supplier" shall mean a person supplying intrastate telephone communication services pursuant to California intrastate tariffs to a service user in this state.

(b) On and after January 1, 1988, "service supplier" also includes a person supplying intrastate telephone communication services for whom the Public Utilities Commission, by rule or order, modifies or eliminates the requirement for that person to prepare and file California intrastate tariffs.

SEC. 204. Section 41011 of the Revenue and Taxation Code is amended to read:

41011. (a) "Charges for services" means all charges billed by a service supplier to a service user for intrastate telephone communication services and shall mean local telephone service and include monthly service flat-rate charges for usage, message unit charges and shall mean toll charges, and include intra-state-wide area telephone service charges.

"Charges for services" shall not include a tax imposed by the United States or by any charter city, charges for service paid by inserting coins in a public coin-operated telephone, and shall not apply to amounts billed to nonsubscribers for coin shortages. If a coin-operated telephone service is furnished for a guarantee or other periodic amount, that amount is subject to the surcharge imposed by this part.

(b) "Charges for services" shall not include charges for intrastate toll calls if bills for those calls originate out of California.

(c) "Charges for services" shall not include charges for a nonrecurring, installation, service connection or one-time charge for service or directory advertising, and shall not include private communication service charges, charges for other than communication service, or a charge made by a hotel or motel for service rendered in placing calls for its guests regardless of how that hotel or motel charge is denominated or characterized by an applicable tariff of the Public Utilities Commission of this state.

(d) "Charges for services" shall not include charges for basic exchange line service for lifeline services.

SEC. 205. Section 41021 of the Revenue and Taxation Code is amended to read:

41021. (a) A service supplier shall collect the surcharge from each service user at the time it collects its billings from the service user, provided that the duty to collect the surcharge from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the operative date of the surcharge imposed by this part. If the stations or lines of more than one service supplier are utilized in furnishing the telephone communication services to the service user, the service supplier that bills the customer shall collect the surcharge from the customer.

(b) Only one payment under this part shall be required with respect to the surcharge on a service, notwithstanding that the lines or stations of one or more service suppliers are used in furnishing that service.

SEC. 206. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. The Department of General Services shall determine annually, on or before October 1, a surcharge rate that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate shall be determined by dividing the costs, including incremental costs, the Department of General Services estimates for the current fiscal year of 911 plans approved pursuant to Section 53115 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the charges for intrastate telephone communication services to which the

surcharge will apply for the period of January 1 to December 31 of the next succeeding calendar year, but in no event shall the surcharge rate in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent.

SEC. 207. Section 41099 of the Revenue and Taxation Code is amended to read:

41099. (a) Under regulations prescribed by the board, if:

(1) A surcharge liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of surcharge liability is attributable to one spouse; or any amount of the surcharge reported on a return was unpaid and the nonpayment of the reported surcharge liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in surcharge attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the surcharge, including interest, penalties, and other amounts, to the extent that the liability is attributable to that understatement or nonpayment of the surcharge.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to the provisions of this part, but shall not apply to a calendar month, quarter, or year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a service supplier of intrastate telephone communication services to service users or as a user of intrastate telephone communication services to which the understatement is attributable. If neither spouse rendered

substantial services as a service supplier or as a service user, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for an unpaid surcharge or deficiency, or any portion of either, attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to January 1, 2008.

SEC. 208. Section 118 of the Streets and Highways Code is amended to read:

118. (a) If the department determines that real property or an interest therein, previously or hereafter acquired by the state for highway purposes, is no longer necessary for those purposes, the department may sell, contract to sell, sell by trust deed, or exchange the real property or interest therein in the manner and upon terms, standards, and conditions established by the commission. The payment period in a contract of sale or sale by trust deed shall not extend longer than 10 years from the time the contract of sale or trust deed is executed, and a transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price, except as follows:

(1) For improved and unimproved real property sold or exchanged for the purpose of housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the payment period shall not exceed 40 years and the downpayment shall be at least 5 percent of the purchase price. All contracts of sale or sales by trust deed, for the purpose of housing for persons and families of low or moderate income shall bear interest. The rate of interest for the contract or sale shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately preceding the year in which the payment is made. The contract of sale and sales by trust deeds shall not be utilized if the proposed development or sale qualifies for financing from other

sources and if the financing makes feasible the provision of low- and moderate-income housing.

(2) Improved residential property sold to a local public agency pursuant to paragraph (1), if subsequently sold or transferred to a nonprofit housing organization, shall have the endorsement of the city in which the parcels are located, or the county if the parcels are located in an unincorporated area, that the housing shall remain at affordable housing costs to persons and families of low or moderate income and very low income households for the longest feasible time, but for not less than 15 years, as determined by the city or county, as applicable. By endorsing the sale, the city or county accepts the responsibility of ensuring the housing remains affordable. The local public agency shall record in the office of the county recorder covenants or restrictions implementing this subdivision. Notwithstanding any other provision of law, the covenants or restrictions shall run with the land and shall be enforceable against the original purchaser from the department and successors in interest.

(b) A conveyance under this section shall be approved by the commission and shall be executed on behalf of the state by the director and the purchase price shall be paid into the State Treasury to the credit of any fund, available to the department for highway purposes, which the commission designates.

(c) Any such real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein needed for state highway purposes.

SEC. 209. Section 464 of the Streets and Highways Code is amended to read:

464. (a) Route 164 is Rosemead Boulevard from:

(1) Gallatin Road near Pico Rivera to the northern city limit of Temple City in the vicinity of Callita Street and Sultana Avenue.

(2) The northern city limit of Temple City in the vicinity of Callita Street and Sultana Avenue to the southern city limit of the City of Pasadena.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the County of Los Angeles that portion of Route 164 described in paragraph (2) of subdivision (a), pursuant to the terms of a cooperative agreement between the county and the department, upon a determination by the commission that the relinquishment is in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall apply:

(A) The portion of Route 164 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 164 relinquished under this subdivision shall not be considered for future adoption under Section 81.

(4) For the portion of Route 164 that is relinquished under this subdivision, the County of Los Angeles shall maintain within its jurisdiction signs directing motorists to the continuation of Route 164.

(c) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Temple City the portion of Route 164 located within the city limits of that city pursuant to the terms of a cooperative agreement between the city and the department, upon a determination by the commission that the relinquishment is in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall apply:

(A) The portion of Route 164 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 164 relinquished under this subdivision shall not be considered for future adoption under Section 81.

(4) For the portion of Route 164 that is relinquished under this subdivision, the City of Temple City shall maintain within its jurisdiction signs directing motorists to the continuation of Route 164.

SEC. 210. Section 25440 of the Streets and Highways Code is amended to read:

25440. Funding bonds issued pursuant to the provisions of this chapter shall be in substantially the following form (filling in blanks as appropriate):

FUNDING BOND

Joint Highway District No. ___ of the State of California

$____ Bond No. ___ Serial ___.

Under and by virtue of Part 1 (commencing with Section 25000) of Division 16 of the Streets and Highways Code, the treasurer of Joint Highway District No. ____ of the State of California will pay to the bearer, out of the fund hereinafter designated, at the office of the treasurer of said district, on the ____ day of ____, 20__, the sum of ____ dollars, in lawful money of the United States of America, with interest thereon

in like lawful money at the rate of ____ per cent per annum, payable semiannually on the second day of January and the second day of July in each year from the date hereof (except the last installment thereof, which shall be payable at the maturity of this bond), upon presentation and surrender, as they respectively become due, of the proper interest coupons hereto attached, the first of which is for interest from date hereof to the next date of interest payment, and the last for interest to maturity hereof from the last preceding date of interest payment. This bond is issued under and in conformity with the provisions of Part 1 (commencing with Section 25000) of Division 16 of the Streets and Highways Code, and is one of a series of bonds of like date and effect numbered from one to ____ consecutively. It is hereby certified, recited, and declared that all proceedings, acts, and things required by law precedent to or in the issuance of this bond have been regularly had, done, and performed, and this bond is by law made conclusive evidence thereof.

This bond is payable out of the "Joint Highway District No. ____ of the State of California Funding Bond Redemption Fund," exclusively, as the same appears upon the books of the treasurer of that district, and in accordance with the provisions of Part 1 (commencing with Section 25000) of Division 16 of the Streets and Highways Code special assessment taxes will be levied and collected upon the lands within Funding District No. ____ in that joint highway district in an amount clearly sufficient to pay the principal and interest of the bonds as the bonds become due and payable.

In witness whereof the board of directors of the district has caused this bond to be signed by the treasurer of the district attested by the secretary of the board and the official seal of the district to be affixed hereto this ____ day of ____, 20__.

_____

(SEAL) Treasurer of Joint Highway District No. ___ of the State of California.

Attest:

_____

Secretary of the Board of Directors.

SEC. 211. Section 36622 of the Streets and Highways Code is amended to read:

36622. The management district plan shall contain all of the following:

(a) A map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof,

including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.

(*l*) Any other item or matter required to be incorporated therein by the city council.

SEC. 212. Section 2739 of the Unemployment Insurance Code is amended to read:

2739. The Director of Employment Development, subject to this article, may do any or all of the following in the recovery of overpayments of disability benefits:

(a) File a civil action against the liable person for the recovery of the amount of the overpayment within one year after any of the following, or, in cases where the individual has been overpaid benefits due to fraud, misrepresentation, or nondisclosure as described in Section 2735.1, within three years of any of the following:

(1) The mailing or personal service of the notice of overpayment determination if the person affected does not file an appeal to an administrative law judge.

(2) The mailing of the decision of the administrative law judge if the person affected does not initiate a further appeal to the appeals board.

(3) The date of the decision of the appeals board.

(b) Initiate proceedings for a summary judgment against the liable person. However, this subdivision applies only where the director has found, pursuant to Section 2735, that the overpayment shall not be waived because it was due to fraud, misrepresentation, or willful nondisclosure on the part of the recipient. The director may, not later than three years after the overpayment became final, file with the clerk of the proper court in the county in which the claimant resides, a certificate containing all of the following:

(1) The amount due, including the assessment made under Section 2735.1, plus interest from the date that the initial determination of overpayment was made pursuant to Section 2735.

(2) A statement that the director has complied with all of the provisions of this article prior to the filing of the certificate.

(3) A request that judgment be entered against the liable person in the amount set forth in the certificate.

The clerk, immediately upon filing of the certificate, shall enter a judgment for the State of California against the liable person in the amount set forth in the certificate.

For purposes of this subdivision only, an overpayment is final and due and payable after one of the following:

(A) The liable person has not filed an appeal pursuant to Section 2737.

(B) The liable person has filed an appeal to an administrative law judge and a decision of the administrative law judge upholding the overpayment has become final.

(C) The liable person has filed an appeal to the appeals board and the decision of the appeals board upholding the overpayment has become final because the liable person has not sought judicial review within the six-month period provided by Section 410.

(c) Reduce or vacate a summary judgment by filing a certificate to that effect with the clerk of the proper court.

(d) Offset the amount of the overpayment received by the liable person against any amount of disability benefits to which he or she may become entitled under this division within six years of the date of mailing or personal service of the notice of overpayment determination.

SEC. 213. Section 1803 of the Vehicle Code, as amended by Chapter 747 of the Statutes of 2007, is amended to read:

1803. (a) (1) The clerk of a court in which a person was convicted of a violation of this code, was convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, was convicted of a violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, or a violation of subdivision (a) of Section 192.5 of the Penal Code, was convicted of an offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of a 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 a 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 in 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 required to prepare it to be true and correct.

(2) For 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 or a motorized scooter.

(7) Division 16.5 (commencing with Section 38000), except Section 38301.3.

(8) Subdivision (b) of Section 23221, subdivision (b) of Section 23223, subdivision (b) of Section 23225, and subdivision (b) of Section 23226.

(c) If the court impounds a license, or orders a person to limit his or her driving pursuant to subdivision (d) 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, that 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 23602, 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.

(f) This section shall remain in effect only until October 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before October 1, 2008, deletes or extends that date.

SEC. 214. Section 2430.1 of the Vehicle Code is amended to read:

2430.1. As used in this article, each of the following terms has the following meaning:

(a) "Tow truck driver" means a person who operates a tow truck, who renders towing service or emergency road service to motorists while involved in freeway service patrol operations, pursuant to an agreement with a regional or local entity, and who has or will have direct and

personal contact with the individuals being transported or assisted. As used in this subdivision, "towing service" has the same meaning as defined in Section 2436.

(b) "Employer" means a person or organization that employs those persons defined in subdivision (a), or who is an owner-operator who performs the activity specified in subdivision (a), and who is involved in freeway service patrol operations pursuant to an agreement or contract with a regional or local entity.

(c) "Regional or local entity" means a public organization established as a public transportation planning entity pursuant to Title 7.1 (commencing with Section 66500) of the Government Code or authorized to impose a transaction and use tax for transportation purposes by the Public Utilities Code or the service authority for freeway emergencies described in Section 2551 of the Streets and Highways Code.

(d) "Emergency road service" has the same meaning as defined in Section 2436.

(e) "Freeway service patrol" has the same meaning as defined in Section 2561 of the Streets and Highways Code.

SEC. 215. Section 4766 of the Vehicle Code is amended to read:

4766. (a) Except as provided in subdivisions (b) and (c), the department shall refuse to renew the registration of a vehicle for which a notice of noncompliance has been transmitted to the department pursuant to subdivision (a) of Section 40002.1 if no certificate of adjudication has been received by the department pursuant to subdivision (b) of that section. The department shall include on each potential registration card issued for use at the time of renewal, or on an accompanying document, an itemization of citations for which notices of noncompliance have been received by the department pursuant to subdivision (a) of Section 40002.1. The itemization shall include the citation number, citation date, and the jurisdiction that issued the underlying notice pursuant to Section 40002 and the administrative service fee for clearing the offense pursuant to subdivision (b) of this section.

(b) Upon application for renewal of vehicle registration for a vehicle subject to subdivision (a), the department shall not refuse registration renewal pursuant to subdivision (a) if the applicant, with respect to each outstanding certificate of noncompliance, has performed both of the following:

(1) Provides the department with a certificate of adjudication for the offense issued pursuant to subdivision (b) of Section 40002.1.

(2) Pays an administrative service fee, which shall be established by the department to, in the aggregate, defray its costs in administering this section.

(c) Whenever registration of a vehicle subject to subdivision (a) is transferred or not renewed for two renewal periods, the department shall notify each court that transmitted a notice of noncompliance affecting the vehicle of the transfer of, or lack of renewal of, the registration and the department shall not thereafter refuse registration renewal pursuant to subdivision (a).

SEC. 216. Section 5004.1 of the Vehicle Code, as amended by Section 1 of Chapter 497 of the Statutes of 2007, is amended to read:

5004.1. (a) (1) An owner of a vehicle that is a 1969 or older model-year vehicle or the owner of a commercial vehicle or a pickup truck that is a 1972 or older model-year may, after the requirements for the registration of the vehicle are complied with and with the approval of the department, utilize license plates of this state with the date of year corresponding to the model-year date when the vehicle was manufactured, if the model-year date license plate is legible and serviceable, as determined by the department, in lieu of the license plates otherwise required by this code.

(2) The department may consult with an organization of old car hobbyists in determining whether the date of year of the license plate corresponds to the model-year date when the vehicle was manufactured.

(b) A fee of forty-five dollars ($45) shall be charged for the application for the use of the special plates.

(c) In addition to the regular renewal fee for the vehicle for which the plates are authorized, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10). If payment of a regular vehicle renewal fee is not required by this code, the holder of license plates with a date corresponding to the model-year may retain the plates upon payment of an annual fee of twenty dollars ($20) that shall be due at the expiration of the registration year of the vehicle to which the plates were last assigned under this section.

(d) If a person who is authorized to utilize the special license plates applies to the department for transfer of the plates to another vehicle, a transfer fee of twelve dollars ($12) shall be charged in addition to all other appropriate fees.

SEC. 217. Section 9853.6 of the Vehicle Code is amended to read:

9853.6. (a) (1) Beginning July 1, 2008, the fee described in paragraph (1) of subdivision (b) of Section 9853 shall be increased by ten dollars ($10).

(2) Five dollars ($5) of the increase shall be deposited into the Alternative and Renewable Fuel and Vehicle Technology Fund created by Section 44273 of the Health and Safety Code and five dollars ($5) shall be deposited into the Air Quality Improvement Fund created by Section 44274.5 of the Health and Safety Code.

(b) (1) Beginning July 1, 2008, the fee described in paragraph (2) of subdivision (b) of Section 9853 shall be increased by twenty dollars ($20).

(2) Ten dollars ($10) of the increase shall be deposited into the Alternative and Renewable Fuel and Vehicle Technology Fund created by Section 44273 of the Health and Safety Code and ten dollars ($10) shall be deposited into the Air Quality Improvement Fund created by Section 44274.5 of the Health and Safety Code.

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 218. Section 11410 of the Vehicle Code is amended to read:

11410. (a) Every license issued under this chapter is valid for a period of one year from the last day of the month of issuance. Except as provided in subdivision (c), renewal of the license for the ensuing year may be obtained by the person to whom the license was issued upon application to the department and payment of the fee required by Section 11409.

(b) An application for the renewal of a license shall be made by the licensee not more than 90 days prior to the expiration date and shall be made by presenting the completed application form provided by the department and by payment of the renewal fee.

(c) If the application for renewal of the license is not made by midnight of the expiration date, the application may be made within 30 days following expiration of the license by paying the annual renewal fee and a penalty fee equal to the amount of the original application fee for each license held.

(d) A licensee shall not renew the license after the expiration of the 30-day period specified in subdivision (c).

SEC. 219. Section 13353.2 of the Vehicle Code, as amended by Section 2 of Chapter 749 of the Statutes of 2007, is amended to read:

13353.2. (a) The department shall immediately suspend the privilege of a person to operate a motor vehicle for any one of the following reasons:

(1) The person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(2) The person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, or other chemical test.

(3) The person was driving a vehicle that requires a commercial driver's license when the person had 0.04 percent or more, by weight, of alcohol in his or her blood.

(4) The person was driving a motor vehicle when both of the following applied:

(A) The person was on probation for a violation of Section 23152 or 23153.

(B) The person had 0.01 percent or more, by weight, of alcohol in his or her blood, as measured by a preliminary alcohol screening test or other chemical test.

(b) The notice of the order of suspension under this section shall be served on the person by a peace officer pursuant to Section 13382 or 13388. The notice of the order of suspension shall be on a form provided by the department. If the notice of the order of suspension has not been served upon the person by the peace officer pursuant to Section 13382 or 13388, upon the receipt of the report of a peace officer submitted pursuant to Section 13380, the department shall mail written notice of the order of the suspension to the person at the last known address shown on the department's records and, if the address of the person provided by the peace officer's report differs from the address of record, to that address.

(c) The notice of the order of suspension shall specify clearly the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request an administrative hearing, the procedure for requesting an administrative hearing, and the date by which a request for an administrative hearing shall be made in order to receive a determination prior to the effective date of the suspension.

(d) The department shall make a determination of the facts in subdivision (a) on the basis of the report of a peace officer submitted pursuant to Section 13380. The determination of the facts, after administrative review pursuant to Section 13557, by the department is final, unless an administrative hearing is held pursuant to Section 13558 and any judicial review of the administrative determination after the hearing pursuant to Section 13559 is final.

(e) The determination of the facts in subdivision (a) is a civil matter that is independent of the determination of the person's guilt or innocence, shall have no collateral estoppel effect on a subsequent criminal prosecution, and shall not preclude the litigation of the same or similar facts in the criminal proceeding. If a person is acquitted of criminal charges relating to a determination of facts under subdivision (a), or if the person's driver's license was suspended pursuant to Section 13388 and the department finds no basis for a suspension pursuant to that section, the department shall immediately reinstate the person's privilege to operate a motor vehicle if the department has suspended it administratively pursuant to subdivision (a), and the department shall

return or reissue for the remaining term any driver's license that has been taken from the person pursuant to Section 13382 or otherwise. Notwithstanding subdivision (b) of Section 13558, if criminal charges under Section 23140, 23152, or 23153 are not filed by the district attorney because of a lack of evidence, or if those charges are filed but are subsequently dismissed by the court because of an insufficiency of evidence, the person has a renewed right to request an administrative hearing before the department. The request for a hearing shall be made within one year from the date of arrest.

(f) The department shall furnish a form that requires a detailed explanation specifying which evidence was defective or lacking and detailing why that evidence was defective or lacking. The form shall be made available to the person to provide to the district attorney. The department shall hold an administrative hearing, and the hearing officer shall consider the reasons for the failure to prosecute given by the district attorney on the form provided by the department. If applicable, the hearing officer shall consider the reasons stated on the record by a judge who dismisses the charges. A fee shall not be imposed pursuant to Section 14905 for the return or reissuing of a driver's license pursuant to this subdivision. The disposition of a suspension action under this section does not affect an action to suspend or revoke the person's privilege to operate a motor vehicle under another provision of this code, including, but not limited to, Section 13352 or 13353, or Chapter 3 (commencing with Section 13800).

SEC. 220. Section 21251 of the Vehicle Code is amended to read:

21251. Except as provided in Chapter 7 (commencing with Section 1963) and Chapter 8 (commencing with Section 1965) of Division 2.5 of the Streets and Highways Code, and Sections 4023, 21115, and 21115.1, a low-speed vehicle is subject to all the provisions applicable to a motor vehicle, and the driver of a low-speed vehicle is subject to all the provisions applicable to the driver of a motor vehicle or other vehicle, when applicable, by this code or another code, with the exception of those provisions that, by their very nature, can have no application.

SEC. 221. Section 22511.85 of the Vehicle Code is amended to read:

22511.85. A vehicle, identified with a special license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59, which is equipped with a lift, ramp, or assistive equipment that is used for the loading and unloading of a person with a disability may park in not more than two adjacent stalls or spaces on a street or highway or in a public or private off-street parking facility if the equipment has been or will be used for loading or unloading a person with a disability, and if there is no single parking space immediately available on the street or highway or within the facility that

is suitable for that purpose, including, but not limited to, when there is not sufficient space to operate a vehicle lift, ramp, or assistive equipment, or there is not sufficient room for a person with a disability to exit the vehicle or maneuver once outside the vehicle.

SEC. 222. Section 24617 of the Vehicle Code is amended to read:

24617. (a) A transit bus may be authorized to be equipped with a yield right-of-way sign on the left rear of the bus. The yield right-of-way sign may flash simultaneously with the rear turn signal lamps, but is not required to do so. The sign shall be both of the following:

(1) Designed to warn a person operating a motor vehicle approaching the rear of the bus that the bus is entering traffic.

(2) Illuminated by a red flashing light when the bus is signaling in preparation for entering a traffic lane after having stopped to receive or discharge passengers.

(b) This section does not require a transit agency to install the yield right-of-way sign described in subdivision (a).

(c) This section does not relieve the driver of a transit bus from the duty to drive the bus with due regard for the safety of all persons and property. This section does not exempt the driver of a transit bus from Section 21804.

(d) This section applies only to the Santa Cruz Metropolitan Transit District and the Santa Clara Valley Transportation Authority, if the governing board of the applicable entity approves a resolution, after a public hearing on the issue, requesting that this section be made applicable to it.

(e) A participating transit agency shall undertake a public education program to encourage motorists to yield to a transit bus when the sign specified in subdivision (a) is activated.

SEC. 223. 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 Motor Vehicle Safety Act.

(c) (1) As used in this section, "motor vehicle" means a passenger vehicle, a motortruck, or a truck tractor, but does not include a motorcycle.

(2) For purposes of this section, a "motor vehicle" also means a farm labor vehicle, regardless of the date of certification under Section 31401.

(d) (1) A person shall not operate a motor vehicle on a highway unless that person and all passengers 16 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 and is engaged in the transportation of a fare-paying passenger. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a motor vehicle. This paragraph does not preempt more stringent or restrictive standards imposed by the Labor Code or another state or federal regulation regarding the transportation of employees in a 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 six years of age or over or weighing 60 pounds or more 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 six years of age or over or weighing 60 pounds or more in the front seat are properly restrained by a safety belt.

(e) A person 16 years of age or over shall not be a passenger in a motor vehicle on a highway unless that person is properly restrained by a safety belt. This subdivision does not apply to a passenger in a sleeper berth, as defined in subdivision (x) of Section 1201 of Title 13 of the California Code of Regulations.

(f) An owner of a motor vehicle, including an 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, however, does not require installation or maintenance of safety belts if 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 that 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 public employee, when in an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165, or to a passenger in a seat behind the front seat of an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165 operated by the public employee, unless required by the agency employing the public employee.

(h) Notwithstanding subdivision (a) of Section 42001, a violation of subdivision (d), (e), or (f) is an infraction punishable by a fine of not more than twenty dollars ($20) for a first offense, and a fine 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 another court-approved program in which the proper use of safety belts is demonstrated.

(i) In a civil action, a violation of subdivision (d), (e), or (f) or information of a violation of subdivision (h) does 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.

(j) If the United States Secretary of Transportation fails to adopt safety standards for manual safety belt systems by September 1, 1989, a motor vehicle manufactured after that date for sale or sold in this state shall not be registered unless it contains a manual safety belt system that meets the performance standards applicable to automatic crash protection devices adopted by the United States 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.

(k) A 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. An automobile manufacturer that sells or delivers a motor vehicle subject to 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 motor vehicle.

(*l*) Compliance with subdivision (j) or (k) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(m) 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.

(n) 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.

(o) This section does not apply to a driver actually engaged in the collection of solid waste or recyclable materials along that driver's collection route if the driver is properly restrained by a safety belt prior to commencing and subsequent to completing the collection 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 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.

SEC. 224. Section 40002 of the Vehicle Code is amended to read:

40002. (a) (1) If there is a violation of Section 40001, an owner or other person subject to Section 40001, who was not driving the vehicle involved in the violation, may be mailed a written notice to appear. An exact and legible duplicate copy of that notice when filed with the court, in lieu of a verified complaint, is a complaint to which the defendant may plead "guilty."

(2) If, however, the defendant fails to appear in court or does not deposit lawful bail, or pleads other than "guilty" of the offense charged, a verified complaint shall be filed which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(3) A verified complaint pursuant to paragraph (2) shall include a paragraph that informs the person that unless he or she appears in the court designated in the complaint within 21 days after being given the complaint and answers the charge, renewal of registration of the vehicle involved in the offense may be precluded by the department, or a warrant of arrest may be issued against him or her.

(b) (1) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, a warrant of arrest shall not be issued based on the notice to appear, even if that notice is verified. An arrest warrant may be issued only after a verified

complaint pursuant to paragraph (2) of subdivision (a) is given the person and the person fails to appear in court to answer that complaint.

(2) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, the court may give by mail to the person a notice of noncompliance. A notice of noncompliance shall include a paragraph that informs the person that unless he or she appears in the court designated in the notice to appear within 21 days after being given by mail the notice of noncompliance and answers the charge on the notice to appear, or pays the applicable fine and penalties if an appearance is not required, renewal of registration of the vehicle involved in the offense may be precluded by the department.

(c) A verified complaint filed pursuant to this section shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code.

(d) (1) The giving by mail of a notice to appear pursuant to paragraph (1) of subdivision (a) or a notice of noncompliance pursuant to paragraph (2) of subdivision (b) shall be done in a manner prescribed by Section 22.

(2) The verified complaint pursuant to paragraph (2) of subdivision (a) shall be given in a manner prescribed by Section 22.

SEC. 225. Section 40240 of the Vehicle Code is amended to read:

40240. (a) The City and County of San Francisco may install automated forward facing parking control devices on city-owned public transit vehicles, as defined by Section 99211 of the Public Utilities Code, for the purpose of video imaging of parking violations occurring in transit-only traffic lanes. Citations shall be issued only for violations captured during the posted hours of operation for a transit-only traffic lane. The devices shall be angled and focused so as to capture video images of parking violations and not unnecessarily capture identifying images of other drivers, vehicles, and pedestrians.

(b) Prior to issuing notices of parking violations pursuant to subdivision (a) of Section 40241, the City and County of San Francisco shall commence a program to issue only warning notices for 30 days. The City and County of San Francisco shall also make a public announcement of the program at least 30 days prior to commencement of issuing notices of parking violations.

(c) A designated employee of the City and County of San Francisco, who is qualified by the city and county to issue parking citations, shall review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane. A violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance

enacted by the City and County of San Francisco occurring in a transit-only traffic lane observed by the designated employee in the recordings is subject to a civil penalty.

(d) The registered owner shall be permitted to review the video image evidence of the alleged violation during normal business hours at no cost.

(e) (1) Except as it may be included in court records described in Section 68152 of the Government Code, or as provided in paragraph (2), the video image evidence may be retained for up to six months from the date the information was first obtained, or 60 days after final disposition of the citation, whichever date is later, after which time the information shall be destroyed.

(2) Notwithstanding Section 26202.6 of the Government Code, video image evidence from forward facing automated enforcement devices that does not contain evidence of a parking violation occurring in a transit-only traffic lane shall be destroyed within 15 days after the information was first obtained.

(f) Notwithstanding Section 6253 of the Government Code, or any other provision of law, the video image records are confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article.

(g) For purposes of this article, "local agency" means the City and County of San Francisco.

(h) For purposes of this article, "transit-only traffic lane" means any of the designated transit-only lanes that were designated on or before January 1, 2008, on Beach Street, Bush Street, Clay Street, First Street, Fourth Street, Fremont Street, Geary Boulevard, Jefferson Street, Jones Street, Mission Street, Market Street, O'Farrell Street, Post Street, Potrero Street, Sacramento Street, Sansome Street, Stockton Street, Sutter Street, and Third Street.

(i) Video images captured pursuant to this article shall not be transmitted wirelessly.

SEC. 226. Section 8201 of the Water Code is amended to read:

8201. (a) A local agency may prepare a local plan of flood protection in accordance with this chapter.

(b) A local plan of flood protection shall include all of the following:

(1) A strategy to meet the urban level of flood protection, including planning for residual flood risk and system resiliency.

(2) Identification of all types of flood hazards.

(3) Identification and risk assessment of the various facilities that provide flood protection for flood hazard areas, for current and future land uses.

(4) Identification of current and future flood corridors.

(5) Identification of needed improvements and costs of those improvements to the flood protection facilities that are necessary to meet flood protection standards.

(6) An emergency response and evacuation plan for flood-prone areas.

(7) A strategy to achieve multiple benefits, including flood protection, groundwater recharge, ecosystem health, and reduced maintenance costs over the long term.

(8) A long-term funding strategy for improvement and ongoing maintenance and operation of flood protection facilities.

(c) A local agency that is not a city or county that prepares a plan pursuant to this chapter shall consult with the cities and counties that have jurisdiction over the planning area to ensure that the local plan of flood protection is consistent with local general plans.

(d) Plans prepared pursuant to this chapter, within the Sacramento-San Joaquin Valley as defined by Section 9602, shall be consistent with the Central Valley Flood Protection Plan pursuant to Section 9612.

SEC. 227. Section 8610.5 of the Water Code, as added by Section 17 of Chapter 365 of the Statutes of 2007, is repealed.

SEC. 228. Section 8610.5 of the Water Code, as added by Section 21 of Chapter 366 of the Statutes of 2007, is amended to read:

8610.5. (a) (1) The board shall adopt regulations relating to evidentiary hearings pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The board shall hold an evidentiary hearing for any matter that requires the issuance of a permit.

(3) The board is not required to hold an evidentiary hearing before making a decision relating to general flood protection policy or planning.

(b) The board may take an action pursuant to Section 8560 only after allowing for public comment.

(c) The board shall, in any evidentiary hearing, consider all of the following, as applicable, for the purpose of taking any action pursuant to Section 8560:

(1) Evidence that the board admits into its record from any party, state or local public agency, or nongovernmental organization with expertise in flood or flood plain management.

(2) The best available science that relates to the scientific issues presented by the executive officer, legal counsel, the department, or other parties that raise credible scientific issues.

(3) Effects of the proposed decision on the entire State Plan of Flood Control.

(4) Effects of reasonably projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed.

SEC. 229. Section 9602 of the Water Code is amended to read:

9602. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) "Board" means the Central Valley Flood Protection Board.

(b) "Plan" means the Central Valley Flood Protection Plan.

(c) "Project levee" means a levee that is part of the facilities of the State Plan of Flood Control.

(d) "Public safety infrastructure" means public safety infrastructure necessary to respond to a flood emergency, including, but not limited to, street and highway evacuation routes, public utilities necessary for public health and safety, including drinking water and wastewater treatment facilities, and hospitals.

(e) "Sacramento-San Joaquin Valley" means lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or their tributaries or connected therewith, or upon any land adjacent thereto, or within the overflow basins thereof, or upon land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley does not include lands lying within the Tulare Lake basin, including the Kings River.

(f) "State Plan of Flood Control" has the meaning set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(g) "System" means the Sacramento-San Joaquin River Flood Management System described in Section 9611.

(h) "Urban area" has the same meaning as that set forth in subdivision (k) of Section 5096.805 of the Public Resources Code.

(i) "Urban level of flood protection" means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the department.

SEC. 230. Section 9610 of the Water Code is amended to read:

9610. (a) (1) By July 1, 2008, the department shall develop preliminary maps for the 100- and 200-year flood plains protected by project levees. The 100-year flood plain maps shall be prepared using criteria developed or accepted by the Federal Emergency Management Agency (FEMA).

(2) The department shall use available information from the 2002 Sacramento-San Joaquin River Basin Comprehensive Study, preliminary and regulatory FEMA flood insurance rate maps, recent flood plain studies, and other sources to compile preliminary maps.

(3) The department shall provide the preliminary maps to cities and counties within the Sacramento-San Joaquin Valley for use as best available information relating to flood protection.

(4) The department shall post this information on the board's Internet Web site and may periodically update the maps as necessary.

(b) By July 1, 2008, the department shall give notice to cities in the Sacramento-San Joaquin Valley outside areas protected by project levees regarding maps and other information as to flood risks available from the Federal Emergency Management Agency or another federal, state, or local agency.

(c) On or before December 31, 2010, the department shall prepare a status report on the progress and development of the Central Valley Flood Protection Plan pursuant to Section 9612. The department shall post this information on the board's Internet Web site, and make it available to the public.

SEC. 231. Section 9614 of the Water Code is amended to read:

9614. The plan shall include all of the following:

(a) A description of the Sacramento-San Joaquin River Flood Management System and the cities and counties included in the system.

(b) A description of the performance of the system and the challenges to modifying the system to provide appropriate levels of flood protection using available information.

(c) A description of the facilities included in the State Plan of Flood Control, including all of the following:

(1) The precise location and a brief description of each facility, a description of the population and property protected by the facility, the system benefits provided by the facility, if any, and a brief history of the facility, including the year of construction, major improvements to the facility, and any failures of the facility.

(2) The design capacity of each facility.

(3) A description and evaluation of the performance of each facility, including the following:

(A) An evaluation of failure risks due to each of the following:

(i) Overtopping.

(ii) Under seepage and seepage.

(iii) Structural failure.

(iv) Other sources of risk, including seismic risks, that the department or the board determines are applicable.

(B) A description of any uncertainties regarding performance capability, including uncertainties arising from the need for additional engineering evaluations or uncertainties arising from changed conditions such as changes in estimated channel capacities.

(d) A description of each existing dam that is not part of the State Plan of Flood Control that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects urban areas within the Sacramento-San Joaquin Valley.

(e) A description of each existing levee and other flood management facility not described in subdivision (d) that is not part of the State Plan

of Flood Control and that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects an urban area.

(f) A description of the probable impacts of projected climate change, projected land use patterns, and other potential flood management challenges on the ability of the system to provide adequate levels of flood protection.

(g) An evaluation of the structural improvements and repairs necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard. The evaluation shall include a prioritized list of recommended actions necessary to bring each facility not identified in subdivision (h) to within its design standard.

(h) The evaluation shall include a list of facilities recommended to be removed from the State Plan of Flood Control. For each facility recommended for removal, the evaluation shall identify both of the following:

(1) The reasons for proposing the removal of the facility from the State Plan of Flood Control.

(2) Any additional recommended actions associated with removing the facility from the State Plan of Flood Control.

(i) A description of both structural and nonstructural methods for providing an urban level of flood protection to current urban areas. The description shall also include a list of recommended next steps to improve urban flood protection.

(j) A description of structural and nonstructural means for enabling or improving systemwide riverine ecosystem function, including, but not limited to, establishment of riparian habitat and seasonal inundation of available flood plains where feasible.

SEC. 232. Section 9625 of the Water Code, as added by Section 9 of Chapter 364 of the Statutes of 2007, is amended to read:

9625. (a) By January 1, 2010, the department shall develop cost-sharing formulas, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) for repairs or improvements of facilities included in the plan to determine the local share of the cost of design and construction.

(b) The cost-sharing formulas developed by the department shall be established pursuant to Section 12585.7.

(c) In developing a cost-sharing formula, the department shall consider the ability of local governments to pay their share of the capital costs of the project.

(d) Prior to finalizing cost-sharing formulas, the department shall conduct public meetings to consider public comments. The department shall post a draft cost-sharing formula on its Internet Web site at least 30 days before the public meetings. To the extent feasible, the department shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

SEC. 233. Section 9625 of the Water Code, as added by Section 26 of Chapter 366 of the Statutes of 2007, is amended to read:

9625. (a) By January 1, 2010, the department shall develop cost-sharing formulas, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) for repairs or improvements of facilities included in the plan to determine the local share of the cost of design and construction.

(b) For qualifying projects pursuant to subdivision (a), the state's share of the nonfederal share shall be set at a minimum level of 50 percent.

(c) In developing cost-sharing formulas, the department shall consider the ability of local governments to pay their share of the capital costs of the project.

(d) Prior to finalizing cost-sharing formulas, the department shall conduct public meetings to consider public comments. The department shall post a draft cost-sharing formula on its Internet Web site at least 30 days before the public meetings. To the extent feasible, the department shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

SEC. 234. Section 13478 of the Water Code is amended to read:

13478. The board may undertake any of the following:

(a) Enter into agreements with the federal government for federal contributions to the fund.

(b) Accept federal contributions to the fund.

(c) Enter into an agreement with, and accept matching funds from, a municipality. A municipality that seeks to enter into an agreement with the board and provide matching funds pursuant to this subdivision shall provide to the board evidence of the availability of those funds in the form of a written resolution adopted by the governing body of the municipality before it requests a preliminary loan commitment.

(d) Use moneys in the fund for the purposes permitted by the federal act.

(e) Provide for the deposit of matching funds and other available and necessary moneys into the fund.

(f) Make requests on behalf of the state for deposit into the fund of available federal moneys under the federal act and determine on behalf of the state appropriate maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of the federal act.

(g) Determine on behalf of the state that publicly owned treatment works that receive financial assistance from the fund will meet the requirements of, and otherwise be treated as required by, the federal act.

(h) Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(i) Take additional incidental action as appropriate for the adequate administration and operation of the fund.

(j) Charge municipalities that elect to provide matching funds a fee to cover the actual cost of obtaining the federal funds pursuant to Section 603(d)(7) of the federal act (33 U.S.C. Sec. 1383(d)(7)) and processing the loan application. The fee shall be waived by the board if sufficient funds to cover those costs are available from other sources.

(k) Use moneys returned to the fund under clause (ii) of subparagraph (D) of paragraph (1) of subdivision (b) of Section 13480, and any other source of matching funds, if not prohibited by statute, as matching funds for the federal administrative allowance under Section 603(d)(7) of the federal act (33 U.S.C. Sec. 1383(d)(7)).

(*l*) Expend moneys repaid by loan recipients for loan service under clauses (i) and (ii) of subparagraph (D) of paragraph (1) of subdivision (b) of Section 13480 to pay administrative costs incurred by the board under this chapter.

SEC. 235. Section 13480 of the Water Code is amended to read:

13480. (a) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act, including providing financial assistance for the following purposes:

(1) The construction of publicly owned treatment works, as defined by Section 212 of the federal act (33 U.S.C. Sec. 1292), by any municipality.

(2) Implementation of a management program pursuant to Section 319 of the federal act (33 U.S.C. Sec. 1329).

(3) Development and implementation of a conservation and management plan under Section 320 of the federal act (33 U.S.C. Sec. 1330).

(4) Financial assistance, other than a loan, toward the nonfederal share of costs of any grant-funded treatment works project, but only if that assistance is necessary to permit the project to proceed.

(b) Consistent with expenditure for authorized purposes, moneys in the fund may be used for the following purposes:

(1) Loans that meet all of the following requirements:

(A) Are made at or below market interest rates.

(B) Require annual payments of principal and any interest, with repayment commencing not later than one year after completion of the project for which the loan is made and full amortization not later than 20 years after project completion.

(C) Require the loan recipient to establish an acceptable dedicated source of revenue for repayment of a loan.

(D) (i) Contain other terms and conditions required by the board or the federal act or applicable rules, regulations, guidelines, and policies. To the extent permitted by federal law, the combined interest and loan service rate shall be set at a rate that does not exceed 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds and the combined interest and loan service rate shall be computed according to the true interest cost method. If the combined interest and loan service rate so determined is not a multiple of one-tenth of 1 percent, the combined interest and loan service rate shall be set at the multiple of one-tenth of 1 percent next above the combined interest and loan service rate so determined. A loan from the fund used to finance costs of facilities planning, or the preparation of plans, specifications, or estimates for construction of publicly owned treatment works shall comply with Section 603(e) of the federal act (33 U.S.C. Sec. 1383(e)).

(ii) Notwithstanding clause (i), if the loan applicant is a municipality, an applicant for a loan for the implementation of a management program pursuant to Section 319 of the federal Clean Water Act (33 U.S.C. Sec. 1329), or an applicant for a loan for nonpoint source or estuary enhancement pursuant to Section 320 of the federal Clean Water Act (33 U.S.C. Sec. 1330), and the applicant provides matching funds, the combined interest and loan service rate on the loan shall be 0 percent. A loan recipient that returns to the fund an amount of money equal to 20 percent of the remaining unpaid federal balance of an existing loan shall have the remaining unpaid loan balance refinanced at a combined interest and loan service rate of 0 percent over the time remaining in the original loan contract.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Title VI (commencing with Section 601) of the federal act (33 U.S.C. Sec. 1381 et seq.). Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant-funded treatment works projects to the extent permitted by the federal act.

SEC. 236. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) (1) In any case in which a minor is alleged to be a person described in subdivision (a) of Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(A) The degree of criminal sophistication exhibited by the minor.

(B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The minor's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the minor.

(E) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may have been entered already shall constitute evidence at the hearing.

(2) (A) This paragraph shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she has attained 16 years of age, of any felony offense when the minor has been declared to be a ward of the court pursuant to Section 602 on one or more prior occasions if both of the following apply:

(i) The minor has previously been found to have committed two or more felony offenses.

(ii) The offenses upon which the prior petition or petitions were based were committed when the minor had attained 14 years of age.

(B) Upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

(i) The degree of criminal sophistication exhibited by the minor.

(ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(iii) The minor's previous delinquent history.

(iv) Success of previous attempts by the juvenile court to rehabilitate the minor.

(v) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating and mitigating circumstances in evaluating each of the above criteria. In any

case in which the hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If the minor is found to be a fit and proper subject to be dealt with under the juvenile court law pursuant to this subdivision, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(3) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery.

(4) Rape with force, violence, or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) An offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purposes of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) An offense described in Section 1203.09 of the Penal Code.

(17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.

(18) A felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) A felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 12034 of the Penal Code.

(29) The offense described in Section 12308 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 14 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(d) (1) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing an offense enumerated in subdivision (b).

(2) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against a minor 14 years of age or older in a court of criminal jurisdiction in any case in which any one or more of the following circumstances apply:

(A) The minor is alleged to have committed an offense that if committed by an adult would be punishable by death or imprisonment in the state prison for life.

(B) The minor is alleged to have personally used a firearm during the commission or attempted commission of a felony, as described in Section 12022.5 or 12022.53 of the Penal Code.

(C) The minor is alleged to have committed an offense listed in subdivision (b) in which any one or more of the following circumstances apply:

(i) The minor has previously been found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b).

(ii) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang, as defined in subdivision (f) of Section 186.22 of the Penal Code, with the specific intent to promote, further, or assist in criminal conduct by gang members.

(iii) The offense was committed for the purpose of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceives that the other person has one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.

(iv) The victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(3) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing one or more of the following offenses, if the minor has previously been found to be a person described in Section 602 by reason of the violation of a felony offense, when he or she was 14 years of age or older:

(A) A felony offense in which it is alleged that the victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(B) A felony offense committed for the purposes of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceived that the other person had one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.

(C) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang as prohibited by Section 186.22 of the Penal Code.

(4) In any case in which the district attorney or other appropriate prosecuting officer has filed an accusatory pleading against a minor in a court of criminal jurisdiction pursuant to this subdivision, the case shall then proceed according to the laws applicable to a criminal case. In conjunction with the preliminary hearing as provided in Section 738 of the Penal Code, the magistrate shall make a finding that reasonable cause exists to believe that the minor comes within this subdivision. If reasonable cause is not established, the criminal court shall transfer the case to the juvenile court having jurisdiction over the matter.

(5) For an offense for which the prosecutor may file the accusatory pleading in a court of criminal jurisdiction pursuant to this subdivision, but elects instead to file a petition in the juvenile court, if the minor is subsequently found to be a person described in subdivision (a) of Section 602, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(6) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(e) A report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.

SEC. 237. Section 5348 of the Welfare and Institutions Code is amended to read:

5348. (a) For purposes of subdivision (e) of Section 5346, a county that chooses to provide assisted outpatient treatment services pursuant to this article shall offer assisted outpatient treatment services including, but not limited to, all of the following:

(1) Community-based, mobile, multidisciplinary, highly trained mental health teams that use high staff-to-client ratios of no more than 10 clients per team member for those subject to court-ordered services pursuant to Section 5346.

(2) A service planning and delivery process that includes the following:

(A) Determination of the numbers of persons to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.

(B) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, which shall consider cultural, linguistic, gender, age, and special needs of minorities and those based on any characteristic listed or defined in Section 11135 of the Government Code in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services as a result of having limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(C) Provision for services to meet the needs of persons who are physically disabled.

(D) Provision for services to meet the special needs of older adults.

(E) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate.

(F) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(G) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(H) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that still would be received through other funds had eligibility not been terminated as a result of age.

(I) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment

programs that address gender-specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(J) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(K) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services, but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(3) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and followthrough of services, and necessary advocacy to ensure each client receives those services that are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, shall consult with the family and other significant persons as appropriate.

(4) The individual personal services plan shall ensure that persons subject to assisted outpatient treatment programs receive age-appropriate, gender-appropriate, and culturally appropriate services, to the extent feasible, that are designed to enable recipients to:

(A) Live in the most independent, least restrictive housing feasible in the local community, and, for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(B) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(C) Create and maintain a support system consisting of friends, family, and participation in community activities.

(D) Access an appropriate level of academic education or vocational training.

(E) Obtain an adequate income.

(F) Self-manage their illnesses and exert as much control as possible over both the day-to-day and long-term decisions that affect their lives.

(G) Access necessary physical health care and maintain the best possible physical health.

(H) Reduce or eliminate serious antisocial or criminal behavior, and thereby reduce or eliminate their contact with the criminal justice system.

(I) Reduce or eliminate the distress caused by the symptoms of mental illness.

(J) Have freedom from dangerous addictive substances.

(5) The individual personal services plan shall describe the service array that meets the requirements of paragraph (4), and to the extent applicable to the individual, the requirements of paragraph (2).

(b) A county that provides assisted outpatient treatment services pursuant to this article also shall offer the same services on a voluntary basis.

(c) Involuntary medication shall not be allowed absent a separate order by the court pursuant to Sections 5332 to 5336, inclusive.

(d) A county that operates an assisted outpatient treatment program pursuant to this article shall provide data to the State Department of Mental Health and, based on the data, the department shall report to the Legislature on or before May 1 of each year in which the county provides services pursuant to this article. The report shall include, at a minimum, an evaluation of the effectiveness of the strategies employed by each program operated pursuant to this article in reducing homelessness and hospitalization of persons in the program and in reducing involvement with local law enforcement by persons in the program. The evaluation and report shall also include any other measures identified by the department regarding persons in the program and all of the following, based on information that is available:

(1) The number of persons served by the program and, of those, the number who are able to maintain housing and the number who maintain contact with the treatment system.

(2) The number of persons in the program with contacts with local law enforcement, and the extent to which local and state incarceration of persons in the program has been reduced or avoided.

(3) The number of persons in the program participating in employment services programs, including competitive employment.

(4) The days of hospitalization of persons in the program that have been reduced or avoided.

(5) Adherence to prescribed treatment by persons in the program.

(6) Other indicators of successful engagement, if any, by persons in the program.

(7) Victimization of persons in the program.

(8) Violent behavior of persons in the program.

(9) Substance abuse by persons in the program.

(10) Type, intensity, and frequency of treatment of persons in the program.

(11) Extent to which enforcement mechanisms are used by the program, when applicable.

(12) Social functioning of persons in the program.

(13) Skills in independent living of persons in the program.

(14) Satisfaction with program services both by those receiving them and by their families, when relevant.

SEC. 238. Section 5352.1 of the Welfare and Institutions Code is amended to read:

5352.1. (a) The court may establish a temporary conservatorship for a period not to exceed 30 days and appoint a temporary conservator on the basis of the comprehensive report of the officer providing conservatorship investigation filed pursuant to Section 5354, or on the basis of an affidavit of the professional person who recommended conservatorship stating the reasons for his or her recommendation, if the court is satisfied that the comprehensive report or affidavit shows the necessity for a temporary conservatorship.

(b) Except as provided in this section, all temporary conservatorships shall expire automatically at the conclusion of 30 days, unless prior to that date the court shall conduct a hearing on the issue of whether or not the proposed conservatee is gravely disabled as defined in subdivision (h) of Section 5008.

(c) If the proposed conservatee demands a court or jury trial on the issue whether he or she is gravely disabled, the court may extend the temporary conservatorship until the date of the disposition of the issue by the court or jury trial, provided that the extension shall in no event exceed a period of six months.

SEC. 239. Section 5777.7 of the Welfare and Institutions Code is amended to read:

5777.7. (a) In order to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside his or her county of original jurisdiction, the State Department of Mental Health shall take all of the following actions:

(1) On or before July 1, 2008, create all of the following items, in consultation with stakeholders, including, but not limited to, the California Institute for Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, and the California Alliance of Child and Family Services:

(A) A standardized contract for the purchase of medically necessary specialty mental health services from organizational providers, when a contract is required.

(B) A standardized specialty mental health service authorization procedure.

(C) A standardized set of documentation standards and forms, including, but not limited to, forms for treatment plans, annual treatment plan updates, day treatment intensive and day treatment rehabilitative progress notes, and treatment authorization requests.

(2) On or before January 1, 2009, use the standardized items as described in paragraph (1) to provide medically necessary specialty mental health services to a foster child who is placed outside his or her county of original jurisdiction, so that organizational providers who are already certified by a mental health plan are not required to be additionally certified by the mental health plan in the county of original jurisdiction.

(3) (A) On or before January 1, 2009, use the standardized items described in paragraph (1) to provide medically necessary specialty mental health services to a foster child placed outside his or her county of original jurisdiction to constitute a complete contract, authorization procedure, and set of documentation standards and forms, so that no additional documents are required.

(B) Authorize a county mental health plan to be exempt from subparagraph (A) and have an addendum to a contract, authorization procedure, or set of documentation standards and forms, if the county mental health plan has an externally placed requirement, such as a requirement from a federal integrity agreement, that would affect one of these documents.

(4) Following consultation with stakeholders, including, but not limited to, the California Institute for Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, the California State Association of Counties, and the California Alliance of Child and Family Services, require the use of the standardized contracts, authorization procedures, and documentation standards and forms as specified in paragraph (1) in the 2008–09 state-county mental health plan contract and each state-county mental health plan contract thereafter.

(5) The mental health plan shall complete a standardized contract, as provided in paragraph (1), if a contract is required, or another mechanism of payment if a contract is not required, with a provider or providers of the county's choice, to deliver approved specialty mental health services for a specified foster child, within 30 days of an approved treatment authorization request.

(b) The California Health and Human Services Agency shall coordinate the efforts of the State Department of Mental Health and the State Department of Social Services to do all of the following:

(1) Participate with the stakeholders in the activities described in this section.

(2) During budget hearings in 2008 and 2009, report to the Legislature regarding the implementation of this section and subdivision (c) of Section 5777.6.

(3) On or before July 1, 2008, establish the following, in consultation with stakeholders, including, but not limited to, the California Mental Health Directors Association, the California Alliance of Child and Family Services, and the County Welfare Directors Association of California:

(A) Informational materials that explain to foster care providers how to arrange for mental health services on behalf of the beneficiary in their care.

(B) Informational materials that county child welfare agencies can access relevant to the provision of services to children in their care from the out-of-county local mental health plan that is responsible for providing those services, including, but not limited to, receiving a copy of the child's treatment plan within 60 days after requesting services.

(C) It is the intent of the Legislature to ensure that foster children who are adopted or placed permanently with relative guardians, and who move to a county outside their original county of residence, can access mental health services in a timely manner. It is the intent of the Legislature to enact this section as a temporary means of ensuring access to these services, while the appropriate stakeholders pursue a long-term solution in the form of a change to the Medi-Cal Eligibility Data System that will allow these children to receive mental health services through their new county of residence.

SEC. 240. Section 5806 of the Welfare and Institutions Code is amended to read:

5806. The State Department of Mental Health shall establish service standards that ensure that members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. The department shall provide annual oversight of grants issued pursuant to this part for compliance with these standards. These standards shall include, but are not limited to, all of the following:

(a) A service planning and delivery process that is target population based and includes the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.

(2) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans also shall contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(3) Provision for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate for the individual.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(7) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(8) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that still would be received through other funds had eligibility not been terminated due to age.

(9) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment programs that address gender-specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(10) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(11) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services, but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(b) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and followthrough of services, and necessary advocacy to ensure that each client receives those services that are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, consult with the family and other significant persons as appropriate.

(c) The individual personal services plan shall ensure that members of the target population involved in the system of care receive age-appropriate, gender-appropriate, and culturally appropriate services or appropriate services based on any characteristic listed or defined in Section 11135 of the Government Code, to the extent feasible, that are designed to enable recipients to:

(1) Live in the most independent, least restrictive housing feasible in the local community, and for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(2) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(3) Create and maintain a support system consisting of friends, family, and participation in community activities.

(4) Access an appropriate level of academic education or vocational training.

(5) Obtain an adequate income.

(6) Self-manage their illness and exert as much control as possible over both the day-to-day and long-term decisions that affect their lives.

(7) Access necessary physical health care and maintain the best possible physical health.

(8) Reduce or eliminate serious antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.

(9) Reduce or eliminate the distress caused by the symptoms of mental illness.

(10) Have freedom from dangerous addictive substances.

(d) The individual personal services plan shall describe the service array that meets the requirements of subdivision (c), and to the extent applicable to the individual, the requirements of subdivision (a).

SEC. 241. Section 10830 of the Welfare and Institutions Code, as added by Chapter 206 of the Statutes of 1996, is amended to read:

10830. (a) The department and the Health and Welfare Data Center shall design, implement, and maintain a statewide fingerprint imaging system for use in connection with the determination of eligibility for benefits under the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program under Chapter 2 (commencing with Section 11200) of Part 3 excluding Aid to Families with Dependent Children-Foster Care (AFDC-FC), and the Food Stamp Program under Chapter 10 (commencing with Section 18900) of Part 6.

(b) (1) Every applicant for, or recipient of, aid under Chapter 2 (commencing with Section 11200) of Part 3, excluding the AFDC-FC program and Chapter 10 (commencing with Section 18900) of Part 6, other than dependent children or persons who are physically unable to be fingerprint imaged, shall, as a condition of eligibility for assistance, be required to be fingerprint imaged.

(2) A person subject to paragraph (1) shall not be eligible for the CalWORKs program or the Food Stamp Program until fingerprint images are provided, except as provided in subdivision (e). Ineligibility may extend to an entire case of a person who refuses to provide fingerprint images.

(c) The department may adopt emergency regulations to implement this section specifying the statewide fingerprint imaging requirements and exemptions to the requirements 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 initial adoption of any emergency regulations implementing this section, as added during the 1996 portion of the 1995–96 Regular Session, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(d) Persons required to be fingerprint imaged pursuant to this section shall be informed that fingerprint images obtained pursuant to this section shall be used only for the purpose of verifying eligibility and preventing multiple enrollments in the CalWORKs program or the Food Stamp Program. The department, county welfare agencies, and all others shall

not use or disclose the data collected and maintained for any purpose other than the prevention or prosecution of fraud. Fingerprint imaging information obtained pursuant to this section shall be confidential under Section 10850.

(e) (1) Except as provided in paragraph (2), the fingerprint imaging required under this chapter shall be scheduled only during the application appointment or other regularly scheduled appointments. No other special appointment shall be required. No otherwise eligible individual shall be ineligible to receive benefits under this chapter due to a technical problem occurring in the fingerprint imaging system or as long as the person consents to and is available for fingerprint imaging at a mutually agreed-upon time, not later than 60 days from the initial attempt to complete fingerprint imaging.

(2) During the first nine months following implementation, recipients may be scheduled for separate appointments to complete the fingerprint imaging required by this section. Notice shall be mailed first class by the department to recipients at least 10 days prior to the appointment, and shall include procedures for the recipient to reschedule the scheduled appointment within 30 days.

(f) If the fingerprint image of an applicant or recipient of aid to which this section applies matches another fingerprint image on file, the county shall notify the applicant or recipient. In the event that a match is appealed, the fingerprint image match shall be verified by a trained individual and any matching case files reviewed prior to the denial of benefits. Upon confirmation that the applicant or recipient is receiving or attempting to receive multiple CalWORKs program checks, a county fraud investigator shall be notified.

SEC. 242. Section 10960 of the Welfare and Institutions Code is amended to read:

10960. (a) Within 30 days after receiving the decision of the director, which is the proposed decision of an administrative law judge adopted by the director as final, a final decision rendered by an administrative law judge, or a decision issued by the director himself or herself, the affected county or applicant or recipient may file a request with the director for a rehearing. The director shall immediately serve a copy of the request on the other party to the hearing and that other party may within five days of the service file with the director a written statement supporting or objecting to the request. The director shall grant or deny the request no later than the 35th working day after the request is made to ensure the prompt and efficient administration of the hearing process. If the director grants the request, the rehearing shall be conducted in the same manner and subject to the same time limits as the original hearing.

(b) The grounds for requesting a rehearing are as follows:

(1) The adopted decision is inconsistent with the law.

(2) The adopted decision is not supported by the evidence in the record.

(3) The adopted decision is not supported by the findings.

(4) The adopted decision does not address all of the claims or issues raised by the parties.

(5) The adopted decision does not address all of the claims or issues supported by the record or evidence.

(6) The adopted decision does not set forth sufficient information to determine the basis for its legal conclusion.

(7) Newly discovered evidence, that was not in custody or available to the party requesting rehearing at the time of the hearing, is now available and the new evidence, had it been introduced, could have changed the hearing decision.

(8) For any other reason necessary to prevent the abuse of discretion or an error of law, or for any other reason consistent with Section 1094.5 of the Code of Civil Procedure.

(c) The notice granting or denying the rehearing request shall explain the reasons and legal basis for granting or denying the request for rehearing.

(d) The decision of the director, which is the proposed decision of an administrative law judge adopted by the director as final, a final decision rendered by an administrative law judge, or a decision issued by the director himself or herself, remains final pending a request for a rehearing. Only after a rehearing is granted is the decision no longer the final decision in the case.

(e) Notwithstanding any other provision of law, a rehearing request or decision shall not be a prerequisite to filing an action under Section 10962.

(f) (1) Notwithstanding subdivision (a), an applicant or recipient otherwise may be entitled to a rehearing pursuant to this chapter if he or she files a request more than 30 days after the decision of the director is issued, or if he or she did not receive a copy of the decision of the director, or if there is good cause for filing beyond the 30-day period. The director may determine whether good cause exists.

(2) For purposes of this subdivision, "good cause" means a substantial and compelling reason beyond the party's control, considering the length of the delay, the diligence of the party making the request, and the potential prejudice to the other party. The inability of a person to understand an adequate and language-compliant notice, in and of itself, shall not constitute good cause. The department shall not grant a request for a hearing if the request is filed more than 180 days after the order or action complained of.

(3) This section shall not preclude the application of the principles of equity jurisdiction as otherwise provided by law.

(g) Notwithstanding 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 department shall implement this section through an all-county information notice no later than January 1, 2008. The department may also provide further instructions through training notes.

SEC. 243. Section 11322.5 of the Welfare and Institutions Code is amended to read:

11322.5. (a) It is the intent of the Legislature to do each of the following:

(1) Maximize the ability of CalWORKs recipients to benefit from the federal Earned Income Tax Credit (EITC), including retroactive EITC credits and the Advance EITC, take advantage of the earned-income disregard to increase their federal Food Stamp Program benefits, and accumulate credit toward future social security income.

(2) Educate and empower all CalWORKs participants who receive the federal EITC to save or invest part or all of their credits in instruments such as individual development accounts, 401(k) plans, 403(b) plans, IRAs, 457 plans, Coverdell ESA plans, restricted accounts pursuant to subdivision (a) of Section 11155.2, or 529 plans, and to take advantage of the federal Assets for Independence program and other matching funds, tools, and training available from public or private sources, in order to build their assets.

(b) It is the intent of the Legislature that counties encourage CalWORKs recipients to participate in activities that will maximize their receipt of the EITC. To this end, counties may do all of the following:

(1) Structure welfare-to-work activities pursuant to subdivisions (a) to (j), inclusive, of Section 11322.6 to give recipients the option of maximizing the portion of their CalWORKs benefits that meets the definition of "earned income" in Section 32(c)(2) of the Internal Revenue Code.

(2) Inform CalWORKs recipients of each of the following:

(A) That earned income, either previous or future, may make them eligible for the federal EITC, including retroactive EITC credits and the Advance EITC, increase their federal Food Stamp Program benefits, and accumulate credit toward future social security income.

(B) That recipients, as part of their welfare-to-work plans, have the option of engaging in subsidized employment and grant-based on-the-job training, as specified in Section 11322.6, and that participating in these activities will increase their earned income to the extent that they meet the requirements of federal law.

(C) That receipt of the federal EITC does not affect their CalWORKs grant and is additional tax-free income for them.

(D) That a CalWORKs recipient who receives the federal EITC may invest these funds in an individual development account, 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, Coverdell ESA, or restricted account, and that investments in these accounts will not make the recipient ineligible for CalWORKs benefits or reduce the recipient's CalWORKs benefits.

(3) At each regular eligibility redetermination, the county shall ask a recipient whether the recipient is eligible for and takes advantage of the EITC. If the recipient may be eligible and does not participate, the county shall give the recipient the federal EITC form and encourage and assist the recipient to take advantage of it.

(c) (1) No later than December 1, 2008, the State Department of Social Services shall develop guidelines that counties may adopt to carry out the intent of this section and shall present options to the Governor and Legislature for any legislation necessary to further carry out the intent of this section.

(2) In developing the guidelines and legislative options, the department shall consult and convene at least one meeting of subject-matter experts, including representatives from the Assembly and Senate Committees on Human Services, Assets for All Alliance, Asset Policy Initiative of California, California Budget Project, California Catholic Conference, California Council of Churches, California Family Resource Association, California State Association of Counties, CFED, County Welfare Directors Association of California, Federal Reserve Bank of San Francisco, Legislative Analyst's Office, Lifetime, National Council of Churches, Insight Center for Community Economic Development, New America Foundation, Public Policy Institute of California, University of California at Los Angeles School of Law, United States Internal Revenue Service, and Western Center on Law and Poverty. Nothing in this section requires the department to compensate or pay expenses for any person it consults or invites to the meeting or meetings.

SEC. 244. Section 14043.1 of the Welfare and Institutions Code is amended to read:

14043.1. As used in this article:

(a) "Abuse" means either of the following:

(1) Practices that are inconsistent with sound fiscal or business practices and result in unnecessary cost to the federal Medicaid and Medicare programs, the Medi-Cal program, another state's Medicaid program, or other health care programs operated, or financed in whole or in part, by the federal government or a state or local agency in this state or another state.

(2) Practices that are inconsistent with sound medical practices and result in reimbursement by the federal Medicaid and Medicare programs, the Medi-Cal program or other health care programs operated, or financed in whole or in part, by the federal government or a state or local agency in this state or another state, for services that are unnecessary or for substandard items or services that fail to meet professionally recognized standards for health care.

(b) "Applicant" means an individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that apply to the department for enrollment as a provider in the Medi-Cal program.

(c) "Application or application package" means a completed and signed application form, signed under penalty of perjury or notarized pursuant to Section 14043.25, a disclosure statement, a provider agreement, and all attachments or changes in the form, statement, or agreement.

(d) "Appropriate volume of business" means a volume that is consistent with the information provided in the application and any supplemental information provided by the applicant or provider, and is of a quality and type that would reasonably be expected based upon the size and type of business operated by the applicant or provider.

(e) "Business address" means the location where an applicant or provider provides services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary. A post office box or commercial box is not a business address. The business address for the location of a vehicle or vessel owned and operated by an applicant or provider enrolled in the Medi-Cal program and used to provide services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary shall either be the business address location listed on the provider's application as the location where similar services, goods, supplies, or merchandise would be provided or the applicant's or provider's pay to address.

(f) "Convicted" means any of the following:

(1) A judgment of conviction has been entered against an individual or entity by a federal, state, or local court, regardless of whether there is a posttrial motion, an appeal pending, or the judgment of conviction or other record relating to the criminal conduct has been expunged or otherwise removed.

(2) A federal, state, or local court has made a finding of guilt against an individual or entity.

(3) A federal, state, or local court has accepted a plea of guilty or nolo contendere by an individual or entity.

(4) An individual or entity has entered into participation in a first offender, deferred adjudication, or other program or arrangement where judgment of conviction has been withheld.

(g) "Debt due and owing" means 60 days have passed since a notice or demand for repayment of an overpayment or another amount resulting from an audit or examination, for a penalty assessment, or for another amount due the department was sent to the provider, regardless of whether the provider is an institutional provider or a noninstitutional provider and regardless of whether an appeal is pending.

(h) "Enrolled or enrollment in the Medi-Cal program" means authorized under any processes by the department or its agents or contractors to receive, directly or indirectly, reimbursement for the provision of services, goods, supplies, or merchandise to a Medi-Cal beneficiary.

(i) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

(j) "Location" means a street, city, or rural route address or a site or place within a street, city, or rural route address, and the city, county, state, and nine-digit ZIP Code.

(k) "Not currently enrolled at the location for which the application is submitted" means either of the following:

(1) The provider is changing location and moving to a different location than that for which the provider was issued a provider number.

(2) The provider is adding a business address.

(*l*) "Individual physician practice" means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California enrolled or enrolling in Medi-Cal as an individual provider who is sole proprietor of his or her practice or is a corporation owned solely by the individual physician and the only physician practitioner is the owner. An individual physician practice may include nonphysician medical practitioners employed and supervised by the physician.

(m) "Preenrollment period" or "preenrollment" includes the period of time during which an application package for enrollment, continued enrollment, or for the addition of or change in a location is pending.

(n) "Professionally recognized standards of health care" means statewide or national standards of care, whether in writing or not, that professional peers of the individual or entity whose provision of care is an issue recognize as applying to those peers practicing or providing care within a state. When the United States Department of Health and

Human Services has declared a treatment modality not to be safe and effective, practitioners that employ that treatment modality shall be deemed not to meet professionally recognized standards of health care. This subdivision shall not be construed to mean that all other treatments meet professionally recognized standards of care.

(o) "Provider" means an individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents of a partnership, group association, corporation, institution, or entity, that provides services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary and that has been enrolled in the Medi-Cal program.

(p) "Unnecessary or substandard items or services" means those that are either of the following:

(1) Substantially in excess of the provider's usual charges or costs for the items or services.

(2) Furnished, or caused to be furnished, to patients, whether or not covered by Medicare, Medicaid, or any of the state health care programs to which the definitions of applicant and provider apply, and which are substantially in excess of the patient's needs, or of a quality that fails to meet professionally recognized standards of health care. The department's determination that the items or services furnished were excessive or of unacceptable quality shall be made on the basis of information, including sanction reports, from the following sources:

(A) The professional review organization for the area served by the individual or entity.

(B) State or local licensing or certification authorities.

(C) Fiscal agents or contractors or private insurance companies.

(D) State or local professional societies.

(E) Any other sources deemed appropriate by the department.

SEC. 245. Section 14043.26 of the Welfare and Institutions Code is amended to read:

14043.26. (a) (1) On and after January 1, 2004, an applicant that currently is not enrolled in the Medi-Cal program, or a provider applying for continued enrollment, upon written notification from the department that enrollment for continued participation of all providers in a specific provider of service category or subgroup of that category to which the provider belongs will occur, or, except as provided in subdivisions (b) and (e), a provider not currently enrolled at a location where the provider intends to provide services, goods, supplies, or merchandise to a Medi-Cal beneficiary, shall submit a complete application package for enrollment, continuing enrollment, or enrollment at a new location or a change in location.

(2) Clinics licensed by the department pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(3) Health facilities licensed by the department pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(4) Adult day health care providers licensed pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(5) Home health agencies licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(6) Hospices licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(b) A physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California practicing in an individual physician practice, who is enrolled and in good standing in the Medi-Cal program, and who is changing locations of that individual physician practice within the same county, shall be eligible to continue enrollment at the new location by filing a change of location form to be developed by the department. The form shall comply with all minimum federal requirements related to Medicaid provider enrollment. Filing this form shall be in lieu of submitting a complete application package pursuant to subdivision (a).

(c) (1) Except as provided in paragraph (2), within 30 days after receiving an application package submitted pursuant to subdivision (a), the department shall provide written notice that the application package has been received and, if applicable, that there is a moratorium on the enrollment of providers in the specific provider of service category or subgroup of the category to which the applicant or provider belongs. This moratorium shall bar further processing of the application package.

(2) Within 15 days after receiving an application package from a physician, or a group of physicians, licensed by the Medical Board of California or the Osteopathic Medical Board of California, or a change of location form pursuant to subdivision (b), the department shall provide written notice that the application package or the change of location form has been received.

(d) (1) If the application package submitted pursuant to subdivision (a) is from an applicant or provider who meets the criteria listed in paragraph (2), the applicant or provider shall be considered a preferred provider and shall be granted preferred provisional provider status pursuant to this section and for a period of no longer than 18 months, effective from the date on the notice from the department. The ability to request consideration as a preferred provider and the criteria necessary for the consideration shall be publicized to all applicants and providers. An applicant or provider who desires consideration as a preferred provider pursuant to this subdivision shall request consideration from the department by making a notation to that effect on the application package, by cover letter, or by other means identified by the department in a provider bulletin. Request for consideration as a preferred provider shall be made with each application package submitted in order for the department to grant the consideration. An applicant or provider who requests consideration as a preferred provider shall be notified within 60 days whether the applicant or provider meets or does not meet the criteria listed in paragraph (2). If an applicant or provider is notified that the applicant or provider does not meet the criteria for a preferred provider, the application package submitted shall be processed in accordance with the remainder of this section.

(2) To be considered a preferred provider, the applicant or provider shall meet all of the following criteria:

(A) Hold a current license as a physician and surgeon issued by the Medical Board of California or the Osteopathic Medical Board of California, which license shall not have been revoked, whether stayed or not, suspended, placed on probation, or subject to other limitation.

(B) Be a current faculty member of a teaching hospital or a children's hospital, as defined in Section 10727, accredited by the Joint Commission or the American Osteopathic Association, or be credentialed by a health care service plan that is licensed under 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) or county organized health system, or be a current member in good standing of a group that is credentialed by a health care service plan that is licensed under the Knox-Keene Act.

(C) Have full, current, unrevoked, and unsuspended privileges at a Joint Commission or American Osteopathic Association accredited general acute care hospital.

(D) Not have any adverse entries in the federal Healthcare Integrity and Protection Data Bank.

(3) The department may recognize other providers as qualifying as preferred providers if criteria similar to those set forth in paragraph (2)

are identified for the other providers. The department shall consult with interested parties and appropriate stakeholders to identify similar criteria for other providers so that they may be considered as preferred providers.

(e) (1) If a Medi-Cal applicant meets the criteria listed in paragraph (2), the applicant shall be enrolled in the Medi-Cal program after submission and review of a short form application to be developed by the department. The form shall comply with all minimum federal requirements related to Medicaid provider enrollment. The department shall notify the applicant that the department has received the application within 15 days of receipt of the application. The department shall issue the applicant a provider number or notify the applicant that the applicant does not meet the criteria listed in paragraph (2) within 90 days of receipt of the application.

(2) Notwithstanding any other provision of law, an applicant or provider who meets all of the following criteria shall be eligible for enrollment in the Medi-Cal program pursuant to this subdivision, after submission and review of a short form application:

(A) The applicant's or provider's practice is based in one or more of the following: a general acute care hospital, a rural general acute care hospital, or an acute psychiatric hospital, as defined in subdivisions (a) and (b) of Section 1250 of the Health and Safety Code.

(B) The applicant or provider holds a current, unrevoked, or unsuspended license as a physician and surgeon issued by the Medical Board of California or the Osteopathic Medical Board of California. An applicant or provider shall not be in compliance with this subparagraph if a license revocation has been stayed, the licensee has been placed on probation, or the license is subject to any other limitation.

(C) The applicant or provider does not have an adverse entry in the federal Healthcare Integrity and Protection Data Bank.

(3) An applicant shall be granted provisional provider status under this subdivision for a period of 12 months.

(f) Except as provided in subdivision (g), within 180 days after receiving an application package submitted pursuant to subdivision (a), or from the date of the notice to an applicant or provider that the applicant or provider does not qualify as a preferred provider under subdivision (d), the department shall give written notice to the applicant or provider that any of the following applies, or shall on the 181st day grant the applicant or provider provisional provider status pursuant to this section for a period no longer than 12 months, effective from the 181st day:

(1) The applicant or provider is being granted provisional provider status for a period of 12 months, effective from the date on the notice.

(2) The application package is incomplete. The notice shall identify additional information or documentation that is needed to complete the application package.

(3) The department is exercising its authority under Section 14043.37, 14043.4, or 14043.7, and is conducting background checks, preenrollment inspections, or unannounced visits.

(4) The application package is denied for any of the following reasons:

(A) Pursuant to Section 14043.2 or 14043.36.

(B) For lack of a license necessary to perform the health care services or to provide the goods, supplies, or merchandise directly or indirectly to a Medi-Cal beneficiary, within the applicable provider of service category or subgroup of that category.

(C) The period of time during which an applicant or provider has been barred from reapplying has not passed.

(D) For other stated reasons authorized by law.

(g) Notwithstanding subdivision (f), within 90 days after receiving an application package submitted pursuant to subdivision (a) from a physician or physician group licensed by the Medical Board of California or the Osteopathic Medical Board of California, or from the date of the notice to that physician or physician group that does not qualify as a preferred provider under subdivision (d), or within 90 days after receiving a change of location form submitted pursuant to subdivision (b), the department shall give written notice to the applicant or provider that either paragraph (1), (2), (3), or (4) of subdivision (f) applies, or shall on the 91st day grant the applicant or provider provisional provider status pursuant to this section for a period no longer than 12 months, effective from the 91st day.

(h) (1) If the application package that was noticed as incomplete under paragraph (2) of subdivision (f) is resubmitted with all requested information and documentation, and received by the department within 60 days of the date on the notice, the department shall, within 60 days of the resubmission, send a notice that any of the following applies:

(A) The applicant or provider is being granted provisional provider status for a period of 12 months, effective from the date on the notice.

(B) The application package is denied for any other reasons provided for in paragraph (4) of subdivision (f).

(C) The department is exercising its authority under Section 14043.37, 14043.4, or 14043.7 to conduct background checks, preenrollment inspections, or unannounced visits.

(2) (A) If the application package that was noticed as incomplete under paragraph (2) of subdivision (f) is not resubmitted with all requested information and documentation and received by the department within 60 days of the date on the notice, the application package shall

be denied by operation of law. The applicant or provider may reapply by submitting a new application package that shall be reviewed de novo.

(B) If the failure to resubmit is by a provider applying for continued enrollment, the failure shall make the provider also subject to deactivation of the provider's number and all of the business addresses used by the provider to provide services, goods, supplies, or merchandise to Medi-Cal beneficiaries.

(C) Notwithstanding subparagraph (A), if the notice of an incomplete application package included a request for information or documentation related to grounds for denial under Section 14043.2 or 14043.36, the applicant or provider shall not reapply for enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department or its agents or contractors for a period of three years.

(i) (1) If the department exercises its authority under Section 14043.37, 14043.4, or 14043.7 to conduct background checks, preenrollment inspections, or unannounced visits, the applicant or provider shall receive notice, from the department, after the conclusion of the background check, preenrollment inspection, or unannounced visit of either of the following:

(A) The applicant or provider is granted provisional provider status for a period of 12 months, effective from the date on the notice.

(B) Discrepancies or failure to meet program requirements, as prescribed by the department, have been found to exist during the preenrollment period.

(2) (A) The notice shall identify the discrepancies or failures, and whether remediation can be made or not, and if so, the time period within which remediation must be accomplished. Failure to remediate discrepancies and failures as prescribed by the department, or notification that remediation is not available, shall result in denial of the application by operation of law. The applicant or provider may reapply by submitting a new application package that shall be reviewed de novo.

(B) If the failure to remediate is by a provider applying for continued enrollment, the failure shall make the provider also subject to deactivation of the provider's number and all of the business addresses used by the provider to provide services, goods, supplies, or merchandise to Medi-Cal beneficiaries.

(C) Notwithstanding subparagraph (A), if the discrepancies or failure to meet program requirements, as prescribed by the director, included in the notice were related to grounds for denial under Section 14043.2 or 14043.36, the applicant or provider shall not reapply for three years.

(j) If provisional provider status or preferred provisional provider status is granted pursuant to this section, a provider number shall be used

by the provider for each business address for which an application package has been approved. This provider number shall be used exclusively for the locations for which it is issued, unless the practice of the provider's profession or delivery of services, goods, supplies, or merchandise is such that services, goods, supplies, or merchandise are rendered or delivered at locations other than the provider's business address and this practice or delivery of services, goods, supplies, or merchandise has been disclosed in the application package approved by the department when the provisional provider status or preferred provisional provider status was granted.

(k) Except for providers subject to subdivision (c) of Section 14043.47, a provider currently enrolled in the Medi-Cal program at one or more locations who has submitted an application package for enrollment at a new location or a change in location pursuant to subdivision (a), or filed a change of location form pursuant to subdivision (b), may submit claims for services, goods, supplies, or merchandise rendered at the new location until the application package or change of location form is approved or denied under this section, and shall not be subject, during that period, to deactivation, or be subject to any delay or nonpayment of claims as a result of billing for services rendered at the new location as herein authorized. However, the provider shall be considered during that period to have been granted provisional provider status or preferred provisional provider status and be subject to termination of that status pursuant to Section 14043.27. A provider that is subject to subdivision (c) of Section 14043.47 may come within the scope of this subdivision upon submitting documentation in the application package that identifies the physician providing supervision for every three locations. If a provider submits claims for services rendered at a new location before the application for that location is received by the department, the department may deny the claim.

(*l*) An applicant or a provider whose application for enrollment, continued enrollment, or a new location or change in location has been denied pursuant to this section, may appeal the denial in accordance with Section 14043.65.

(m) (1) Upon receipt of a complete and accurate claim for an individual nurse provider, the department shall adjudicate the claim within an average of 30 days.

(2) During the budget proceedings of the 2006–07 fiscal year, and each fiscal year thereafter, the department shall provide data to the Legislature specifying the timeframe under which it has processed and approved the provider applications submitted by individual nurse providers.

(3) For purposes of this subdivision, "individual nurse providers" are providers authorized under certain home- and community-based waivers and under the state plan to provide nursing services to Medi-Cal recipients in the recipients' own homes rather than in institutional settings.

(n) The amendments to subdivision (b), which implement a change of location form, and the addition of paragraph (2) to subdivision (c), the amendments to subdivision (e), and the addition of subdivision (g), which prescribe different processing timeframes for physicians and physician groups, as contained in Chapter 693 of the Statutes of 2007, shall become operative on July 1, 2008.

SEC. 246. Section 14045 of the Welfare and Institutions Code is amended to read:

14045. (a) A provider shall not submit a reimbursement request to the Medi-Cal program containing a beneficiary's social security number if the department has issued that beneficiary a Medi-Cal beneficiary identification card containing a beneficiary number with the issuance date included in that number.

(b) This section shall not apply to the submission of a request by a provider for beneficiary eligibility.

(c) In order to reduce medical fraud and the black market for stolen social security cards, the State Department of Health Care Services may establish an automated HIPAA-compliant system using HIPAA transactions whereby all providers can access a beneficiary's identification card number for submitting reimbursement requests.

(d) When the provider makes a good faith effort to obtain a recipient's beneficiary identification card number, this section shall not apply to the following types of services, or the following provider types, until the time that the department is able to establish a system described in subdivision (c):

(1) A hospital licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) A long-term health care facility, as defined in Section 1418 of the Health and Safety Code.

(3) A primary care clinic that is licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code.

(4) Emergency medical transportation services.

(5) A hospital-based physician.

SEC. 247. Section 14154.3 of the Welfare and Institutions Code is amended to read:

14154.3. (a) A provision of a Budget Act or other statute shall not be interpreted or applied to limit the amount of federal financial participation, otherwise available under federal law, which may be

reimbursable to counties in support of Medi-Cal administration costs for eligibility determinations. A provision of a Budget Act or another statute shall not be interpreted or applied to restrict the amount of federal financial participation for Medi-Cal administration costs, for eligibility determinations, otherwise available under federal law, which may be claimed by the department, and, upon receipt from the federal government, transferred by the department to a county.

(b) The Budget Acts referred to in subdivision (a) include, but are not limited to:

(1) Chapter 510 of the Statutes of 1980, including Item 288 of Section 2 thereof.

(2) Chapter 99 of the Statutes of 1981, including Items 426-101-001 and 426-101-890 of Section 2.00 thereof.

(3) Chapter 326 of the Statutes of 1982, including Items 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

(4) Chapter 324 of the Statutes of 1983, including Items 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

(5) Chapter 258 of the Statutes of 1984, including Items 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

(6) Chapter 111 of the Statutes of 1985, including Items 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

(7) Chapter 186 of the Statutes of 1986, including Items 4260-101-001 and 4260-101-890 of Section 2.00 thereof.

Provisions of the Budget Acts listed in paragraphs (1) to (7), inclusive, shall not be interpreted or applied as a prohibition regarding the amount of costs counties may incur for Medi-Cal eligibility administration activities. The provisions of those Budget Acts shall be interpreted and applied as a means of limiting the allocation of state general funds to be paid in support of Medi-Cal eligibility determination activities.

(c) To the extent necessary to effectuate the intent of subdivisions (a) and (b), the following Budget Act provisions shall be inoperative:

(1) Provision 17.5 of Item 426-101-890 of Section 2.00 of Chapter 99 of the Statutes of 1981.

(2) The incorporation by reference of Provision 16 of Item 4260-101-001 of Section 2.00 of Chapter 326 of the Statutes of 1982 into Provision 1 of Item 4260-101-890 of that chapter.

(3) The incorporation by reference of Provision 15 of Item 4260-101-001 of Section 2.00 of Chapter 324 of the Statutes of 1983 into Provision 1 of Item 4260-101-890 of Section 2.00 of that chapter.

(d) Sections 14154 and 14154.1 shall not be interpreted or applied to restrict the amount of federal financial participation, not deferred or disallowed by federal law or regulation which may be reimbursable to any county for Medi-Cal administration costs for eligibility

determinations. The County Administrative Cost Control Plan established pursuant to Section 14154 shall not be interpreted or applied as a prohibition regarding the amount of costs counties may incur for Medi-Cal county administration costs. That plan shall be interpreted and applied only as a means of limiting the allocation of state general funds to be paid in support of those county costs.

(e) Should federal financial participation be deferred or disallowed regarding funds transferred by the department to a county for costs incurred for Medi-Cal eligibility determinations, and that federal financial participation was matched by county expenditures, the county which received those federal funds shall repay the funds in question at such time as the federal deferral or disallowance has been issued. If the federal deferral or disallowance is noticed or issued prior to the transfer of the federal funds from the department to a county, the department shall not be responsible for transferring the federal funds to the county until the deferral or disallowance issue regarding these funds has been resolved.

(f) The department shall timely appeal from the federal deferrals or disallowances and the affected county may assist the department in preparing and presenting a pending appeal regarding a federal deferral or disallowance.

(g) Medi-Cal eligibility determination activities are undertaken by counties on behalf of the department. Reasonable and necessary costs incurred by counties relating to the eligibility determination activities shall be recognized as costs incurred by the state for purposes of inclusion in the nonfederal share of Medi-Cal eligibility determination expenditures for claiming federal financial participation.

(h) Subdivision (e) shall not apply to agreements between the department and a county executed prior to September 27, 1987.

SEC. 248. Section 14407.1 of the Welfare and Institutions Code is amended to read:

14407.1. (a) A contractor that has entered into a contract with the department under this chapter, or under another Medi-Cal managed care contracting authority, may offer nonmonetary incentives to promote good health practices by its existing Medi-Cal enrollees.

(b) No Medi-Cal managed care contractor may offer an incentive to promote good health practices by its Medi-Cal enrollees prior to written approval by the department. In the absence of other countervailing considerations, the department shall approve, to the extent permitted by federal law, the use by health plans of nonmonetary incentives to enhance health education program efforts to increase member participation, learning, and motivation to do any of the following:

(1) Effectively use managed health care services, including preventive and primary care services, obstetric care, and health education services.

(2) Modify personal health behaviors, achieving and maintaining healthy lifestyles and treatment therapies and positive health outcomes.

(3) Follow self-care regimens and treatment therapies for existing medical conditions, chronic diseases, or health conditions.

(c) If a contractor is a publicly operated entity, the offering of a department-approved, nonmonetary incentive to promote good health practices by enrollees shall not constitute a gift of public funds.

(d) Violations of this section shall be subject to the requirements and penalties set forth in Sections 14408 and 14409, and any regulations adopted by the department pursuant to this article.

(e) The department shall develop and publish written guidelines for the appropriate use of nonmonetary incentives that may be offered to Medi-Cal enrollees.

SEC. 249. Section 15657.3 of the Welfare and Institutions Code is amended to read:

15657.3. (a) The department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abduction, as defined in Section 15610.06, or the abuse of an elderly or dependent adult, if a conservator has been appointed for the plaintiff prior to the initiation of the action for abuse.

(b) The department of the superior court having jurisdiction over probate conservatorships shall not grant relief under this article if the court determines that the matter should be determined in a civil action, but shall instead transfer the matter to the general civil calendar of the superior court. The court need not abate a proceeding for relief pursuant to this article if the court determines that the civil action was filed for the purpose of delay.

(c) The death of the elder or dependent adult does not cause the court to lose jurisdiction of a claim for relief for abuse of that elder or dependent adult.

(d) (1) Subject to paragraph (2) and subdivision (e), after the death of the elder or dependent adult, the right to commence or maintain an action shall pass to the personal representative of the decedent. If there is no personal representative, the right to commence or maintain an action shall pass to any of the following, if the requirements of Section 377.32 of the Code of Civil Procedure are met:

(A) An intestate heir whose interest is affected by the action.

(B) The decedent's successor in interest, as defined in Section 377.11 of the Code of Civil Procedure.

(C) An interested person, as defined in Section 48 of the Probate Code, as limited in this subparagraph. As used in this subparagraph, "an interested person" does not include a creditor or a person who has a

claim against the estate and who is not an heir or beneficiary of the decedent's estate.

(2) If the personal representative refuses to commence or maintain an action or if the personal representative's family or an affiliate, as those terms are defined in subdivision (c) of Section 1064 of the Probate Code, is alleged to have committed abuse of the elder or dependent adult, the persons described in subparagraphs (A), (B), and (C) of paragraph (1) shall have standing to commence or maintain an action for elder abuse. This paragraph does not require the court to resolve the merits of an elder abuse action for purposes of finding that a plaintiff who meets the qualifications of subparagraphs (A), (B), and (C) of paragraph (1) has standing to commence or maintain such an action.

(e) If two or more persons who are either described in subparagraph (A), (B), or (C) of paragraph (1) of subdivision (d) or a personal representative claim to have standing to commence or maintain an action for elder abuse, upon petition or motion, the court in which the action or proceeding is pending, may make any order concerning the parties that is appropriate to ensure the proper administration of justice in the case pursuant to Section 377.33 of the Code of Civil Procedure.

(f) This section does not affect the applicable statute of limitations for commencing an action for relief for abuse of an elderly or dependent adult.

SEC. 250. Section 15660 of the Welfare and Institutions Code is amended to read:

15660. (a) The Department of Justice shall secure any criminal record of a person to determine whether the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of a felony that requires registration pursuant to Section 290 of the Penal Code, or whether the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, and shall provide a subsequent arrest notification pursuant to Section 11105.2 of the Penal Code, if both of the following conditions are met:

(1) An employer of the person requests the determination and submits fingerprints of the person to the Department of Justice. For purposes of this paragraph, "employer" includes, but is not limited to, an in-home supportive services recipient, as defined by Section 12302.2, a recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, and a public authority or nonprofit consortium, as described in subdivision (a) of Section 12301.6.

(2) The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home.

(b) (1) If it is found that the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of a felony that requires registration pursuant to Section 290 of the Penal Code, or that the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, the Department of Justice shall notify the employer of that fact. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact.

(2) An employer may deny employment to a person who is the subject of a report under paragraph (1) if the report indicates that the person has committed any of the crimes identified in paragraph (1).

(3) This section shall not require an employer to hire a person who is the subject of a report under paragraph (1) if the report indicates that the person has not committed any of the crimes indicated in paragraph (1).

(c) (1) Fingerprints shall be on a card provided by the Department of Justice for the purpose of obtaining a set of fingerprints. The employer shall submit the fingerprints to the Department of Justice. Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the employer of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact as soon as possible, but not later than 30 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice, as soon as possible, but not later than 30 calendar days from the date of receipt of the fingerprints, shall notify the employer that the fingerprints were illegible.

(2) Fingerprints may be taken by a local law enforcement officer or agency for purposes of paragraph (1).

(3) Counties shall notify a recipient of, or applicant for, in-home supportive services or personal care services under the Medi-Cal program, upon his or her application for in-home supportive services or personal care services or during his or her annual redetermination, or upon the recipient's changing providers, that a criminal record check is available, and that the check can be performed by the Department of Justice.

(d) (1) The Department of Justice shall charge a fee to the employer to cover the costs of administering this section.

(2) (A) If the employer is an in-home supportive services recipient, as defined in Section 12302.2, a recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, or a public authority or nonprofit consortium as described in subdivision (a) of Section 12301.6, the fee shall be shared by the county and the state in the same ratio as described in Section 12306.

(B) (i) Notwithstanding any other provision of law, and except as provided in clause (ii), the department shall, no later than January 1, 2009, implement subparagraph (A) through an all county letter from the director.

(ii) No later than July 1, 2009, the department shall adopt regulations to implement the provisions listed in clause (i).

(e) It is the intent of the Legislature that the Department of Justice charge a fee to cover its cost in providing services in accordance with this section to comply with the 30-calendar-day requirement for provision to the department of the criminal record information, as contained in subdivision (c).

SEC. 251. Section 16522.1 of the Welfare and Institutions Code is amended to read:

16522.1. In order to be licensed pursuant to Section 1559.110 of the Health and Safety Code, an applicant shall obtain certification from the county department of social services or the county probation department that the facility program provides all of the following:

(a) (1) Admission criteria for participants in the program, including, but not limited to, consideration of the applicant's age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience. Youth who are wards of the court described in Section 602 and youth receiving psychotropic medications shall be eligible for consideration to participate in the program, and shall not be automatically excluded due to these factors.

(2) The department shall review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in Section 11135 of the Government Code.

(b) Strict employment criteria that include a consideration of the employee's age, drug or alcohol history, and experience in working with persons in this age group.

(c) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these

employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills.

(d) A detailed plan for monitoring the placement of persons under the licensee's care.

(e) A contract between the participating person and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements of this article.

(f) An allowance to be provided to each participant in the program. In the case of a participant living independently, this allowance shall be sufficient for the participant to purchase food and other necessities.

(g) A system for payment for utilities, telephone, and rent.

(h) Policies regarding all of the following:

(1) Education requirements.

(2) Work expectations.

(3) Savings requirements.

(4) Personal safety.

(5) Visitors, including, but not limited to, visitation by the placement auditor pursuant to subdivision (d).

(6) Emergencies.

(7) Medical problems.

(8) Disciplinary measures.

(9) Child care.

(10) Pregnancy.

(11) Curfew.

(12) Apartment cleanliness.

(13) Use of utilities and telephone.

(14) Budgeting.

(15) Care of furnishings.

(16) Decorating of apartments.

(17) Cars.

(18) Lending or borrowing money.

(19) Unauthorized purchases.

(20) Dating.

(21) Grounds for termination that may include, but shall not be limited to, illegal activities or harboring runaways.

(i) Apartment furnishings, and a policy on disposition of the furnishings when the participant completes the program.

(j) Evaluation of the participant's progress in the program and reporting to the independent living program and to the department regarding that progress.

(k) A linkage to the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.) program administered in the local area to provide employment training to eligible participants.

SEC. 252. Section 19630.5 of the Welfare and Institutions Code is amended to read:

19630.5. (a) The Blind Vendor Revolving Loan Fund is hereby created in the State Treasury, and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years to the department for the purposes specified in this section. The fund shall be interest bearing. Commencing January 1, 2008, the fund is hereby renamed the BEP Vendor Loan Interest Rate Buy-Down Fund.

(b) The fund shall consist of moneys appropriated to that fund by the Legislature, and notwithstanding Section 16305.7 of the Government Code, all interest, dividends, and pecuniary gains from investments or deposits of moneys in the fund.

(c) (1) Moneys in the fund shall be used by the department for the purpose of reducing the interest that vendors are required to pay for loans issued by an eligible lender to purchase inventory and equipment for vending facilities.

(2) The department shall make funding contingent upon the vendor's good standing in the Business Enterprises Program and a determination that the department has not paid interest on another loan obtained by the vendor.

(3) Upon a determination that a vendor is eligible, the department shall pay, on behalf of the vendor, to an eligible lender, an amount not to exceed five thousand dollars ($5,000) to reduce the fair market interest rate of a loan described in paragraph (1) by up to 3 percent.

(4) If a vendor fails to repay a loan to an eligible lender, the lender shall reimburse the fund for the fund's share of any interest not yet accrued as of the time of default by the vendor.

(d) In determining eligibility for loan interest buy-down assistance from this fund, the department shall make any loan interest buy-down assistance contingent upon a determination that the blind vendor reasonably can be expected to repay the loan based on the vendor's expected income and that the applicant is currently an active vendor and has been in the Business Enterprises Program for at least one year.

(e) For purposes of this section, "eligible lender" means a financial institution organized, chartered, or holding a license or authorization certificate under a law of this state or in the United States to make loans or extend credit and subject to supervision by an official or agency of this state or the United States.

(f) Loan interest buy-down assistance pursuant to this section shall be made without regard to race, religion, creed, or sex.

(g) The total amount of interest buy-down assistance that may be provided under this section is limited to the amount contained in the

fund, and the state shall not be liable beyond the amount contained in that fund for these debts, obligations, and liabilities.

(h) In the event that the total amount of loan interest buy-down assistance applied for under this section exceeds the total amount of assistance that may be provided pursuant to this section, the department may establish a system of priorities for the approval of applications.

SEC. 253. Section 34 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), as amended by Section 2 of Chapter 619 of the Statutes of 2007, is amended to read:

Sec. 34. (a) "Project" means the acquisition, construction, maintenance, or operation of a flood control facility authorized under the agreement and not inconsistent with this act, including, but not limited to, acquisition of rights-of-way and easements and payment of incidental expenses.

(b) This act does not authorize the agency to exercise the power of eminent domain outside its boundaries.

(c) Participation in a project includes making payments or other contributions pursuant to a contract entered into with another governmental agency that requires the other governmental agency to perform work on a project.

(d) The acquisition of rights-of-way and easements outside the agency's boundaries shall be consistent with applicable county plans, including county general plans, and the State Plan of Flood Control.

(e) This section does not alter the existing powers granted to members of the agreement.

(f) This section does not preclude the acquisition of time-limited easements.

SEC. 254. Section 1107 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991), as amended by Section 1 of Chapter 551 of the Statutes of 2007, is amended to read:

Sec. 1107. (a) Except as provided in subdivision (b), the groundwater extraction charge shall not exceed seven dollars and fifty cents ($7.50) per acre-foot pumped per year.

(b) The board may establish a groundwater extraction charge maximum limitation that exceeds the amount specified in subdivision (a) if both of the following apply:

(1) The imposition of the groundwater extraction charge is approved by a majority vote of the operators that are subject to the charge, with the votes weighted based on the volume of water extracted by each operator. Votes shall be calculated based on a three-year average of production from the basin, as determined by payments of groundwater extraction charges to the agency during the three years immediately preceding the vote, except that for operators with facilities in use less

than three years, votes shall be weighted based upon a single-year average if the facility has been in use less than two years, or weighted based upon a two-year average if the facility has been in use more than two years and less than three years. An operator shall be entitled to one vote for each averaged acre-foot of groundwater pumped. A change in ownership shall not affect the history of production from any well.

(2) The groundwater extraction charge does not exceed twenty-five dollars ($25) per acre-foot pumped per year.

SEC. 255. Section 1 of Chapter 58 of the Statutes of 1997, as amended by Chapter 525 of the Statutes of 2007, is amended to read:

Section 1. (a) A charter school operating under a charter approved before June 1, 1997, by the county board of education of a county of the first class to serve at-risk pupils, may operate until June 30, 2013. The continuation of the authority of a charter school to operate pursuant to this subdivision after June 30, 2008, shall be subject to the approval of that county board of education.

(b) Notwithstanding any other provisions of the Education Code, except as set forth in subdivision (c), for the 2007–08 to 2012–13 fiscal years, inclusive, the attendance of pupils in a charter school to which this section applies shall be funded at the same rates for the same categories of pupils as community schools and community day schools in the same county.

(c) A charter school operated pursuant to subdivision (a), if its charter so provides, may operate one or more community day schools in compliance with Article 3 (commencing with Section 48660) of Chapter 4 of Part 27 of Division 4 of Title 2 of the Education Code, except for compliance with the employment requirements in subdivision (a) of Section 48663 and subdivision (c) of Section 48664 of the Education Code, and the funded average daily attendance limitations of paragraphs (1) and (2) of subdivision (a) of Section 48664 of the Education Code, and be funded for not more than 2,000 units of average daily attendance in any fiscal year, to the extent that funding is appropriated therefor, pursuant to subdivision (a) of Section 48664 of the Education Code, as if it were a community day school operated by a county. The average daily attendance of a charter school operating pursuant to this section shall not be in addition to the average daily attendance limitation provided pursuant to subdivision (a) of Section 48664 of the Education Code.

(d) A county board of education that has approved a charter school as set forth in subdivision (a) shall establish specific accountability criteria to annually measure the performance of the charter school. The county board of education shall annually report the measurement to the State Department of Education, the Department of Finance, the Assembly Committee on Education, the Assembly Committee on Appropriations,

the Senate Committee on Education, and the Senate Committee on Appropriations. The accountability criteria shall comply with the alternative accountability system described by subdivision (h) of Section 52052 of the Education Code.

(e) If a charter school does not comply with the performance criteria described in subdivision (d), the charter school shall submit to the county board of education a plan for improvement that is designed to enable the charter school to comply with the criteria within a timeframe determined by the county board of education.

SEC. 256. Section 2 of Chapter 4 of the Statutes of 2007 is amended to read:

Sec. 2. For purposes of this act:

(a) "Applicant committee agreement" means an agreement to be entered into between the Organizing Committee for the Olympic Games (OCOG) and the United States Olympic Committee (USOC) if, and upon, the USOC's selection on or about April 14, 2007, of the City of Los Angeles as the official United States candidate city.

(b) "Bid committee agreement" means an agreement entered into between the OCOG and the USOC governing the OCOG and the bid process.

(c) "Endorsing municipality" means the City of Los Angeles, which has authorized a bid by the OCOG for selection of the municipality as the site of the Olympic Games and Paralympic Games.

(d) "Games" means the 2016 Olympic Games.

(e) "Games support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by the Governor and containing terms permitted or required by this act.

(f) "Joinder agreement" means an agreement entered into by:

(1) The Governor, on behalf of this state, and a site selection organization setting out representations and assurances by the state in connection with the selection of a site in this state for the location of the games.

(2) The endorsing municipality and a site selection organization setting out representations and assurances by the endorsing municipality in connection with the selection of a site in this state for the location of the games.

(g) "Joinder undertaking" means an agreement entered into by:

(1) The Governor, on behalf of this state, and a site selection organization that the state will execute a joinder agreement in the event that the site selection organization selects a site in this state for the games.

(2) The endorsing municipality and a site selection organization that the endorsing municipality will execute a joinder agreement in the event that the site selection organization selects a site in this state for the games.

(h) "OCOG" means a nonprofit corporation, or its successor in interest, that:

(1) Has been authorized by the endorsing municipality to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site for the games.

(2) With the authorization of the endorsing municipality, has executed the bid committee agreement with a site selection organization regarding a bid to host the games.

(i) "Site selection organization" means the United States Olympic Committee, the International Olympic Committee, the International Paralympic Committee, all three, or some combination, as applicable.

SEC. 257. Section 4 of Chapter 4 of the Statutes of 2007 is amended to read:

Sec. 4. (a) The Governor may agree, in accordance with law and subject to Sections 5 and 6 of this act, in a joinder undertaking entered into with a site selection organization that:

(1) The Governor shall execute a joinder agreement if the site selection organization selects a site in this state for the games.

(2) The state shall refrain, during the period, or any portion thereof, between the execution of the joinder undertaking and award by the International Olympic Committee (IOC) of the games to a host city, from becoming a party to or approving or consenting to an act, contract, commitment, or other action contrary to, or which might affect, any of the obligations stipulated in the joinder agreement.

(3) The Governor may agree that a dispute in connection with the joinder undertaking arising during the period between the execution of the joinder undertaking and the IOC's award of the games to a host city shall be definitively settled as provided in the bid committee agreement.

(b) The Governor may agree in a joinder agreement that the state shall, in accordance with law and subject to Sections 5 and 6 of this act, do the following:

(1) Provide or cause to be provided any or all of the state government funding, facilities, and other resources specified in the OCOG's bid to host the games.

(2) The state will be liable, solely by means of the funding mechanism established by Sections 5 and 6 of this act, for:

(A) Obligations of the OCOG to a site selection organization, including obligations indemnifying the site selection organization against claims of and liabilities to third parties arising out of or relating to the games.

(B) Any financial deficit relating to the OCOG or the games.

(3) The state's liability shall not exceed the amount of funds appropriated to the Olympic Games Trust Fund established in Section

5 of this act. Any liability above this amount shall be the responsibility of the OCOG.

(4) Acknowledge that the OCOG will be bound by a series of agreements with the site selection organization as set forth in the joinder agreement.

(c) The Governor shall execute a joinder undertaking and a joinder agreement, provided the parties conform with this act.

(d) A games support contract may contain any additional provisions the Governor requires in order to carry out the purposes of this act.

SEC. 258. Section 2 of Chapter 26 of the Statutes of 2007 is amended to read:

Sec. 2. The amendment of Section 20150.1 made by this act does not constitute a change in, but is declaratory of, existing law.

SEC. 259. Section 2 of Chapter 451 of the Statutes of 2007 is amended to read:

Sec. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances of community familiarity with the program in Section 1 of this act, applicable only to the Santa Cruz Metropolitan Transit District and the Santa Clara Valley Transportation Authority.

SEC. 260. Any section of any act enacted by the Legislature during the 2008 calendar year that takes effect on or before January 1, 2009, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of 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 that is enacted by the Legislature during the 2008 calendar year and takes effect on or before January 1, 2009, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

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## CHAPTER 180

An act to amend Sections 12058 and 12059 of the Government Code, relating to state government.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 12058 of the Government Code is amended to read:

12058. In case of vacancy in the office of Governor and in the office of Lieutenant Governor, the last duly elected President pro Tempore of the Senate shall become Governor for the residue of the term; or if there be no President pro Tempore of the Senate, then the last duly elected Speaker of the Assembly shall become Governor for the residue of the term; or if there be none, then the Secretary of State; or if there be none, then the Attorney General; or if there be none, then the Treasurer; or if there be none, then the Controller; or if there be none, then the Superintendent of Public Instruction; or if there be none, then the Insurance Commissioner; or if there be none, then the Chair of the Board of Equalization; or if, as the result of a war or enemy-caused disaster, there be none, then such person designated as provided by law. In case of impeachment of the Governor or officer acting as Governor, his or her absence from the state, or his or her other temporary disability to discharge the powers and duties of office, then the powers and duties of the office of Governor devolve upon the same officer as in the case of vacancy in the office of Governor, but only until the disability shall cease.

SEC. 2. Section 12059 of the Government Code is amended to read:

12059. In case of the death, disability or other failure to take office of both the Governor-elect and the Lieutenant Governor-elect, the last duly elected President pro Tempore of the Senate, or in case of his or her death, disability, or other failure to take office, the last duly elected Speaker of the Assembly, or in case of his or her death, disability, or other failure to take office, the Secretary of State-elect, or in case of his or her death, disability, or other failure to take office, the Attorney General-elect, or in case of his or her death, disability, or other failure to take office, the Treasurer-elect, or in case of his or her death, disability, or other failure to take office, the Controller-elect, or in case of his or her death, disability, or other failure to take office, the Superintendent of Public Instruction-elect, or in case of his or her death, disability, or other failure to take office, the Insurance Commissioner-elect, or in case of his or her death, disability, or other failure to take office, the last duly elected Chair of the Board of Equalization shall act as Governor from the same time and in the same manner as provided for the Governor-elect. The person shall, in the case of death, be Governor for the full term or

in the case of disability or other failure to take office shall act as Governor until the disability of the Governor-elect shall cease.

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## CHAPTER 181

An act to amend Section 372 of the Code of Civil Procedure, to amend Section 7635 of the Family Code, and to add Section 326.7 to the Welfare and Institutions Code, relating to guardians ad litem.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 372 of the Code of Civil Procedure is amended to read:

372. (a) When a minor, an incompetent person, or a person for whom a conservator has been appointed is a party, that person shall appear either by a guardian or conservator of the estate or by a guardian ad litem appointed by the court in which the action or proceeding is pending, or by a judge thereof, in each case. A guardian ad litem may be appointed in any case when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to appoint a guardian ad litem to represent the minor, incompetent person, or person for whom a conservator has been appointed, notwithstanding that the person may have a guardian or conservator of the estate and may have appeared by the guardian or conservator of the estate. The guardian or conservator of the estate or guardian ad litem so appearing for any minor, incompetent person, or person for whom a conservator has been appointed shall have power, with the approval of the court in which the action or proceeding is pending, to compromise the same, to agree to the order or judgment to be entered therein for or against the ward or conservatee, and to satisfy any judgment or order in favor of the ward or conservatee or release or discharge any claim of the ward or conservatee pursuant to that compromise. Any money or other property to be paid or delivered pursuant to the order or judgment for the benefit of a minor, incompetent person, or person for whom a conservator has been appointed shall be paid and delivered as provided in Chapter 4 (commencing with Section 3600) of Part 8 of Division 4 of the Probate Code.

Where reference is made in this section to "incompetent person," such reference shall be deemed to include "a person for whom a conservator may be appointed."

Nothing in this section, or in any other provision of this code, the Civil Code, the Family Code, or the Probate Code is intended by the Legislature to prohibit a minor from exercising an intelligent and knowing waiver of his or her constitutional rights in any proceedings under the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(b) (1) Notwithstanding subdivision (a), a minor 12 years of age or older may appear in court without a guardian, counsel, or guardian ad litem, for the purpose of requesting or opposing a request for any of the following:

(A) An injunction or temporary restraining order or both to prohibit harassment pursuant to Section 527.6.

(B) An injunction or temporary restraining order or both against violence or a credible threat of violence in the workplace pursuant to Section 527.8.

(C) A protective order pursuant to Division 10 (commencing with Section 6200) of the Family Code.

(D) A protective order pursuant to Sections 7710 and 7720 of the Family Code.

The court may, either upon motion or in its own discretion, and after considering reasonable objections by the minor to the appointment of specific individuals, appoint a guardian ad litem to assist the minor in obtaining or opposing the order, provided that the appointment of the guardian ad litem does not delay the issuance or denial of the order being sought. In making the determination concerning the appointment of a particular guardian ad litem, the court shall consider whether the minor and the guardian have divergent interests.

(2) For purposes of this subdivision only, upon the issuance of an order pursuant to paragraph (1), if the minor initially appeared in court seeking an order without a guardian or guardian ad litem, and if the minor is residing with a parent or guardian, the court shall send a copy of the order to at least one parent or guardian designated by the minor, unless, in the discretion of the court, notification of a parent or guardian would be contrary to the best interest of the minor. The court is not required to send the order to more than one parent or guardian.

(3) The Judicial Council shall adopt forms by July 1, 1999, to facilitate the appointment of a guardian ad litem pursuant to this subdivision.

(c) (1) Notwithstanding subdivision (a), a minor may appear in court without a guardian ad litem in the following proceedings if the minor is a parent of the child who is the subject of the proceedings:

(A) Family court proceedings pursuant to Part 3 (commencing with Section 7600) of Division 12 of the Family Code.

(B) Dependency proceedings pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(C) Guardianship proceedings for a minor child pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code.

(D) Any other proceedings concerning child custody, visitation, or support.

(2) If the court finds that the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case, the court shall, upon its own motion or upon a motion by the minor parent or the minor parent's counsel, appoint a guardian ad litem.

SEC. 2. Section 7635 of the Family Code is amended to read:

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. The guardian ad litem need not be represented by counsel if the guardian ad litem is a relative of the child.

(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. Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the petition to establish parental relationship, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

(c) The court may align the parties.

(d) In any initial or subsequent proceeding under this chapter where custody of, or visitation with, a minor child is in issue, 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 pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8.

SEC. 3. Section 326.7 is added to the Welfare and Institutions Code, to read:

326.7. Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the dependency petition, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

## CHAPTER 182

An act to amend Section 7.6 of the Government Code, relating to the Attorney General.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 7.6 of the Government Code is amended to read:

7.6. (a) If by law, any officer whose office is created by the California Constitution is made a member of a state board, commission, or committee, or of the governing body of any state agency or authority, the officer may designate a deputy of his or her office holding a position specified in subdivision (c) of Section 4 of Article VII of the California Constitution to act as the member in the constitutional officer's place and stead, to all intents and purposes as though the constitutional officer was personally present, including the right of the deputy to be counted in constituting a quorum, to participate in the proceedings of the board, commission, committee, or other governing body, and to vote upon any and all matters. The constitutional officer so designating a deputy shall be responsible for the acts of the deputy acting under the designation in the same manner and to the same extent that the constitutional officer is responsible for the acts of the deputy performing his or her official duties as a deputy of the office of the constitutional officer.

(b) The Lieutenant Governor may designate any person in his or her office holding a position specified in subdivision (c) or (f) of Section 4 of Article VII of the California Constitution to act as a deputy for the purposes of this section only. However, the Lieutenant Governor may not appoint a person to act as a deputy for him or her at meetings of the Senate, or of the Regents of the University of California, or of the Trustees of the California State University.

(c) The Chief Justice of the California Supreme Court may designate a judge or employee of a state court or an employee of the Administrative Office of the Courts to act as a deputy for the purposes of this section.

(d) The Attorney General may also designate any employee in his or her office to act as a deputy for the purpose of this section. However, no person designated by the Attorney General pursuant to this section to act as a member on any state board, commission, committee, or governing body of which the Attorney General is presiding officer shall act as presiding officer in his or her place.

(e) The Superintendent of Public Instruction may designate any person in his or her office holding a position specified in Section 2.1 of Article IX of the California Constitution to act as a deputy for the purposes of this section. However, the Superintendent of Public Instruction may not appoint a person to act as a deputy for him or her at meetings of the State Board of Education, of the Regents of the University of California, or of the Trustees of the California State University.

(f) Notwithstanding subdivisions (a) to (e), inclusive, not more than one officer subject to this section shall be represented by a deputy subject to this section at any meeting or session of the State Lands Commission.

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## CHAPTER 183

An act to amend Sections 70101, 70102, 70103, 70104, 70105, and 70106 of the Education Code, relating to nursing education.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 70101 of the Education Code is amended to read:

70101. (a) Program participants shall meet all of the following eligibility criteria prior to selection into the program, and shall continue to meet these criteria, as appropriate, during the payment periods:

(1) The participant shall be a United States citizen or eligible noncitizen.

(2) The participant shall be a California resident who, at a minimum, possesses a baccalaureate degree in nursing or a field related to nursing.

(3) The participant shall have complied with United States Selective Service requirements.

(4) The participant shall not owe a refund on any state or federal educational grant or have delinquent or defaulted student loans.

(b) (1) Any person who has obtained a baccalaureate or graduate degree from an institution of postsecondary education, and who is participating in the loan assumption program set forth in this article, may be eligible to receive a conditional loan assumption agreement, to be redeemed pursuant to this chapter upon meeting the criteria of Section 70102.

(2) A person who is currently teaching nursing at a regionally accredited California college or university is not eligible to enter into an agreement for loan assumption under this article.

(c) (1) The commission shall award loan assumption agreements to either of the following applicants who otherwise meet the eligibility criteria of this section:

(A) An applicant who has been admitted to or enrolled in an academic program leading to a graduate level degree and demonstrates academic ability.

(B) An applicant with a baccalaureate, or baccalaureate and graduate degrees.

(2) (A) An applicant who is pursuing a graduate degree shall be enrolled on at least a half-time basis each academic term as defined by an eligible institution and shall agree to maintain satisfactory academic progress.

(B) Except as provided in subparagraph (C), if a program participant fails to maintain half-time enrollment as required by this article, under the terms of the agreement pursuant to subparagraph (A), the loan assumption agreement shall be deemed invalid. The participant shall assume full liability for all student loan obligations. The participant is excused from the half-time enrollment requirement if the student is in his or her final term in school and has no additional coursework required to obtain his or her graduate degree in nursing or a field related to nursing.

(C) Notwithstanding subparagraph (B), a program participant shall be excused from the half-time enrollment requirement for a period not to exceed one calendar year, unless approved by the commission for a longer period, if a program participant becomes unable to maintain half-time enrollment due to any of the following:

(i) Serious illness, pregnancy, or other natural causes.

(ii) The participant is called to military active duty status.

(iii) A natural disaster prevents the participant from maintaining half-time enrollment due to the interruption of instruction at the eligible institution.

(3) The applicant shall have been judged by his or her postsecondary institution or employer, whichever is applicable, to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant shall have received, or be approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) The Federal Direct Loan Program.

(C) Any loan program approved by the commission.

(5) (A) The applicant shall have agreed to teach nursing on a full-time basis at one or more regionally accredited California colleges or universities for at least three years, or on a part-time basis for the equivalent of three full-time academic years, commencing not more than 12 months after obtaining an academic degree, unless the applicant, within 12 months after obtaining the academic degree, enrolls in an academic degree program leading to a more advanced degree in nursing or a field related to nursing.

(B) A participant who possesses a baccalaureate or graduate degree at the time of application to the program shall agree to teach nursing on a full-time or part-time basis commencing not more than 12 months after receiving a loan assumption award.

(6) An applicant who teaches on less than a full-time basis may participate in the program, but is not eligible for loan repayment until that person teaches for the equivalent of a full-time academic year.

(d) A person participating in the program pursuant to this section shall not receive more than one loan assumption agreement, and shall not be eligible to receive a grant pursuant to Article 3.51 (commencing with Section 78260) of Chapter 2 of Part 48.

SEC. 2. Section 70102 of the Education Code is amended to read:

70102. The commission shall commence loan assumption payments pursuant to this article upon verification that the participant has fulfilled all of the following:

(a) The participant has received a baccalaureate degree or a graduate degree from an accredited, participating institution.

(b) The participant has provided the equivalent of full-time nursing instruction at one or more regionally accredited California colleges or universities for one academic year or the equivalent.

(c) The participant has met the requirements of the loan assumption agreement and all other conditions of this article.

SEC. 3. Section 70103 of the Education Code is amended to read:

70103. The terms of the loan assumptions granted under this article shall be as follows, subject to the specific terms of each loan assumption agreement:

(a) After a program participant has completed one academic year, or the equivalent, of full-time teaching nursing studies at one or more regionally accredited, eligible California colleges or universities, pursuant

to Section 70102, the commission shall assume up to eight thousand three hundred thirty-three dollars ($8,333) of the outstanding liability of the participant under one or more of the designated loan programs.

(b) After the program participant has completed two consecutive academic years, or the equivalent, of full-time teaching at one or more regionally accredited California colleges or universities, pursuant to Section 70102, the commission shall assume up to an additional eight thousand three hundred thirty-three dollars ($8,333) of the outstanding liability of the participant under one or more of the designated loan programs, for a total loan assumption of up to sixteen thousand six hundred sixty-six dollars ($16,666).

(c) After a program participant has completed three consecutive academic years, or the equivalent of full-time teaching, at one or more regionally accredited California colleges or universities, pursuant to Section 70102, the commission shall assume up to an additional eight thousand three hundred thirty-four dollars ($8,334) of the outstanding liability of the participant under one or more of the designated loan programs, for a total loan assumption of up to twenty-five thousand dollars ($25,000).

(d) The commission may assume liability for loans received by the program participant to pay for the costs of obtaining the program participant's undergraduate and graduate degrees.

(e) The term of the loan assumption agreement shall be not more than 10 years from the date on which the agreement was executed by the program participant and the commission.

SEC. 4. Section 70104 of the Education Code is amended to read:

70104. (a) Except as provided in subdivisions (b) and (c), if a program participant fails to complete a minimum of three academic years of teaching on a full-time basis or the equivalent on a part-time basis, as required by this article under the terms of the agreement pursuant to paragraph (5) of subdivision (c) of Section 70101, the loan assumption agreement is no longer effective and shall be deemed terminated, and the commission shall not make any further payments. The participant shall resume responsibility for any remaining loan obligations, but shall not be required to repay any loan payments previously made through this program.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the three years of teaching service on a full-time basis, or the equivalent on a part-time basis, due to a serious illness, pregnancy, or other natural causes, or due to being called to military active duty status, the term of the loan assumption agreement shall be extended for a period not to exceed one academic year, unless extended by the commission on a case-by-case basis. The commission

shall make no further payments under the loan assumption agreement until the applicable teaching requirements specified in Section 70103 have been satisfied.

(c) Notwithstanding subdivision (a), if a natural disaster prevents a program participant from completing one of the required years of teaching service due to the interruption of instruction at the employing regionally accredited California college or university, the term of the loan assumption agreement shall be extended for the period of time equal to the period from the interruption of instruction at the employing regionally accredited California college or university to the resumption of instruction. The commission shall make no further payments under the loan assumption agreement until the applicable teaching requirements specified in Section 70103 have been satisfied.

SEC. 5. Section 70105 of the Education Code is amended to read:

70105. (a) The commission shall accept nominations from accredited colleges and universities made pursuant to this article.

(b) The commission shall choose from among those nominations of graduate students and applicants who have completed their baccalaureate or graduate degrees with outstanding student loans, based upon criteria that may include, but are not necessarily limited to, all of the following:

(1) Grades at the undergraduate level in a subject field related to nursing.

(2) Grades in the undergraduate program.

(3) Aptitude for graduate work in the field of nursing.

(4) General aptitude for graduate study.

(5) Critical human resource needs.

(c) The commission may develop additional criteria for the selection of award recipients consistent with the purposes of this article.

SEC. 6. Section 70106 of the Education Code is amended to read:

70106. (a) The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time for which a loan assumption agreement shall remain valid and the development of projections for funding purposes. In developing these rules and regulations, the commission shall solicit the advice of representatives from postsecondary education institutions, the Office of Statewide Health Planning and Development, and the nursing community.

(b) If this article is amended and the commission deems it necessary to adopt a rule or regulation to implement that amendment, the commission shall develop and adopt that rule or regulation no later than 12 months after the operative date of the statute that amends the article.

## CHAPTER 184

An act to add Section 379 to the Penal Code, relating to crimes.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 379 is added to the Penal Code, to read:

379. Every person who sells, dispenses, distributes, furnishes, administers, gives, or offers to sell, dispense, distribute, furnish, administer, or give Salvia divinorum or Salvinorin A, or any substance or material containing Salvia divinorum or Salvinorin A, to any person who is less than 18 years of age, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 185

An act to amend Section 20209.7 of the Public Contract Code, relating to design-build.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 20209.7 of the Public Contract Code is amended to read:

20209.7. Design-build projects shall progress in a three-step process, as follows:

(a) The transit operator shall prepare a set of documents setting forth the scope of the project. The documents shall include, but are not limited to, the size, type, and desired design character of the buildings, transit facilities, and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the transit operator's needs. The performance specifications and any plans shall be prepared by a design professional duly licensed or registered in California.

(b) Any architectural or engineering firm or individual retained by the transit operator to assist in the development criteria or preparation of the request for proposal (RFP) is not eligible to participate in the competition for the design-build entity.

(c) If the transit operator does not already have a labor compliance program, as defined in Section 1771.5 of the Labor Code, the transit operator shall establish and enforce a labor compliance program for the design-build contract containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate this labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement applies only to the design-build contract and does not apply to projects where the transit operator or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project, or to any other project of the transit operator that is not design-build.

(d) (1) Each RFP shall identify the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the contracting agency to inform interested parties of the contracting opportunity.

(2) Each RFP shall invite interested parties to submit competitive sealed proposals in the manner prescribed by the contracting agency.

(3) Each RFP shall include a section identifying and describing:

(A) All significant factors that the agency reasonably expects to consider in evaluating proposals, including cost or price and all nonprice-related factors.

(B) The methodology and rating or weighting process that will be used by the agency in evaluating competitive proposals and specifically whether proposals will be rated according to numeric or qualitative values.

(C) The relative importance or weight assigned to each of the factors identified in the RFP. If a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price, when combined, are any of the following:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(D) If the contracting agency wishes to reserve the right to hold discussions or negotiations with offerors, it shall specify the same in the RFP and shall publish separately or incorporate into the RFP applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in a fair and impartial manner.

(e) (1) The transit operator shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the Director of Industrial Relations. The standardized questionnaire may not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if the violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations and the bidder complied with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code. In preparing the questionnaire, the director shall consult with the construction industry, building trades, transit operators, and other affected parties. This questionnaire shall require information relevant to the architecture or engineering firm that will be the lead on the design-build project. The questionnaire shall include, but is not limited to, all of the following:

(A) A listing of all the contractors that are part of the design-build entity.

(B) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(C) The licenses, registrations, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the transit operator that the design-build entity has the capacity to complete the project.

(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (P.L. 91-596),

settled against any member of the design-build entity, and information concerning a contractor member's workers' compensation experience history and worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found by an awarding body not to be a responsible bidder.

(G) Any instance where the entity, its owner, officers, or managing employees defaulted on a construction contract.

(H) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law, including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(I) Information concerning the bankruptcy or receivership of any member of the entity, and information concerning all legal claims, disputes, or lawsuits arising from any construction project of any member of the entity during the past three years, including information concerning any work completed by a surety.

(J) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members who will participate as subcontractors in the design-build contract.

(K) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five-year period immediately preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(L) In the case of a partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be liable for full performance under the design-build contract.

(2) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(f) The transit operator shall establish a procedure for final selection of the design-build entity. Selection shall be subject to the following conditions:

(1) In no case shall the transit operator award a contract to a design-build entity pursuant to this article for a capital maintenance or capacity-enhancing rail project unless that project exceeds twenty-five million dollars ($25,000,000) in cost.

(2) For nonrail transit projects that exceed two million five hundred thousand dollars ($2,500,000), the transit operator may award the project to the lowest responsible bidder or by using the best value method.

(3) For the acquisition and installation of technology applications or surveillance equipment designed to enhance safety, disaster preparedness, and homeland security efforts, there shall be no cost threshold and the transit operator may award the contract to the lowest responsible bidder or by using the best value method.

(g) Except as provided in this section, nothing in this act shall be construed to affect the application of any other law.

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## CHAPTER 186

An act to amend Section 45277.5 of the Education Code, relating to public school employees.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 45277.5 of the Education Code is amended to read:

45277.5. Notwithstanding Section 45277, in a school district with a pupil population of over 400,000 the following shall apply:

(a) An appointment may be made from other than the first three ranks of eligible applicants on the eligibility list if one or more of the following are required for successful job performance of a position to be filled:

(1) The ability to speak, read, or write a language in addition to English.

(2) A valid driver's license.

(3) Specialized licenses, certifications, knowledge, or ability, as determined by the school district personnel commission, that cannot reasonably be acquired during the probationary period.

(4) A specific gender if it is a bona fide occupational qualification.

(b) The recruitment bulletin announcing the examination shall indicate the special requirements that may be necessary for filling one or more of the positions in the classification. If a position is to be filled using the authority of this section, the appointment shall be made from among the highest three ranks of eligible candidates on the appropriate eligibility list who meet the special requirements of the position and who are ready and willing to accept the position.

(c) If there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments that may accumulate to a total of 90 working days. Successive provisional appointments of 90 working days or less each may be made in the absence of an appropriate eligibility list containing applicants who meet the special requirements if the personnel commission finds that the requirements of subdivisions (a) and (b) of Section 45288 have been met. These appointments may continue for the period of the provisional appointment, but shall not be additionally extended if certification can later be made from an appropriate eligibility list.

(d) This section applies only to the following classifications:

(1) Administrative analyst.
(2) Administrative assistant.
(3) Assistant contract administration analyst.
(4) Assistant realty agent.
(5) Contracts administration analyst.
(6) Educational research analyst.
(7) Financial analyst.
(8) Grants specialist.
(9) Health care advocate.
(10) Human resources specialist III.
(11) Insurance representative II.
(12) Insurance representative III.
(13) Occupational health nurse.
(14) Parent community facilitator.
(15) Senior internal auditor.
(16) Web developer.
(17) Any classifications that have been designated as management.

(e) A school district that makes an appointment pursuant to this section shall study the effectiveness of this selection method, vacancy rates for each classification, and the length of time to hire for each classification, and submit a report on the study to the affected labor unions.

(f) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

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## CHAPTER 187

An act to amend Section 7316 of the Business and Professions Code, relating to barbering and cosmetology.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 7316 of the Business and Professions Code is amended to read:

7316. (a) The practice of barbering is all or any combination of the following practices:

(1) Shaving or trimming the beard or cutting the hair.

(2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.

(5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations

or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.

(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, applying makeup, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, or manicuring the nails of any person or massaging, cleansing, or beautifying the hands or feet of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

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## CHAPTER 188

An act to add Section 1389.6 to the Health and Safety Code, and to add Section 10385 to the Insurance Code, relating to health care.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 1389.6 is added to the Health and Safety Code, to read:

1389.6. Compensation of a person or entity employed by, or contracted with, a health care service plan shall not be based on, or related in any way to, the number of contracts that the person or entity has caused or recommended to be rescinded, canceled, or limited, or the resulting cost savings to the health plan. A health care service plan shall not set performance goals or quotas, or provide compensation to any person or entity employed by, or contracted with, the health care service plan, based on the number of persons whose coverage is rescinded or any financial savings to the health care service plan associated with rescission of coverage.

SEC. 2. Section 10385 is added to the Insurance Code, to read:

10385. Compensation of a person or entity employed by, or contracted with, a disability insurer shall not be based on, or related in any way to, the number of policies or certificates for health insurance that the person or entity has caused or recommended to be rescinded, canceled, or limited, or the resulting cost savings to the insurer. A disability insurer shall not set performance goals or quotas, or provide compensation to any person or entity employed by, or contracted with, the insurer, based on the number of persons whose health insurance coverage is rescinded or any financial savings to the insurer associated with rescission of coverage.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 189

An act to amend Sections 52851, 52852, 52856, 52863, 52871, 52873, 52876, 52879, 52882, 52883, 52886, 52887, 52891.1, 52892, 52893, 52901, 52931, 52932, 52934, 52935, 52936, 52937, 52951, 52953, 52972, and 52975 of, and to add Sections 52867 and 52868 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 52851 of the Food and Agricultural Code is amended to read:

52851. The Legislature hereby declares that the purposes of this chapter are to promote, encourage, aid, and protect the planting and growing of cotton in the State of California; that it believes that these purposes can best be accomplished by restricting within certain areas the planting and growing of but two types of cotton, which are Acala and Pima; that, by this means, it is possible to bring the cotton-growing industry in the state to its highest possible development and to ensure the growing of the most superior varieties of cotton; that the planting of pure seed is essential to the production of more marketable and better grades of cotton and cottonseeds, and for the production of grades of fiber best suited for manufacturing purposes; and that the planting of impure seeds or plants, other than those authorized in these areas, is an economic harm and loss to the planter thereof and an irreparable injury to the adjoining or neighboring growers.

SEC. 2. Section 52852 of the Food and Agricultural Code is amended to read:

52852. The Legislature also declares that the restriction of the use to which cotton lands and cotton gins may be used, as provided in this chapter, is essential to the highest development of the cotton-growing industry; otherwise the different types of seed will be mixed, crossing will take place in the field, the varieties will be mongrelized and cease to be uniform, the fiber will deteriorate in quality, and the seed will be rendered unfit for planting.

SEC. 3. Section 52856 of the Food and Agricultural Code is amended to read:

52856. The Legislature further declares that all cotton approved by the board for planting in the district is for the benefit of the cotton-growing industry and is not for the exclusive or limited use of any person.

SEC. 4. Section 52863 of the Food and Agricultural Code is amended to read:

52863. "Handlers of raw cotton fiber" or "merchant" means any person or organization that is primarily engaged in the business of buying and selling spot cotton or forward contract cotton.

SEC. 5. Section 52867 is added to the Food and Agricultural Code, to read:

52867. "Cotton growers" or "growers" means any person in the district who produces, or causes to be produced, cotton for market.

SEC. 6. Section 52868 is added to the Food and Agricultural Code, to read:

52868. "Handlers of whole cottonseed" means any person or organization that is engaged in the business of buying, selling, or processing whole cottonseed.

SEC. 7. Section 52871 of the Food and Agricultural Code is amended to read:

52871. There is in the state government the San Joaquin Valley Cotton Board. The board shall be composed of seven cotton growers, three cotton industry members operating in the San Joaquin Valley, and one public member.

(a) The grower members shall be elected by the cotton growers in the county they represent, as follows:

(1) There shall be five elected growers representing each of the five counties within the district with the largest cotton acreage.

(2) There shall be an additional elected grower from each of the two counties within the district with the largest cotton acreage.

(b) The three cotton industry members shall be elected as follows:

(1) One member elected from and by handlers of whole cottonseed.

(2) One member elected from and by handlers of raw cotton fiber.

(3) One member elected from and by cotton ginning organizations.

(4) An organization may not be represented in more than one of the categories specified in the foregoing paragraphs.

(c) One public member shall be appointed by the secretary. The board shall submit a list of three public members to the secretary. The secretary shall choose one public member from the list to serve as a member on the board. If the secretary determines that those on the list are unacceptable, the board shall submit a new list containing the names of

three public members from which the secretary shall choose one. This procedure shall continue until a public member has been selected by the secretary to serve on the board.

(d) In addition, the board shall select one representative each from the United States Department of Agriculture and the University of California, and two representatives each from cotton planting seed delinting organizations, and organizations involved in the reproduction, sale, and distribution of cottonseed in the district, to serve as nonvoting ex officio members of the board. These members shall not be selected from the same organization.

SEC. 8. Section 52873 of the Food and Agricultural Code is amended to read:

52873. The secretary shall supervise and conduct any election held pursuant to Section 52871 and this section. Elections for grower members and elections for industry members shall be conducted as follows:

(a) The secretary shall distribute nomination petitions to each person or organization listed pursuant to Section 52872, and authorized to vote under Section 52871 in the election being held. The petition of signatures in support of a nominee signed by those whom the nominee represents shall be submitted to the secretary in order to nominate any candidate for election to the board within 30 days from the date of the secretary's distribution of those petitions. There shall be at least 10 signatures on each petition of nomination for a cotton grower candidate, at least two signatures on each petition of nomination for handlers of whole cottonseed candidates, at least six signatures on each petition of nomination for handlers of raw cotton fiber candidates, and at least 10 signatures on each petition of nomination for cotton ginning candidates.

(b) The submitted petitions for nomination shall be verified by the secretary, and an election ballot containing the names of persons nominated shall thereafter be mailed to the persons and organizations eligible to vote in the election.

SEC. 9. Section 52876 of the Food and Agricultural Code is amended to read:

52876. Grower members and their alternates on the board shall have a financial interest in producing, or causing to be produced, cotton for market.

Cotton industry members or their alternates shall have a financial interest in, or be employed by, any person or organization handling cotton for markets.

The public member or his or her alternate on the board shall have all the powers, rights, and privileges of any other member on the board, but shall not have any direct financial interest in the cotton industry.

SEC. 10. Section 52879 of the Food and Agricultural Code is amended to read:

52879. Upon implementation of Article 9.5 (commencing with Section 52951), the board shall have the power to sue and be sued, and to enter into contracts. Copies of its proceedings, records, and acts, when certified by the secretary of the board, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

SEC. 11. Section 52882 of the Food and Agricultural Code is amended to read:

52882. The board shall meet at least once a year, or at the call of the chairperson or the secretary, or at the request of any six voting members of the board.

SEC. 12. Section 52883 of the Food and Agricultural Code is amended to read:

52883. A quorum of the board shall be any six voting members or their alternates. The vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the board.

SEC. 13. Section 52886 of the Food and Agricultural Code is amended to read:

52886. Upon board action, all moneys received by any person from the assessments levied under the authority of Article 9.5 (commencing with Section 52951) of this chapter shall be deposited in banks designated by the board and shall be disbursed by order of the board through the agent or agents it designates for that purpose. Any designated agent shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in California, in favor of the board, conditioned upon the faithful performance of the agent's duties and the strict accounting of all funds of the board, in the amount determined by the board.

SEC. 14. Section 52887 of the Food and Agricultural Code is amended to read:

52887. The state shall not be liable for the acts of the board or its contracts. Payment of all claims arising by reason of the administration of this chapter or acts of the board shall be limited to the funds collected under this chapter. No member of the board or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the board nor shall a board member, alternate member, or employee of the board be responsible individually or jointly in any way to any cotton grower or handler or any other person for error in judgment, mistakes, or other acts, either of the board or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No board member or alternate member shall be held responsible individually for any act or omission of any member of the board. The

liability of the board members shall be several and not joint, and no board members shall be liable for the default of any other board member.

SEC. 15. Section 52891.1 of the Food and Agricultural Code is amended to read:

52891.1. (a) The board may, by resolution, take actions that are in the best interest of the cotton industry in the district, which shall include, but not be limited to, the growing of cottons other than Acala and Pima. The resolution may contain provisions to protect the quality and integrity of approved fiber and seed grown within the district.

(b) The resolution shall be subject to a referendum conducted by the secretary, upon the request of the board, using information supplied by the board and other information as determined by the secretary, or a referendum shall be conducted by the secretary if a petition signed by not less than 5 percent of the qualified cotton growers in the district is presented to the board. The costs of any referendum conducted pursuant to this chapter shall be paid from funds collected pursuant to this chapter.

(c) The secretary shall find the resolution approved if either of the following conditions are met:

(1) Not less than 65 percent of the cotton growers certified by the secretary who voted in the referendum, voted in favor, and that those cotton growers so voting represent at least a majority of the cotton producing acreage of all cotton growers who voted in the referendum.

(2) At least a majority of those cotton growers who voted in the referendum voted in favor and that those cotton growers so voting represent not less than 65 percent of the cotton producing acreage of all cotton growers who voted in the referendum. The secretary shall then so certify to the board, which shall then make the approved resolution effective as an order of the board within 10 days after the certification by the secretary.

SEC. 16. Section 52892 of the Food and Agricultural Code is amended to read:

52892. Upon implementation of Article 9.5 (commencing with Section 52951) of this chapter the powers and duties of the board shall also include, but not be limited to, all of the following:

(a) To adopt, and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations, and orders for carrying out the provisions of this chapter and for exercising its powers and the performance of its duties, including rules for regulation of appeals from any rule, regulation, or order of the board.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to or in connection with or deemed reasonably necessary, proper or advisable to effectuate the purposes of this chapter.

(c) To employ a manager to serve, at the pleasure of the board, as president and chief executive officer of the board and other personnel, including legal counsel, that is necessary to carry out the provisions of this chapter.

(d) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the board, for the proper administration and enforcement of this chapter and the performance of its duties.

(e) To promote the sale of cotton by advertising and other promotional means for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for cotton.

(f) To enter into cost-sharing advertising with other products considered, by the board, to be fair and equitable to both parties.

(g) In the discretion of the board, to make, in the name of the board, contracts to render service in formulating and conducting plans and programs, and other contracts or agreements deemed necessary for the promotion of the sale of cotton.

(h) In the discretion of the board, to conduct, and contract with others to conduct, scientific research, including the study, analysis, dissemination, and accumulation of information obtained from that research or elsewhere regarding the marketing and production of cotton. In connection with that research, the board shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for those purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting that research.

(i) In the discretion of the board, to publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the cotton industry to growers and other industry members.

SEC. 17. Section 52893 of the Food and Agricultural Code is amended to read:

52893. The board may require that all cottonseed delinted for planting within the district be certified by a qualified seed certification agency as provided by subdivision (d) of Section 52482.

SEC. 18. Section 52901 of the Food and Agricultural Code is amended to read:

52901. The planting, possessing for planting, growing, picking, harvesting, ginning of cotton, delinting of cottonseed, or sale of lint by anyone conducting research on nonapproved varieties shall be in

compliance with regulations adopted by the department. The department shall also adopt regulations to accomplish all of the following purposes:

(a) Maintain the integrity of approved Acala or Pima cotton and prevent contamination of those types of cotton.

(b) Require that applicants notify the department regarding the location of test sites and of the dates and procedures for planting, harvesting, and ginning of cotton.

(c) Establish a procedure for importing cottonseed into the district.

SEC. 19. Section 52931 of the Food and Agricultural Code is amended to read:

52931. A referendum of all cotton growers within the district shall be conducted if a petition, signed by not less than 5 percent of the cotton growers in the district is submitted to the secretary, which calls for a referendum pertaining to the operation of this chapter.

SEC. 20. Section 52932 of the Food and Agricultural Code is amended to read:

52932. This chapter shall remain operative if either of the following conditions are met:

(a) Not less than 65 percent of the cotton growers certified by the secretary who voted in the referendum, voted in favor of this chapter, and those cotton growers so voting represent at least a majority of the cotton producing acreage of all cotton growers who voted in the referendum.

(b) At least a majority of those cotton growers who voted in the referendum voted in favor of this chapter and those cotton growers so voting represent not less than 65 percent of the cotton producing acreage of all cotton growers who voted in the referendum.

SEC. 21. Section 52934 of the Food and Agricultural Code is amended to read:

52934. If the secretary finds that a favorable vote has been given as provided in Section 52932, he or she shall so certify and give notice of that favorable vote to the cotton growers in the district.

SEC. 22. Section 52935 of the Food and Agricultural Code is amended to read:

52935. If the secretary finds that a favorable vote has not been given as provided in Section 52932, the secretary shall so certify and declare all provisions of this chapter inoperative.

SEC. 23. Section 52936 of the Food and Agricultural Code is amended to read:

52936. In addition to Section 52931, the board may hold a referendum whenever the board proposes changes to the Acala or Pima quality standard as provided in Section 52891.

SEC. 24. Section 52937 of the Food and Agricultural Code is amended to read:

52937. A referendum shall be held if the board proposes to implement promotion and research funding as provided in Article 9.5 (commencing with Section 52951) of this chapter.

SEC. 25. Section 52951 of the Food and Agricultural Code is amended to read:

52951. The board is authorized to annually assess cotton growers in the district in an amount not to exceed one-half of 1 percent of each grower's gross dollar value from the previous year's cotton crop.

SEC. 26. Section 52953 of the Food and Agricultural Code is amended to read:

52953. The board shall develop a procedure for collecting assessments under this article.

(a) Collection of the assessment may be required of cotton growers or cotton handlers.

(b) A penalty of 10 percent of the unpaid assessment fee due and payable may be imposed.

SEC. 27. Section 52972 of the Food and Agricultural Code is amended to read:

52972. Except as otherwise provided in Article 5 (commencing with Section 52901), and Article 12 (commencing with Section 52981), in the district established by this chapter, it is unlawful for any person to plant, possess for planting, pick, harvest, gin, or delint any cotton except those seeds or plants that are approved by the board for planting within the district.

SEC. 28. Section 52975 of the Food and Agricultural Code is amended to read:

52975. The district attorney of the county in which any nuisance is found, at the request of the secretary or the commissioner, shall maintain, in the name of the people of the state, a civil action to abate and prevent the nuisance. Upon judgment and order of the court, that nuisance shall be condemned and destroyed in the manner directed by the court, denatured, or otherwise processed, or released upon conditions that the court may impose to ensure that the nuisance will be abated.

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## CHAPTER 190

An act to amend Section 4575 of the Penal Code, relating to correctional facilities.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 4575 of the Penal Code is amended to read:

4575. (a) Any person in a local correctional facility who possesses a wireless communication device, including, but not limited to, a cellular telephone, pager, or wireless Internet device, who is not authorized to possess that item is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000).

(b) Any person housed in a local correctional facility who possesses any tobacco products in any form, including snuff products, smoking paraphernalia, any device that is intended to be used for ingesting or consuming tobacco, or any container or dispenser used for any of those products, is guilty of an infraction, punishable by a fine not exceeding two hundred fifty dollars ($250).

(c) Money collected pursuant to this section shall be placed into the inmate welfare fund, as specified in Section 4025.

(d) Any person housed in a local correctional facility who possesses a handcuff key who is not authorized to possess that item is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine of up to one thousand dollars ($1,000), or by both that imprisonment and fine. As used in this subdivision, "handcuff key" means any device designed or intended to open or unlatch a handcuff.

(e) Subdivision (b) shall only apply to a person in a local correctional facility in a county in which the board of supervisors has adopted an ordinance or passed a resolution banning tobacco in its correctional facilities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

## CHAPTER 191

An act to amend Section 20057 of the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 20057 of the Government Code is amended to read:

20057. "Public agency" also includes the following:

(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of Division 8 of Title 3 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this system or the State

Teachers' Retirement Plan, and their immediate families, and employees of any credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this system or the State Teachers' Retirement Plan. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union is not deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board may not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local policemen, as defined in Section 20430, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing

with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(*l*) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.

(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal Public Law 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.

(2) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the independent living center.

(3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

(q) The Tahoe Transportation District that is established by Article IX of Section 66801.

(r) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(s) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

(t) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a "public agency" only for this purpose.

(u) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The auxiliary organization is a "public agency" only for this purpose.

(v) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a "public agency" only for this purpose.

(w) The State Assistance Fund for Enterprise, Business, and Industrial Development Corporation upon obtaining a written opinion from the United States Department of Labor as described in Section 20057.1.

(x) (1) A private nonprofit area agency on aging as described in Section 9006 of the Welfare and Institutions Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(2) The area agency on aging shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the agency.

(3) Notwithstanding any other provision of this part, the area agency on aging may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(y) (1) A nonprofit mutual water company operating pursuant to Chapter 1 (commencing with Section 14300) of Part 7 of Division 3 of Title 1 of the Corporations Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1, if both of the following requirements are satisfied:

(A) More than 50 percent of the company's shares are owned by a municipality.

(B) The governing body of the company is a local public agency, as defined in Section 6252, and a legislative body, as defined in Section 54952.

(2) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" only for the purposes of this part and only with respect to the employees of the agency.

(3) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" for purposes of this part only if it complies with the provisions of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

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## CHAPTER 192

An act to add Section 82035.5 to, and to add Article 2.5 (commencing with Section 84250) to Chapter 4 of Title 9 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 82035.5 is added to the Government Code, to read:

82035.5. "LAFCO proposal" means a proposal, as defined in Section 56069, that is initiated as a petition for filing with a local agency formation commission.

SEC. 2. Article 2.5 (commencing with Section 84250) is added to Chapter 4 of Title 9 of the Government Code, to read:

Article 2.5. LAFCO Proposal Requirements

84250. All requirements of this title applicable to a measure, as defined in Section 82043, also apply to a LAFCO proposal, as defined in Section 82035.5, except as set forth in Section 84252.

84251. A payment made for "political purposes," as that term is used in Sections 82015 and 82025, includes a payment made for the purpose of influencing or attempting to influence the actions of voters or a local agency formation commission for or against the qualification, adoption, or passage of a LAFCO proposal.

84252. (a) A committee primarily formed to support or oppose a LAFCO proposal shall file all statements required under this chapter except that, in lieu of the statements required by Sections 84200 and 84202.3, the committee shall file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot or, if a measure is not placed on the ballot, until the committee is terminated pursuant to Section 84214. The committee shall file an original and one copy of each statement on the 15th day of each calendar month, covering the prior calendar month, with the clerk of the county in which the measure may be voted on. If the petition results in a measure that is placed on the ballot, the committee thereafter shall file campaign statements required by this chapter.

(b) In addition to any other statements required by this chapter, a committee that makes independent expenditures in connection with a LAFCO proposal shall file statements pursuant to Section 84203.5.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

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CHAPTER 193

An act to amend Section 5307.2 of the Labor Code, relating to workers' compensation.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 5307.2 of the Labor Code is amended to read:

5307.2. The administrative director shall contract with an independent consulting firm, to the extent permitted by state law, to perform an annual study of access to medical treatment for injured workers. The study shall analyze whether there is adequate access to quality health care and products, including prescription drugs and pharmacy services, for injured workers and make recommendations to ensure continued access. If the administrative director determines, based on this study, that there is insufficient access to quality health care or products for injured workers, including access to prescription drugs and pharmacy services, the administrative director may make appropriate adjustments to medical, prescription drugs and pharmacy services, and facilities' fees. When there has been a determination that substantial access problems exist, the administrative director may, in accordance with the notification and hearing requirements of Section 5307.1, adopt fees in excess of 120 percent of the applicable Medicare payment system fee, or in excess of 100 percent of the fees prescribed in the relevant Medi-Cal payment system, for the applicable services or products.

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## CHAPTER 194

An act to amend Section 599f of the Penal Code, relating to animals.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

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

SECTION 1. Section 599f of the Penal Code is amended to read:

599f. (a) No slaughterhouse, stockyard, auction, market agency, or dealer shall buy, sell, or receive a nonambulatory animal.

(b) No slaughterhouse shall process, butcher, or sell meat or products of nonambulatory animals for human consumption.

(c) No slaughterhouse shall hold a nonambulatory animal without taking immediate action to humanely euthanize the animal.

(d) No stockyard, auction, market agency, or dealer shall hold a nonambulatory animal without taking immediate action to humanely euthanize the animal or to provide immediate veterinary treatment.

(e) While in transit or on the premises of a stockyard, auction, market agency, dealer, or slaughterhouse, a nonambulatory animal may not be dragged at any time, or pushed with equipment at any time, but shall be moved with a sling or on a stoneboat or other sled-like or wheeled conveyance.

(f) No person shall sell, consign, or ship any nonambulatory animal for the purpose of delivering a nonambulatory animal to a slaughterhouse, stockyard, auction, market agency, or dealer.

(g) No person shall accept a nonambulatory animal for transport or delivery to a slaughterhouse, stockyard, auction, market agency, or dealer.

(h) A violation of this section is subject to imprisonment in the county jail for a period not to exceed one year, or by a fine of not more than twenty thousand dollars ($20,000), or by both that fine and imprisonment.

(i) As used in this section, "nonambulatory" means unable to stand and walk without assistance.

(j) As used in this section, "animal" means live cattle, swine, sheep, or goats.

(k) As used in this section, "humanely euthanized" means to kill by a mechanical, chemical, or electrical method that rapidly and effectively renders the animal insensitive to pain.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 195

An act to amend Section 7910 of the Public Utilities Code, relating to communications service employees.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 7910 of the Public Utilities Code is amended to read:

7910. (a) Telephone corporations, holders of a state franchise pursuant to Division 2.5 (commencing with Section 5800), and a video provider, as defined in Section 53088.1 of the Government Code, shall perform background checks of applicants for employment, according to usual business practices.

(b) A background check equivalent to that performed by the contracting telephone corporation, a holder of a state franchise pursuant to Division 2.5 (commencing with Section 5800), and a video provider, as defined in Section 53088.1 of the Government Code, shall also be conducted on all of the following:

(1) Persons hired by a contracting entity under a personal services contract.

(2) Independent contractors and their employees.

(3) Vendors and their employees.

(c) Independent contractors and vendors shall certify that they have obtained the background checks required pursuant to subdivision (b), and shall make the background checks available to the contracting entity upon request.

(d) Except as otherwise provided by contract, the telephone corporation, a holder of a state franchise pursuant to Division 2.5 (commencing with Section 5800), and a video provider, as defined in Section 53088.1 of the Government Code, shall not be responsible for administering the background checks and shall not assume the cost of the background checks of individuals who are not applicants for employment of the contracting entity.

(e) (1) An individual shall not, on behalf of a telephone corporation, holder of a state franchise pursuant to Division 2.5 (commencing with Section 5800), or video provider, as defined in Section 53088.1 of the Government Code, enter upon the premises of any individual unless he or she has had the background check required by subdivisions (a) and (b).

(2) Subdivision (a) applies to applicants for employment for positions that would allow the applicant to have direct contact with or access to the company's network or central office and would require the applicant to perform activities that involve the installation, service, or repair of the company's network or equipment.

(3) Subdivision (b) applies to any person that has direct contact with or access to the company's network or central office and performs

activities that involve the installation, service, or repair of the company's network or equipment.

(f) This section does not apply to temporary workers performing emergency functions to restore the network of a telephone corporation to its normal state in the event of a natural disaster or an emergency that threatens or results in the loss of service.

(g) The provisions of this section apply only to applicants for employment who apply for employment on and after January 1, 2009, and to contracts entered into on or after January 1, 2009.

SEC. 2. It is the intent of the Legislature that the well-being of employees of video service providers be promoted.

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## CHAPTER 196

An act to amend Sections 56021, 56654, 56824.10, 56824.12, 56824.14, 57075, and 57076 of the Government Code, relating to local government.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 56021 of the Government Code is amended to read:

56021. "Change of organization" means any of the following:

(a) A city incorporation.

(b) A district formation.

(c) An annexation to, or detachment from, a city or district.

(d) A disincorporation of a city.

(e) A district dissolution.

(f) A consolidation of cities or special districts.

(g) A merger or establishment of a subsidiary district.

(h) A proposal for the exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

SEC. 2. Section 56654 of the Government Code is amended to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency, except as provided in subdivision (b).

(b) Notwithstanding Section 56700, a proposal for a change of organization that involves the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, shall only be initiated by the legislative body of that special district in accordance with Sections 56824.10, 56824.12, and 56824.14.

(c) At least 20 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(d) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 2.5. Section 56654 of the Government Code is amended to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency, except as provided in subdivision (b).

(b) Notwithstanding Section 56700, a proposal for a change of organization that involves the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, shall only be initiated by the legislative body of that special district in accordance with Sections 56824.10, 56824.12, and 56824.14.

(c) At least 21 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(d) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 3. Section 56824.10 of the Government Code is amended to read:

56824.10. Commission proceedings for the exercise of new or different functions or classes of services or divestiture of the power to provide particular functions or classes of services, within all or part of

the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, may be initiated by a resolution of application in accordance with this article.

SEC. 4. Section 56824.12 of the Government Code is amended to read:

56824.12. (a) A proposal by a special district to provide a new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, shall be made by the adoption of a resolution of application by the legislative body of the special district and shall include all of the matters specified for a petition in Section 56700, except paragraph (6) of subdivision (a) of Section 56700, and be submitted with a plan for services prepared pursuant to Section 56653. The plan for services for purposes of this article shall also include all of the following information:

(1) The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.

(2) The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.

(3) An identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

(4) A written summary of whether the new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.

(5) A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.

(6) Alternatives for the establishment of the new or different functions or class of services within the special district's jurisdictional boundaries.

(b) The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer. Except as provided in subdivision (c), the commission shall process resolutions of application adopted pursuant to this article in accordance with Section 56824.14.

(c) (1) Prior to submitting a resolution of application pursuant to this article to the commission, the legislative body of the special district shall

conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154.

(2) Any affected local agency, affected county, or any interested person who wishes to appear at the hearing shall be given an opportunity to provide oral or written testimony on the resolution.

SEC. 5. Section 56824.14 of the Government Code is amended to read:

56824.14. (a) The commission shall review and approve or disapprove with or without amendments, wholly, partially, or conditionally, proposals for the establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, after a public hearing called and held for that purpose. The commission shall not approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district unless the commission determines that the special district will have sufficient revenues to carry out the proposed new or different functions or class of services except as specified in paragraph (1).

(1) The commission may approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district where the commission has determined that the special district will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that if the revenue sources pursuant to Section 56886 are not approved, the authority of the special district to provide new or different functions or class of services shall not be established.

(2) Unless otherwise required by the principal act of the subject special district, or unless otherwise required by Section 57075 or 57076, the approval by the commission for establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, shall not be subject to an election.

(b) At least 21 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted.

(c) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

SEC. 6. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or formation of county service areas, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 6.5. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 7. Section 57076 of the Government Code is amended to read:

57076. In the case of landowner-voter districts, where a change of organization or reorganization consists solely of annexations or detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a

finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(b) Order the change of organization or reorganization subject to an election within the affected territory if written protests that have been filed and not withdrawn represent either of the following:

(1) Twenty-five percent or more of the number of owners of land who also own 25 percent or more of the assessed value of land within the territory.

(2) Twenty-five percent or more of the voting power of landowner voters entitled to vote as a result of owning property within the territory.

(c) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the number of owners of land who own less than 25 percent of the assessed value of land within the affected territory.

SEC. 8. Section 2.5 of this bill incorporates amendments to Section 56654 of the Government Code proposed by both this bill and AB 3047. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 56654 of the Government Code, and (3) this bill is enacted after AB 3047, in which case Section 2 of this bill shall not become operative.

SEC. 9. Section 6.5 of this bill incorporates amendments to Section 57075 of the Government Code proposed by both this bill and SB 1458. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 57075 of the Government Code, and (3) this bill is enacted after SB 1458, in which case Section 6 of this bill shall not become operative.

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## CHAPTER 197

An act to amend Section 31780.2 of the Government Code, relating to county employees' retirement.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 31780.2 of the Government Code is amended to read:

31780.2. (a) Any benefits accorded to a spouse pursuant to this article and Article 11 (commencing with Section 31760), Article 15.5 (commencing with Section 31841), Article 15.6 (commencing with Section 31855), and Article 16 (commencing with Section 31861), or any of them, may be accorded to a domestic partner, as defined in Section 297 of the Family Code, who is registered with the Secretary of State pursuant to Division 2.5 (commencing with Section 297) of the Family Code. The county may also require the member and the member's domestic partner to have a current Affidavit of Domestic Partnership, in the form adopted by the county board of supervisors, on file with the county for at least one year prior to the member's retirement or death prior to retirement.

(b) If a member described in subdivision (a) has a surviving dependent child, the surviving dependent child shall receive the death and survivor's allowance until 18 years of age or until married, whichever occurs earlier, or until 22 years of age if enrolled as a full-time student in an accredited educational institution. When the member's surviving dependent child reaches 18 years of age or is no longer a dependent, whichever occurs earlier, or reaches 22 years of age if enrolled as a full-time student in an accredited educational institution, then the benefits accorded to a spouse, as specified in subdivision (a), may be accorded to a domestic partner pursuant to this section. However, if a surviving dependent child elects to receive a lump-sum payment, the lump-sum payment shall be shared among any surviving dependent children and the domestic partner, pursuant to this section, in a proportional manner.

(c) This section is not operative unless and until the county board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county. In a county of the 10th class, as defined in Sections 28020 and 28031, the county board of supervisors may implement the benefits described in this section as determined through the collective bargaining process and based on actuarial cost estimates.

(d) This section shall not apply to any member whose death occurs on or after January 1, 2009.

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## CHAPTER 198

An act to amend Section 19103 of the Elections Code, relating to voting systems.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 19103 of the Elections Code is amended to read:

19103. (a) No later than 10 business days after the Secretary of State approves the use of a new or updated voting system, the vendor of the voting system shall cause an exact copy of the approved source code for each component of the voting system, including complete build and configuration instructions and related documents for compiling the source code into object code, to be transferred directly from the United States Election Assistance Commission or the voting system testing laboratory, which evaluated the voting system and is accredited by the United States Election Assistance Commission, and deposited into an approved escrow facility.

(b) The Secretary of State shall adopt regulations relating to all of the following:

(1) The definition of source code components of a voting system, including source code for all firmware and software of the voting system. Firmware and software shall include commercial off-the-shelf or other third-party firmware and software that is available and able to be disclosed by the vendor of the voting system.

(2) Specifications for the escrow facility, including security and environmental specifications necessary for the preservation of the voting system source codes.

(3) Procedures for submitting voting system source codes.

(4) Criteria for access to voting system source codes.

(5) Requirements for the vendor to include in the materials deposited in escrow build and configuration instructions and documents so that a neutral third party may create, from the source codes in escrow, executable object codes identical to the code installed on approved voting systems.

(c) The Secretary of State shall have reasonable access to the materials placed in escrow, under the following circumstances:

(1) In the course of an investigation or prosecution regarding vote counting equipment or procedures.

(2) Upon a finding by the Secretary of State that an escrow facility or escrow company is unable or unwilling to maintain materials in escrow in compliance with this section.

(3) In order to fulfill the provisions of this chapter related to the examination and approval of voting systems.

(4) In order to verify that the software on a voting system, voting machine, or vote tabulating device is identical to the approved version.

(5) For any other purpose deemed necessary to fulfill the provisions of this code or Section 12172.5 of the Government Code.

(d) The Secretary of State may seek injunctive relief requiring the elections officials, approved escrow facility, or any vendor or manufacturer of a voting machine, voting system, or vote tabulating device, to comply with this section and related regulations. Venue for a proceeding under this section shall be exclusively in Sacramento County.

(e) This section applies to all elections.

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## CHAPTER 199

An act to amend Section 1963.7 of, to amend, renumber, and add Section 1963.8 of, and to add Section 1963.9 to the Streets and Highways Code, relating to neighborhood electric vehicles.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 1963.7 of the Streets and Highways Code is amended to read:

1963.7. (a) If the City of Rocklin adopts a NEV transportation plan pursuant to this chapter, the city shall submit a report to the Legislature on or before January 1, 2009, in consultation with the Department of Transportation, the Department of the California Highway Patrol, and local law enforcement agencies.

(b) The report shall include all of the following:

(1) A description of all NEV transportation plans and their elements that have been authorized up to that time.

(2) An evaluation of the effectiveness of the NEV transportation plans, including their impact on traffic flows and safety.

(3) A recommendation as to whether this chapter should be terminated with respect to the City of Rocklin in the County of Placer or expanded statewide.

SEC. 2. Section 1963.8 of the Streets and Highways Code is amended and renumbered to read:

1963.10. This chapter shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 3. Section 1963.8 is added to the Streets and Highways Code, to read:

1963.8. The Legislature finds and declares that the City of Lincoln has complied with all of the requirements of this chapter relative to development of a NEV transportation plan and associated reporting to the Legislature. Accordingly, the City of Lincoln is authorized to proceed with the implementation of its NEV transportation plan.

SEC. 4. Section 1963.9 is added to the Streets and Highways Code, to read:

1963.9. (a) If the City of Lincoln or the City of Rocklin implements a NEV transportation plan pursuant to this chapter, the cities shall jointly, or individually if only one city implements a plan, submit a subsequent report to the initial report required by Section 1963.7 to the Legislature on or before January 1, 2011, in consultation with the Department of Transportation, the Department of the California Highway Patrol, and local law enforcement agencies.

(b) The report shall include all of the following:

(1) A description of all NEV transportation plans and their elements that have been authorized up to that time.

(2) An evaluation of the effectiveness of the NEV transportation plans, including their impact on traffic flows and safety.

(3) A recommendation as to whether this chapter should be terminated, continued in existence applicable solely to the City of Lincoln or the City of Rocklin in Placer County, or both, or expanded statewide.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 200

An act to amend Sections 15261 and 19250 of, and to add Section 19217 to, the Elections Code, relating to elections.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 15261 of the Elections Code is amended to read:

15261. The elections official may establish one or more centers to count ballots from designated precincts and transmit the results via voice telephone connection or facsimile transmission. The count shall be conducted in all other respects in accordance with the central counting provisions of Article 2 (commencing with Section 15200). The list of designated precincts for each counting center shall be available for public inspection no later than 15 days before the election.

SEC. 2. Section 19217 is added to the Elections Code, to read:

19217. A voting system shall comply with all of the following:

(a) No voting system or part of a voting system shall be connected to the Internet at any time.

(b) No voting system or part of a voting system shall electronically receive or transmit election data through an exterior communication network, including the public telephone system, when the communication originates from or terminates at a polling place, satellite location, or counting center.

(c) No voting system or part of a voting system shall receive or transmit wireless communications or wireless data transfers.

SEC. 3. Section 19250 of the Elections Code is amended to read:

19250. (a) On and after January 1, 2005, the Secretary of State shall not approve a direct recording electronic voting system unless the system has received federal qualification and includes an accessible voter verified paper audit trail.

(b) On and after January 1, 2006, a city or county shall not contract for or purchase a direct recording electronic voting system unless the system has received federal qualification and includes an accessible voter verified paper audit trail.

(c) As of January 1, 2006, all direct recording electronic voting systems in use on that date, regardless of when contracted for or purchased, shall have received federal qualification and include an accessible voter verified paper audit trail. If the direct recording electronic voting system does not already include an accessible voter verified paper audit trail, the system shall be replaced or modified to include an accessible voter verified paper audit trail.

(d) All direct recording electronic voting systems shall include a method by which a voter may electronically verify, through a nonvisual method, the information that is contained on the paper record copy of that voter's ballot.

(e) A paper record copy that is printed by a voter verified paper audit trail component shall be printed in the same language that the voter used when casting his or her ballot on the direct recording electronic voting system. For languages that lack a written form, the paper record copy shall be printed in English.

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## CHAPTER 201

An act to add Section 75.24 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 22, 2008. Filed with Secretary of State July 22, 2008.]

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

SECTION 1. Section 75.24 is added to the Revenue and Taxation Code, to read:

75.24. (a) Notwithstanding Section 75.22, a property shall be eligible for exemption from the supplemental assessment if the organization claiming the exemption is a qualified organization and meets the qualifications for the exemption established by this part no later than 180 days after the date of the change in ownership or the completion of new construction.

(b) For purposes of this section, "qualified organization" means an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

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## CHAPTER 202

An act to amend Section 31874.6 of the Government Code, relating to county employees' retirement.

[Approved by Governor July 25, 2008. Filed with Secretary of State July 25, 2008.]

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

SECTION 1. Section 31874.6 of the Government Code is amended to read:

31874.6. (a) Notwithstanding any other provision of law, on an annual basis, the board of retirement may, with the approval of the county board of supervisors, grant a cost-of-living adjustment on a prefunded basis to the retirement allowances, optional death allowances, or annual death allowances payable to or on account of eligible members. The action by the board of retirement may specify a date as of which the adjustment shall be effective and, if no effective date is specified, the adjustment shall be made in allowances payable for the time commencing on the first day of the month following the action by the board of retirement or approval by the county board of supervisors, whichever is later.

(b) Before the board of retirement may grant an adjustment pursuant to this section, the total costs of the adjustment shall be determined by a qualified actuary and the board shall determine, with the advice of the actuary, that full funding of the adjustment can be provided from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(c) The adjustment provided by this section shall be payable only to those retired members, survivors, beneficiaries, or successors in interest whose accumulated loss of purchasing power equals or exceeds 20 percent as of January 1 of the year the board of retirement takes action pursuant to this section. Loss of purchasing power shall be determined by the board of retirement based on the difference between the following:

(1) The initial retirement allowance, optional death allowance, or annual death allowance as it would have been increased by the cumulative total effect of the annual changes, rounded to the nearest one-half of 1 percent, in the Consumer Price Index for All Urban Consumers for the area in which the county seat is situated.

(2) The retirement allowance, optional death allowance, or annual death allowance as actually increased by cost-of-living adjustments previously granted with respect to the allowance.

(d) A cost-of-living adjustment granted pursuant to this section shall become part of the retirement allowance, optional death allowance, or annual death allowance to be increased by any subsequent cost-of-living adjustments. The granting of an increase pursuant to this section in any particular year does not create any continuing entitlement to additional increases in subsequent years, and does not create any claim by a retired member, survivor, beneficiary, or successor in interest against the county, district, or retirement fund for any increase in any allowance paid or payable prior to the effective date of the action by the board of retirement pursuant to this section.

(e) This section shall only be applicable in the following counties:

(1) A county of the 19th class, as defined by Sections 28020 and 28040, as amended by Chapter 1204 of the Statutes of 1971.

(2) A county of the 32nd class, as defined by Sections 28020 and 28053, as amended by Chapter 1204 of the Statutes of 1971.

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## CHAPTER 203

An act to amend Sections 18851, 18852, 18853, and 18855 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 25, 2008. Filed with Secretary of State July 25, 2008.]

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

SECTION 1. Section 18851 of the Revenue and Taxation Code is amended to read:

18851. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Emergency Food for Families Fund, which is established by Section 18852. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made.

(d) The Franchise Tax Board shall revise the form of the return to include a space labeled the "Emergency Food for Families Fund" to allow for the designation permitted. The form shall also include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used for the Emergency Food Assistance Program.

(e) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

SEC. 2. Section 18852 of the Revenue and Taxation Code is amended to read:

18852. There is in the State Treasury the Emergency Food Assistance Program Fund to receive contributions made pursuant to Section 18851. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18851 to be transferred to the Emergency Food Assistance Program Fund. The Controller shall transfer from the Personal Income Tax Fund to the Emergency Food Assistance Program Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18851 for payment into that fund.

SEC. 3. Section 18853 of the Revenue and Taxation Code is amended to read:

18853. All money transferred to the Emergency Food Assistance Program Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the State Department of Social Services for allocation to the Emergency Food Assistance Program. Funds shall be allocated for direct services provided by the Emergency Food Assistance Program and may not be used for the department's administrative costs.

SEC. 4. Section 18855 of the Revenue and Taxation Code is amended to read:

18855. (a) This article shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the Emergency Food for Families Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the State Department of Social Services of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars ($250,000) for the 1999 calendar year or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 2000, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

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## CHAPTER 204

An act to amend Section 129050 of the Health and Safety Code, relating to health facilities.

[Approved by Governor July 25, 2008. Filed with Secretary of State July 25, 2008.]

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

SECTION 1. Section 129050 of the Health and Safety Code is amended to read:

129050. A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) The loan shall be secured by a first mortgage, first deed of trust, or other first priority lien on a fee interest of the borrower or by a leasehold interest of the borrower having a term of at least 20 years, including options to renew for that duration, longer than the term of the insured loan. The security for the loan shall be subject only to those conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office, and other liens securing debt insured under this chapter. The office may require additional agreements in security of the loan.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with additional endorsements that the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office under Section 129020. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made. The office may not insure a loan for a health facility that the office determines is not needed pursuant to subdivision (k).

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate the bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the principal of the loan.

(h) The loan shall contain those terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k) The office has determined that the facility is needed by the community to provide the specified services. In making this determination, the office shall do all of the following:

(1) Require the applicant to describe the community needs the facility will meet and provide data and information to substantiate the stated needs.

(2) Require the applicant, if appropriate, to demonstrate participation in the community needs assessment required by Section 127350.

(3) Survey appropriate local officials and organizations to measure perceived needs and verify the applicant's needs assessment.

(4) Use any additional available data relating to existing facilities in the community and their capacity.

(5) Contact other state and federal departments that provide funding for the programs proposed by the applicant to obtain those departments' perspectives regarding the need for the facility. Additionally, the office shall evaluate the potential effect of proposed health care reimbursement changes on the facility's financial feasibility.

(6) Consider the facility's consistency with the Cal-Mortgage state plan.

( *l*) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, that shall be utilized during the office's review of a loan guarantee application:

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project.

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including

improvements, then the acquisition cost shall be deemed in excess of fair market value.

(m) Notwithstanding subdivision (i), any loan in the amount of ten million dollars ($10,000,000) or less may be insured up to 95 percent of the total construction cost.

In determining financial feasibility of projects of counties pursuant to this section, the office shall take into consideration any assistance for the project to be provided under Section 14085.5 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the office endeavor to assist counties in whatever ways are possible to arrange loans that will meet the requirements for insurance prescribed by this section.

(n) The project's level of financial risk meets the criteria in Section 129051.

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## CHAPTER 205

An act to amend Section 12800 of, to add Section 12802 to, and to repeal and add Section 12805 of, the Government Code, relating to state agencies.

[Approved by Governor July 25, 2008. Filed with Secretary of State July 25, 2008.]

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

SECTION 1. Section 12800 of the Government Code is amended to read:

12800. There are in the state government the following agencies: State and Consumer Services; Business, Transportation and Housing; California Environmental Protection; California Health and Human Services; Labor and Workforce Development; Natural Resources; and Youth and Adult Correctional.

Whenever the term "Agriculture and Services Agency" appears in any law, it means the "State and Consumer Services Agency," and whenever the term "Secretary of Agriculture and Services Agency" appears in any law, it means the "Secretary of State and Consumer Services."

Whenever the term "Business and Transportation Agency" appears in any law, it means the "Business, Transportation and Housing Agency," and whenever the term "Secretary of the Business and Transportation Agency" appears in any law, it means the "Secretary of Business, Transportation and Housing."

Whenever the term "Health and Welfare Agency" appears in any law, it means the "California Health and Human Services Agency," and whenever the term "Secretary of the Health and Welfare Agency" appears in any law, it means the "Secretary of California Health and Human Services."

Whenever the term "Resources Agency" appears in any law, it means the "Natural Resources Agency," and whenever the term "Secretary of the Resources Agency" appears in any law, it means the "Secretary of the Natural Resources Agency."

SEC. 2. Section 12802 is added to the Government Code, to read:

12802. (a) The Natural Resources Agency shall succeed to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction previously vested in the Resources Agency.

(b) The Secretary of the Natural Resources Agency shall succeed to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction previously vested in the Secretary of the Resources Agency.

SEC. 3. Section 12805 of the Government Code is repealed.

SEC. 4. Section 12805 is added to the Government Code, to read:

12805. (a) The Resources Agency is hereby renamed the Natural Resources Agency. The Natural Resources Agency consists of the departments of Forestry and Fire Protection, Conservation, Fish and Game, Boating and Waterways, Parks and Recreation, and Water Resources; the State Lands Commission; the Colorado River Board; the San Francisco Bay Conservation and Development Commission; the Central Valley Flood Protection Board; the Energy Resources Conservation and Development Commission; the Wildlife Conservation Board; the Delta Protection Commission; the Native American Heritage Commission; the California Conservation Corps; the California Coastal Commission; the State Coastal Conservancy; the California Tahoe Conservancy; the Santa Monica Mountains Conservancy; the Coachella Valley Mountains Conservancy; the San Joaquin River Conservancy; the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy; the Baldwin Hills Conservancy; the San Diego River Conservancy; and the Sierra Nevada Conservancy.

(b) No existing supplies, forms, insignias, signs, or logos shall be destroyed or changed as a result of changing the name of the Resources Agency to the Natural Resources Agency, and those materials shall continue to be used until exhausted or unserviceable.

# CHAPTER 206

An act to amend Sections 13777, 13777.2, 13778, and 13779 of, and to add Section 13519.15 to, the Penal Code, relating to anti-reproductive-rights crime.

[Approved by Governor July 25, 2008. Filed with Secretary of State July 25, 2008.]

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

SECTION 1. Section 13519.15 is added to the Penal Code, to read:

13519.15. The commission shall prepare guidelines establishing standard procedures which may be followed by law enforcement agencies in the investigation and reporting of cases involving anti-reproductive-rights crimes. In developing the guidelines, the commission shall consider recommendations 1 to 12, inclusive, 14, and 15 of the report prepared by the Department of Justice and submitted to the Legislature pursuant to the Reproductive Rights Law Enforcement Act (Title 5.7 (commencing with Section 13775)).

SEC. 1.5. Section 13777 of the Penal Code is amended to read:

13777. (a) Except as provided in subdivision (d), the Attorney General shall do each of the following:

(1) Collect information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats. This information shall be published on the Department of Justice Internet Web site in a manner that shall distinguish between crimes of violence, including, but not limited to, violations of subdivisions (a) and (e) of Section 423.2, and nonviolent crimes, including, but not limited to, violations of subdivision (c) of Section 423.2.

(2) Direct local law enforcement agencies to provide to the Department of Justice, in a manner that the Attorney General prescribes, any information that may be required relative to anti-reproductive-rights crimes. The report of each crime that violates Section 423.2 shall note the subdivision that prohibits the crime. The report of each crime that violates any other law shall note the code, section, and subdivision that prohibits the crime. The report of any crime that violates both Section 423.2 and any other law shall note both the subdivision of Section 423.2 and the other code, section, and subdivision that prohibits the crime.

(3) On or before July 1, 2003, and every July 1 thereafter, publish the information it obtains pursuant to this section on the Department of Justice Internet Web site.

(4) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intent expressed in subdivisions (c), (d), (e), and (f) of Section 1 of the act that enacts this title in the 2001–02 Regular Session of the Legislature.

(b) In carrying out his or her responsibilities under this section, the Attorney General shall consult the Governor, the Commission on Peace Officer Standards and Training, and other subject matter experts.

(c) The Attorney General shall implement this section to the extent the Legislature appropriates funds in the Budget Act or another statute for this purpose.

SEC. 2. Section 13777.2 of the Penal Code is amended to read:

13777.2. (a) The Commission on the Status of Women shall convene an advisory committee consisting of one person appointed by the Attorney General and one person appointed by each of the organizations named in subdivision (b) of Section 13776 that chooses to appoint a member, and any other subject matter experts the commission may appoint. The advisory committee shall elect its chair and any other officers of its choice.

(b) The advisory committee shall make two reports, the first by December 31, 2007, and the second by December 31, 2011, to the Committees on Health, Judiciary, and Public Safety of the Senate and Assembly, to the Attorney General, the Commission on Peace Officer Standards and Training, and the Commission on the Status of Women. The reports shall evaluate the implementation of Chapter 899, Statutes of 2001 and any subsequent amendments made to Title 5.7 of Chapter 4 of Part 3 and the effectiveness of the plan developed by the Attorney General pursuant to subparagraph (A) of paragraph (4) of Section 13777. The reports shall also include recommendations concerning whether the Legislature should extend or repeal the sunset dates in Section 13779, recommendations regarding any other legislation, and recommendations for any other actions by the Attorney General, Commission on Peace Officer Standards and Training, or the Commission on the Status of Women.

(c) The Commission on the Status of Women shall transmit the reports of the advisory committee to the appropriate committees of the Legislature, including, but not limited to, the Committees on Health, Judiciary, and Public Safety in the Senate and Assembly, and make the reports available to the public, including by posting them on the Commission on the Status of Women's Web site. To avoid production and distribution costs, the Commission on the Status of Women may submit the reports electronically or as part of any other report that the Commission on the Status of Women submits to the Legislature.

(d) The Commission on Peace Officer Standards and Training shall make the telecourse that it produced in 2002 pursuant to subdivision (a) of Section 13778 available to the advisory committee. However, before providing the telecourse to the advisory committee or otherwise making it public, the commission shall remove the name and face of any person who appears in the telecourse as originally produced who informs the commission in writing that he or she has a reasonable apprehension that making the telecourse public without the removal will endanger his or her life or physical safety.

(e) Nothing in this section requires any state agency to pay for compensation, travel, or other expenses of any advisory committee member.

SEC. 3. Section 13778 of the Penal Code is amended to read:

13778. (a) The Commission on Peace Officer Standards and Training, utilizing available resources, shall develop a two-hour telecourse on anti-reproductive-rights crimes and make the telecourse available to all California law enforcement agencies as soon as practicable after chaptering of the act that enacts this title in the 2001–2002 session of the Legislature.

(b) Persons and organizations, including, but not limited to, subject-matter experts, may make application to the commission, as outlined in Article 3 (commencing with Section 1051) of Division 2 of Title 11 of the California Code of Regulations, for certification of a course designed to train law enforcement officers to carry out the legislative intent expressed in paragraph (1) of subdivision (d) of Section 1 of the act that enacts this title in the 2001–02 Regular Session.

(c) In developing the telecourse required by subdivision (a), and in considering any applications pursuant to subdivision (b), the commission, utilizing available resources, shall consult the Attorney General and other subject matter experts, except where a subject matter expert has submitted, or has an interest in, an application pursuant to subdivision (b).

(d) In addition to producing and making available the telecourse described in subdivision (a), the commission shall distribute, as necessary, training bulletins, via the internet, to law enforcement agencies participating in training offered pursuant to this section.

SEC. 4. Section 13779 of the Penal Code is amended to read:

13779. This title shall remain in effect until January 1, 2014, and as of that date is repealed unless a later enacted statute deletes or extends that date.

SEC. 5. 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.

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## CHAPTER 207

An act to add Chapter 12.6 (commencing with Section 114377) to Part 7 of Division 104 of the Health and Safety Code, relating to food facilities.

[Approved by Governor July 25, 2008. Filed with Secretary of State July 25, 2008.]

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

SECTION 1. Chapter 12.6 (commencing with Section 114377) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

### CHAPTER 12.6. TRANS FATS

114377. (a) Every food facility shall maintain on the premises the label for any food or food additive that is, or includes, any fat, oil, or shortening, for as long as this food or food additive is stored, distributed, or served by, or used in the preparation of food within, the food facility. The label described in this subdivision refers to the label that is required by applicable federal and state law to be on the food or food additive at the time of purchase by the food facility.

(b) (1) Commencing January 1, 2010, no oil, shortening, or margarine containing artificial trans fat for use in spreads or frying, except for the deep frying of yeast dough or cake batter, may be stored, distributed, or served by, or used in the preparation of any food within, a food facility.

(2) Commencing January 1, 2011, no food containing artificial trans fat, including oil and shortening that contains artificial trans fat for use in the deep frying of yeast dough or cake batter, may be stored, distributed, or served by, or used in the preparation of any food within, a food facility.

(c) Subdivision (b) shall not apply to food sold or served in a manufacturer's original, sealed package.

(d) For purposes of this section, a food contains artificial trans fat if the food contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 grams per serving.

(e) This section shall not apply to public elementary, middle, junior high, or high school cafeterias.

(f) Notwithstanding Section 114395, a violation of this section shall be punishable by a fine of not less than twenty-five dollars ($25) or more than one thousand dollars ($1,000).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, 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.

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## CHAPTER 208

An act to add and repeal Section 1380 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 25, 2008. Filed with Secretary of State July 25, 2008.]

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

SECTION 1. Section 1380 is added to the Penal Code, to read:

1380. (a) The City and County of San Francisco may require a person who has committed an act of vandalism by graffiti, as specified in paragraph (1) of subdivision (a) of Section 594, to complete a minimum of 24 hours of community service if the person engages in a civil compromise, as provided in Section 1378.

(b) Community service shall be completed through graffiti abatement. If a graffiti abatement program is not available, then another form of community service may be performed.

(c) In order for the City and County of San Francisco to impose subdivision (a) upon a person, the court shall determine that there is community service available through the jurisdiction's community service program.

(d) The program authorized by this section shall be a pilot project for the purpose of determining the potential effectiveness of the program.

(e) On or before March 1, 2011, the City and County of San Francisco, if it implements the pilot program authorized by this section, shall submit to the public safety committees of the Legislature an evaluation of the program's effectiveness.

(f) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

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## CHAPTER 209

An act to amend Section 594 of the Penal Code, relating to vandalism.

[Approved by Governor July 30, 2008. Filed with Secretary of State July 30, 2008.]

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

SECTION 1. Section 594 of the Penal Code is amended to read:

594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:

(1) Defaces with graffiti or other inscribed material.

(2) Damages.

(3) Destroys.

Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

(b) (1) If the amount of defacement, damage, or destruction is four hundred dollars ($400) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars ($10,000) or more, by a fine of not more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.

(2) (A) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of not

more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(B) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), and the defendant has been previously convicted of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7, vandalism is punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court shall, when appropriate and feasible, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children. If the court finds that graffiti cleanup is inappropriate, the court shall consider other types of community service, where feasible.

(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine, or any part thereof, by the parent upon a finding of good cause.

(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design, that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(f) The court may order any person ordered to perform community service or graffiti removal pursuant to paragraph (1) of subdivision (c) to undergo counseling.

(g) This section shall become operative on January 1, 2002.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 210

An act to amend Section 5008 of the Penal Code, relating to prisoners.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 5008 of the Penal Code is amended to read:

5008. The Secretary of the Department of Corrections and Rehabilitation shall deposit any funds of inmates in his or her possession in trust with the Treasurer pursuant to Section 16305.3 of the Government Code. However, the Secretary of the Department of Corrections and Rehabilitation, shall deposit those funds of inmates in interest-bearing bank accounts or invest or reinvest the funds in any of the securities that are described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code and for the purposes of deposit or investment only may mingle the funds of any inmate with the funds of other inmates. Any interest or increment accruing on those funds, less expenses incurred in the investment, shall be deposited in individual inmate or parolee trust accounts on a proportional basis depending upon the amount of funds each individual inmate or parolee account has on deposit.

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## CHAPTER 211

An act to amend Sections 17175, 94120, and 94125 of the Education Code, to amend Sections 8869.83, 15433, 15436, and 16480.1 of, and to add Section 8869.94 to, the Government Code, to amend Sections 44515, 44519, and 50199.8 of the Health and Safety Code, and to amend Section 26008 of the Public Resources Code, relating to state bodies.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 17175 of the Education Code is amended to read:

17175. (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 or any other official or employee of the authority any powers and duties that the authority deems proper, including, but not limited to, the power to enter into contracts on behalf of the authority.

SEC. 2. Section 94120 of the Education Code is amended to read:

94120. (a) There is in the state government an authority known as the California Educational Facilities Authority. The authority constitutes a public instrumentality and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function.

(b) The authority shall consist of five members: the Director of Finance, the Controller, the Treasurer, who shall serve as chairperson of the authority, and two members appointed by the Governor to serve for terms of four years; provided that the terms of the members first appointed shall be arranged by the Governor so that such terms shall expire on April 30 in different years. One of the members appointed by the Governor shall be affiliated with a public institution of higher education as a governing board member or in an administrative capacity and the other member shall be affiliated with a private institution of higher education as a governing board member or in an administrative capacity. Each member shall hold office for the term of his or her appointment and shall continue to serve during the term of his or her successor unless and until his or her successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

(c) Any member of the authority appointed by the Governor may be removed from office by the Governor for cause after a public hearing.

(d) The members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(e) The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its members a vice chairperson who shall hold office until April 30 next ensuing and shall continue to serve during the term of his or her successor unless and until his or her successor shall have been appointed and qualified.

(f) The Director of Finance may designate a deputy or other official in the Department of Finance to act for him or her and represent him or her at all meetings of the authority.

SEC. 3. 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, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the authority any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority.

SEC. 4. Section 8869.83 of the Government Code is amended to read:

8869.83. (a) There is in state government the California Debt Limit Allocation Committee, consisting of six members as follows:

(1) The Treasurer, or his or her designee.

(2) The Controller, or his or her designee.

(3) The Governor, or his or her designee.

(4) The Director of Housing and Community Development, who shall be a nonvoting member.

(5) The Executive Director of the California Housing Finance Agency, who shall be a nonvoting member.

(6) A representative from local government who shall be a nonvoting member, selected by two voting members of the committee.

(b) The Treasurer shall serve as chairperson of the committee and the office of the Treasurer shall provide an executive director and any administrative assistance and support staff that is needed for the committee to operate. The chairperson shall keep, or cause to be kept, minutes and other records and documents of the committee. The committee may, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the committee any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the committee.

(c) Members of the committee shall serve without compensation.

(d) Two voting members of the committee shall constitute a quorum. The affirmative vote of two voting members of the committee shall be necessary for any action taken by the committee. However, the committee may, by unanimous vote, delegate to its chairperson the authority to carry out any acts empowered to it under this chapter.

SEC. 5. Section 8869.94 is added to the Government Code, to read:

8869.94. The committee may adopt, amend, or repeal rules and regulations pursuant to this chapter as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1.

SEC. 6. Section 15433 of the Government Code is amended to read:

15433. The authority shall consist of nine members, including the State Treasurer, who shall serve as chairman, the State Controller, the Director of Finance, two members appointed by the Senate Rules Committee, two members appointed by the Speaker of the Assembly, and two members appointed by the Governor subject to confirmation by a majority vote of the Senate. Of the members appointed by the Senate Rules Committee, one member shall be a licensed physician and surgeon, and one shall serve or have served in an executive capacity to a health facility. Of the members appointed by the Speaker of the Assembly, one member shall be a person qualified by training and experience in the field of investment or finance, and one member shall be representative of the general public. The members appointed by the Governor shall be representative of the general public. The terms of appointed members shall be four years, expiring on March 31. Each member shall hold office for the term of his or her appointment and shall continue to serve until a successor shall have been appointed and qualified. Any vacancy among the members shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

Members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

The Director of Finance may designate a deputy or other official in the Department of Finance to act for him or her and represent him or her at all meetings of the authority.

SEC. 7. 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 the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 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 or any other official or employee of the authority any powers and duties it may deem proper, including, but not limited to, the power to enter contracts on behalf of the authority.

SEC. 8. Section 16480.1 of the Government Code is amended to read:

16480.1. There is hereby created a Pooled Money Investment Board, which shall consist of the Controller, Treasurer and Director of Finance. The Pooled Money Investment Board shall meet at least once in every three months and shall designate at least once a month the amount of money available under this article for investment in securities authorized by Article 1 of this chapter, or in deposits in banks and savings and loan associations, or in loans to the General Fund and the type of investment or deposit.

The Pooled Money Investment Board may increase the amount of surplus money normally available for time deposits with the express purpose of placing this money in banks that are members of a California job development corporation and who have made loans to such a corporation or to corporation-approved borrowers.

For the purpose of this article, a written determination signed by a majority of the members of the Pooled Money Investment Board shall be deemed to be the determination of the board.

SEC. 9. Section 44515 of the Health and Safety Code is amended to read:

44515. There is in the state government the California Pollution Control Financing Authority. The authority constitutes a public instrumentality and a political subdivision of the State of California, and the exercise by the authority of the powers conferred by this division shall be deemed and held to be the performance of an essential public function. The authority shall consist of three members: the Director of Finance, the State Treasurer, and the State Controller.

The Director of Finance may designate a deputy or other official in the Department of Finance to act for him or her and represent him or her at all meetings of the authority.

The first meeting of the authority shall be convened by the Director of Finance.

SEC. 10. 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, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the authority any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority.

SEC. 11. Section 50199.8 of the Health and Safety Code is amended to read:

50199.8. 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, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the committee any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the committee.

SEC. 12. 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, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the authority any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority.

## CHAPTER 212

An act to add Sections 31485.13, 31485.14, and 31485.15 to the Government Code, relating to county employees' retirement.

[Approved by Governor August 1, 2008. Filed with
Secretary of State August 1, 2008.]

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

SECTION 1. Section 31485.13 is added to the Government Code, to read:

31485.13. In accordance with Section 401(a)(8) of Title 26 of the United States Code, a forfeiture of benefits under this chapter shall not be applied to increase benefits that a member would otherwise receive under this chapter.

SEC. 2. Section 31485.14 is added to the Government Code, to read:

31485.14. All distributions of benefits provide under this chapter shall comply with the requirements of Section 401(a)(9) of Title 26 of the United States Code that are applicable to public employee plans, including, but not limited to, requirements relating to the following:

(a) The time that benefit payments begin, including benefit payments paid after the death of a member.

(b) The form of distribution of benefits.

(c) Incidental death benefits.

SEC. 3. Section 31485.15 is added to the Government Code, to read:

31485.15. In accordance with Section 401(a)(31) of Title 26 of the United States Code, a person who is entitled to a distribution under this chapter that is an eligible rollover distribution may elect to have all or a part of that distribution paid directly to an eligible, specified plan, subject to terms and conditions established by the board. If a person elects to have the eligible rollover distribution paid to an eligible, specified plan, the payment, when it is distributable, shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan.

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## CHAPTER 213

An act to amend Sections 15201 and 15202 of the Government Code, relating to counties.

[Approved by Governor August 1, 2008. Filed with
Secretary of State August 1, 2008.]

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

SECTION 1. Section 15201 of the Government Code is amended to read:

15201. As used in this chapter, "costs incurred by the county" means all costs, except normal salaries and expenses, incurred by the county in bringing to trial or trials, including the trial or trials of, a person or persons for the offense of homicide, including costs, except normal salaries and expenses, incurred by the district attorney in investigation and prosecution, by the sheriff in investigation, by the public defender or court-appointed attorney or attorneys in investigation and defense, and all other costs, except normal salaries and expenses, incurred by the county in connection with bringing the person or persons to trial including the trial itself, which include extraordinary expenses for such services as witness fees and expenses, court-appointed expert witness fees and expenses, reporter fees, and costs in preparing transcripts. Trial costs shall also include all pretrials, hearings, and postconviction proceedings, if any. "Costs incurred by the county" do not include any costs paid by the superior court or for which the superior court is responsible.

SEC. 2. Section 15202 of the Government Code is amended to read:

15202. (a) A county that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) The formula in this section shall apply to any homicide trial in which the commission of the crime occurred on or after January 1, 2005. Homicide trials for which the crime was committed before January 1, 2005, shall qualify under the reimbursement statute in effect before that date.

(c) The Controller shall not reimburse any county for costs that exceed the California Victim Compensation and Government Claims Board's standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for these expenditures. Nothing in this section shall permit the reimbursement of costs for travel in excess of 1,000 miles on any single round trip, without the prior approval of the Attorney General.

(d) Reimbursement funds appropriated pursuant to this section are available for three fiscal years from the date of the appropriation. After three fiscal years, any unused funds shall revert back to the General Fund.

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## CHAPTER 214

An act to amend Section 11488.5 of the Health and Safety Code, relating to seized property.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 11488.5 of the Health and Safety Code is amended to read:

11488.5. (a) (1) Any person claiming an interest in the property seized pursuant to Section 11488 may, unless for good cause shown the court extends the time for filing, at any time within 30 days from the date of the first publication of the notice of seizure, if that person was not personally served or served by mail, or within 30 days after receipt of actual notice, file with the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or in which the property was seized or, if there was no seizure, in which the property is located, a claim, verified in accordance with Section 446 of the Code of Civil Procedure, stating his or her interest in the property. An endorsed copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate, within 30 days of the filing of the claim. The Judicial Council shall develop and approve official forms for the verified claim that is to be filed pursuant to this section. The official forms shall be drafted in nontechnical language, in English and in Spanish, and shall be made available through the office of the clerk of the appropriate court.

(2) Any person who claims that the property was assigned to him or to her prior to the seizure or notification of pending forfeiture of the property under this chapter, whichever occurs first, shall file a claim with the court and prosecuting agency pursuant to Section 11488.5 declaring an interest in that property and that interest shall be adjudicated at the forfeiture hearing. The property shall remain under control of the law enforcement or prosecutorial agency until the adjudication of the

forfeiture hearing. Seized property shall be protected and its value shall be preserved pending the outcome of the forfeiture proceedings.

(3) The clerk of the court shall not charge or collect a fee for the filing of a claim in any case in which the value of the respondent property as specified in the notice is five thousand dollars ($5,000) or less. If the value of the property, as specified in the notice, is more than five thousand dollars ($5,000), the clerk of the court shall charge the filing fee specified in Section 70611 of the Government Code.

(4) The claim of a law enforcement agency to property seized pursuant to Section 11488 or subject to forfeiture shall have priority over a claim to the seized or forfeitable property made by the Franchise Tax Board in a notice to withhold issued pursuant to Section 18817 or 26132 of the Revenue and Taxation Code.

(b) (1) If at the end of the time set forth in subdivision (a) there is no claim on file, the court, upon motion, shall declare the property seized or subject to forfeiture pursuant to subdivisions (a) to (g), inclusive, of Section 11470 forfeited to the state. In moving for a default judgment pursuant to this subdivision, the state or local governmental entity shall be required to establish a prima facie case in support of its petition for forfeiture.

(2) The court shall order the forfeited property to be distributed as set forth in Section 11489.

(c) (1) If a verified claim is filed, the forfeiture proceeding shall be set for hearing on a day not less than 30 days therefrom, and the proceeding shall have priority over other civil cases. Notice of the hearing shall be given in the same manner as provided in Section 11488.4. Such a verified claim or a claim filed pursuant to subdivision (j) of Section 11488.4 shall not be admissible in the proceedings regarding the underlying or related criminal offense set forth in subdivision (a) of Section 11488.

(2) The hearing shall be by jury, unless waived by consent of all parties.

(3) The provisions of the Code of Civil Procedure shall apply to proceedings under this chapter unless otherwise inconsistent with the provisions or procedures set forth in this chapter. However, in proceedings under this chapter, there shall be no joinder of actions, coordination of actions, except for forfeiture proceedings, or cross-complaints, and the issues shall be limited strictly to the questions related to this chapter.

(d) (1) At the hearing, the state or local governmental entity shall have the burden of establishing, pursuant to subdivision (i) of Section 11488.4, that the owner of any interest in the seized property consented to the use of the property with knowledge that it would be or was used

for a purpose for which forfeiture is permitted, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

(2) No interest in the seized property shall be affected by a forfeiture decree under this section unless the state or local governmental entity has proven that the owner of that interest consented to the use of the property with knowledge that it would be or was used for the purpose charged. Forfeiture shall be ordered when, at the hearing, the state or local governmental entity has shown that the assets in question are subject to forfeiture pursuant to Section 11470, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

(e) The forfeiture hearing shall be continued upon motion of the prosecution or the defendant until after a verdict of guilty on any criminal charges specified in this chapter and pending against the defendant have been decided. The forfeiture hearing shall be conducted in accordance with Sections 190 to 222.5, inclusive, Sections 224 to 234, inclusive, Section 237, and Sections 607 to 630, inclusive, of the Code of Civil Procedure if a trial by jury, and by Sections 631 to 636, inclusive, of the Code of Civil Procedure if by the court. Unless the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, the court shall order the seized property released to the person it determines is entitled thereto.

If the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, but does not find that a person claiming an interest therein, to which the court has determined he or she is entitled, had actual knowledge that the seized property would be or was used for a purpose for which forfeiture is permitted and consented to that use, the court shall order the seized property released to the claimant.

(f) All seized property which was the subject of a contested forfeiture hearing and which was not released by the court to a claimant shall be declared by the court to be forfeited to the state, provided the burden of proof required pursuant to subdivision (i) of Section 11488.4 has been met. The court shall order the forfeited property to be distributed as set forth in Section 11489.

(g) All seized property which was the subject of the forfeiture hearing and which was not forfeited shall remain subject to any order to withhold issued with respect to the property by the Franchise Tax Board.

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## CHAPTER 215

An act to amend Section 3111 of the Family Code, relating to child custody.

[Approved by Governor August 1, 2008. Filed with
Secretary of State August 1, 2008.]

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

SECTION 1. Section 3111 of the Family Code is amended to read:

3111. (a) In any contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interests of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation. At least 10 days before any hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to Section 3150. The report may be considered by the court.

(b) The report shall not be made available other than as provided in subdivision (a), or as described in Section 204 of the Welfare and Institutions Code or Section 1514.5 of the Probate Code. Any information obtained from access to a juvenile court case file, as defined in subdivision (e) of Section 827 of the Welfare and Institutions Code, is confidential and shall only be disseminated as provided by paragraph (4) of subdivision (a) of Section 827 of the Welfare and Institutions Code.

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

(d) If the court determines that an unwarranted disclosure of a written confidential report has been made, the court may impose a monetary sanction against the disclosing party. The sanction shall be in an amount sufficient to deter repetition of the conduct, and may include reasonable attorney's fees, costs incurred, or both, unless the court finds that the disclosing party acted with substantial justification or that other circumstances make the imposition of the sanction unjust. The court shall not impose a sanction pursuant to this subdivision that imposes an unreasonable financial burden on the party against whom the sanction is imposed. This subdivision shall become operative on January 1, 2010.

(e) The Judicial Council shall, by January 1, 2010, do the following:

(1) Adopt a form to be served with every child custody evaluation report that informs the report recipient of the confidentiality of the report and the potential consequences for the unwarranted disclosure of the report.

(2) Adopt a rule of court to require that, when a court-ordered child custody evaluation report is served on the parties, the form specified in paragraph (1) shall be included with the report.

(f) For purposes of this section, a disclosure is unwarranted if it is done either recklessly or maliciously, and is not in the best interests of the child.

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## CHAPTER 216

An act to amend Section 326.5 of the Penal Code, relating to bingo.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 326.5 of the Penal Code is amended to read:

326.5. (a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701*l* of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the California Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars ($2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three thousand dollars ($3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds that is additional to that permitted under subparagraph (A), up to one thousand dollars ($1,000.00), shall be used for the purpose of financing the rebuilding of the facility and the replacement of equipment which was destroyed by fire in 2007. The exception to subparagraph (A) that is provided by this subparagraph shall remain in effect only until the cost of rebuilding the facility is repaid, or January 1, 2019, whichever occurs first.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars ($5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(*l*) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars ($50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars ($50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars ($250) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo includes cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

SEC. 2. Due to the unique circumstances regarding the Lake Elsinore Elks Lodge and the destruction of its facility by fire in 2007, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, the special legislation contained in Section 1 of this act is necessarily applicable only to the Lake Elsinore Elks Lodge.

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## CHAPTER 217

An act to amend Section 830.7 of the Penal Code, relating to peace officers.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

*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 independent institutions of higher education, recognized under subdivision (b) of Section 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the 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, that 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 the chief of police within whose jurisdiction the facility lies.

(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(e) 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, the chief of police, or the Department of the California Highway Patrol within whose jurisdiction the district lies. For the 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.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

(g) Persons appointed by the Executive Director of the California Science Center pursuant to Section 4108 of the Food and Agricultural Code.

(h) Persons regularly employed as investigators by the Department of Transportation for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to public transportation, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. For the purposes of this subdivision, "investigator" means an employee defined in Section 53075.61 of the Government Code authorized by local ordinance to enforce laws related to public transportation. Transportation investigators authorized by this section shall not be deemed "peace officers" for purposes of Sections 241 and 243.

(i) Persons regularly employed by any department of the City of Los Angeles who are designated as security officers and authorized by local ordinance to enforce laws related to the preservation of peace in or about the properties owned, controlled, operated, or administered by any department of the City of Los Angeles and authorized by a memorandum of understanding with the Chief of Police of the City of Los Angeles permitting the exercise of that authority. Security officers authorized pursuant to this subdivision shall not be deemed peace officers for purposes of Sections 241 and 243.

(j) Illegal dumping enforcement officers, to the extent necessary to enforce laws related to illegal waste dumping, or littering, and authorized by a memorandum of understanding with, as applicable, the sheriff or chief of police within whose jurisdiction the person is employed, permitting the exercise of that authority. An "illegal dumping enforcement officer" is defined, for purposes of this section, as a person employed full-time, part-time, or as a volunteer after completing training prescribed by law, by a city, county, or city and county, whose duties include illegal dumping enforcement and is designated by local ordinance as a public officer. An illegal dumping control officer may also be a person who is not regularly employed by a city, county, or city and county, but who has met all training requirements and is directly supervised by a regularly employed dumping control officer. This person shall not have the power of arrest or access to summary criminal history information. No person may be appointed as an illegal dumping enforcement officer if that person is disqualified pursuant to the criteria set forth in Section 1029 of the Government Code. Persons regularly employed by a city, county, or city and county designated pursuant to this subdivision may be furnished state summary criminal history information upon a showing of compelling need pursuant to subdivision (c) of Section 11105.

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## CHAPTER 218

An act to amend Section 36 of the Code of Civil Procedure, to amend Sections 6103, 68071, 71601, and 76000 of the Government Code, to amend Section 832.9 of the Penal Code, and to amend Section 42006 of the Vehicle Code, relating to courts.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 36 of the Code of Civil Procedure is amended to read:

36. (a) A party to a civil action who is over 70 years of age may petition the court for a preference, which the court shall grant if the court makes both of the following findings:

(1) The party has a substantial interest in the action as a whole.

(2) The health of the party is such that a preference is necessary to prevent prejudicing the party's interest in the litigation.

(b) A civil action to recover damages for wrongful death or personal injury shall be entitled to preference upon the motion of any party to the action who is under 14 years of age unless the court finds that the party does not have a substantial interest in the case as a whole. A civil action subject to subdivision (a) shall be given preference over a case subject to this subdivision.

(c) Unless the court otherwise orders:

(1) A party may file and serve a motion for preference supported by a declaration of the moving party that all essential parties have been served with process or have appeared.

(2) At any time during the pendency of the action, a party who reaches 70 years of age may file and serve a motion for preference.

(d) In its discretion, the court may also grant a motion for preference that is accompanied by clear and convincing medical documentation that concludes that one of the parties suffers from an illness or condition raising substantial medical doubt of survival of that party beyond six months, and that satisfies the court that the interests of justice will be served by granting the preference.

(e) Notwithstanding any other provision of law, the court may in its discretion grant a motion for preference that is supported by a showing that satisfies the court that the interests of justice will be served by granting this preference.

(f) Upon the granting of such a motion for preference, the court shall set the matter for trial not more than 120 days from that date and there shall be no continuance beyond 120 days from the granting of the motion for preference except for physical disability of a party or a party's attorney, or upon a showing of good cause stated in the record. Any continuance shall be for no more than 15 days and no more than one continuance for physical disability may be granted to any party.

(g) Upon the granting of a motion for preference pursuant to subdivision (b), a party in an action based upon a health provider's alleged professional negligence, as defined in Section 364, shall receive

a trial date not sooner than six months and not later than nine months from the date that the motion is granted.

SEC. 2. Section 6103 of the Government Code is amended to read:

6103. Neither the state nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his or her official capacity on behalf of the state, or any county, city, district, or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement that may constitute an appearance in any court by any other party to the stipulation or agreement. This section does not apply to civil jury fees or civil jury deposits. This section does not apply to the State Compensation Insurance Fund or where a public officer is acting with reference to private assets or obligations that have come under that officer's jurisdiction by virtue of his or her office, or where it is specifically provided otherwise. No fee shall be charged for the filing of a confession of judgment in favor of any of the public agencies named in this section.

No fee shall be charged any of the public agencies named in this section to defray the costs of reporting services by court reporters. Such fees shall be recoverable as costs as provided in Section 6103.5.

SEC. 3. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior court shall take effect until January 1 or July 1, whichever comes first, following the 45th 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. 4. Section 71601 of the Government Code is amended to read:

71601. For purposes of this chapter, the following definitions shall apply:

(a) "Appointment" means the offer to and acceptance by a person of a position in the trial court in accordance with this chapter and the trial court's personnel policies, procedures, and plans.

(b) "Employee organization" means either of the following:

(1) Any organization that includes trial court employees and has as one of its primary purposes representing those employees in their relations with that trial court.

(2) Any organization that seeks to represent trial court employees in their relations with that trial court.

(c) "Hiring" means appointment as defined in subdivision (a).

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the trial court and

the recognized employee organization or recognized employee organizations through interpretation, suggestion, and advice.

(e) "Meet and confer in good faith" means that a trial court or representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for resolution are contained in this chapter or in a local rule, or when the procedures are utilized by mutual consent.

(f) "Personnel rules," "personnel policies, procedures, and plans," and "rules and regulations" mean policies, procedures, plans, rules, or regulations adopted by a trial court or its designee pertaining to conditions of employment of trial court employees, subject to meet and confer in good faith.

(g) "Promotion" means promotion within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

(h) "Recognized employee organization" means an employee organization that has been formally acknowledged to represent trial court employees by the county under Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by the trial court under former Rules 2201 to 2210, inclusive, of the California Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3 (commencing with Section 71630).

(i) "Subordinate judicial officer" means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, and juvenile referee.

(j) "Transfer" means transfer within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) "Trial court" means a superior court.

(*l*) "Trial court employee" means a person who is both of the following:

(1) Paid from the trial court's budget, regardless of the funding source. For the purpose of this paragraph, "trial court's budget" means funds from which the presiding judge of a trial court, or his or her designee, has authority to control, authorize, and direct expenditures, including,

but not limited to, local revenues, all grant funds, and trial court operations funds.

(2) Subject to the trial court's right to control the manner and means of his or her work because of the trial court's authority to hire, supervise, discipline, and terminate employment. For purposes of this paragraph only, the "trial court" includes the judges of a trial court or their appointees who are vested with or delegated the authority to hire, supervise, discipline, and terminate.

(m) A person is a "trial court employee" if and only if both paragraphs (1) and (2) of subdivision (*l*) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 10.810 of the California Rules of Court. "Trial court employee" includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (*l*). The phrase "trial court employee" does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, temporary judges, and judges whether elected or appointed. Any temporary employee, whether hired through an agency or not, shall not be employed in the trial court for a period exceeding 180 calendar days, except that for court reporters in a county of the first class, a trial court and a recognized employee organization may provide otherwise by mutual agreement in a memorandum of understanding or other agreement.

SEC. 5. Section 76000 of the Government Code is amended to read:

76000. (a) (1) Except as otherwise provided elsewhere in this section, in each county there shall be levied an additional penalty in the amount of seven dollars ($7) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) This additional penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(3) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50). These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents ($2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall deposit one dollar ($1) of every two dollars and fifty cents ($2.50) collected pursuant to subdivision (b) into the general fund of the county.

(d) The authority to impose the two-dollar-and-fifty-cent ($2.50) penalty authorized by subdivision (b) shall be reduced to one dollar ($1) as of the date of transfer of responsibility for facilities from the county

to the Judicial Council pursuant to Article 3 (commencing with Section 70321) of Chapter 5.1, except as money is needed to pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.

(e) The seven-dollar ($7) additional penalty authorized by subdivision (a) shall be reduced in each county by the additional penalty amount assessed by the county for the local courthouse construction fund established by Section 76100 as of January 1, 1998, when the money in that fund is transferred to the state under Section 70402. The amount each county shall charge as an additional penalty under this section shall be as follows:

| | | | | | |
|---|---|---|---|---|---|
| Alameda | $5.00 | Marin | $5.00 | San Luis Obispo | $6.00 |
| Alpine | $5.00 | Mariposa | $2.00 | San Mateo | $4.75 |
| Amador | $5.00 | Mendocino | $7.00 | Santa Barbara | $3.50 |
| Butte | $6.00 | Merced | $5.00 | Santa Clara | $5.50 |
| Calaveras | $3.00 | Modoc | $4.00 | Santa Cruz | $7.00 |
| Colusa | $6.00 | Mono | $5.00 | Shasta | $3.50 |
| Contra Costa | $5.00 | Monterey | $5.00 | Sierra | $7.00 |
| Del Norte | $5.00 | Napa | $3.00 | Siskiyou | $5.00 |
| El Dorado | $5.00 | Nevada | $5.00 | Solano | $5.00 |
| Fresno | $7.00 | Orange | $3.50 | Sonoma | $5.00 |
| Glenn | $4.06 | Placer | $4.75 | Stanislaus | $5.00 |
| Humboldt | $5.00 | Plumas | $5.00 | Sutter | $3.00 |
| Imperial | $6.00 | Riverside | $4.60 | Tehama | $7.00 |
| Inyo | $4.00 | Sacramento | $5.00 | Trinity | $4.26 |
| Kern | $7.00 | San Benito | $5.00 | Tulare | $5.00 |
| Kings | $7.00 | San Bernardino | $5.00 | Tuolumne | $5.00 |
| Lake | $7.00 | San Diego | $5.00 | Ventura | $5.00 |
| Lassen | $2.00 | San Francisco | $6.99 | Yolo | $7.00 |
| Los Angeles | $5.00 | San Joaquin | $3.75 | Yuba | $3.00 |
| Madera | $7.00 | | | | |

SEC. 6. Section 832.9 of the Penal Code is amended to read:

832.9. (a) A governmental entity employing a peace officer, as defined in Section 830, judge, court commissioner, or an attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall reimburse the moving and relocation expenses of those employees, or any member of his or her immediate family residing with the officer in the same household or on the same property when it is necessary to move because the officer has received a credible threat that a life threatening action

may be taken against the officer, judge, court commissioner, or an attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender or his or her immediate family as a result of his or her employment.

(b) The person relocated shall receive actual and necessary moving and relocation expenses incurred both before and after the change of residence, including reimbursement for the costs of moving household effects either by a commercial household goods carrier or by the employee.

(1) Actual and necessary moving costs shall be those costs that are set forth in the Department of Personnel Administration rules governing promotional relocations while in the state service. The department shall not be required to administer this section.

(2) The public entity shall not be liable for any loss in value to a residence or for the decrease in value due to a forced sale.

(3) Except as provided in subdivision (c), peace officers, judges, court commissioners, and attorneys employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall receive approval of the appointing authority prior to incurring any cost covered by this section.

(4) Peace officers, judges, court commissioners, and attorneys employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall not be considered to be on duty while moving unless approved by the appointing authority.

(5) For a relocation to be covered by this section, the appointing authority shall be notified as soon as a credible threat has been received.

(6) Temporary relocation housing shall not exceed 60 days.

(7) The public entity ceases to be liable for relocation costs after 120 days of the original notification of a viable threat if the peace officer, judge, court commissioner, or attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender has failed to relocate.

(c) (1) For purposes of the right to reimbursement of moving and relocation expenses pursuant to this section, judges shall be deemed to be employees of the State of California and a court commissioner is an employee of the court by which he or she is employed.

(2) For purposes of paragraph (3) of subdivision (b), a court commissioner shall receive approval by the presiding judge of the superior court in the county in which he or she is located.

(3) For purposes of paragraph (3) of subdivision (b), judges, including justices of the Supreme Court and the Courts of Appeal, shall receive approval from the Chief Justice, or his or her designee.

(d) As used in this section, "credible threat" means a verbal or written statement or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(e) As used in this section, "immediate family" means the spouse, parents, siblings, and children residing with the peace officer, judge, court commissioner, or attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender.

SEC. 7. Section 42006 of the Vehicle Code is amended to read:

42006. (a) Except as provided in subdivision (c), there may be levied a special assessment in an amount equal to one dollar ($1) for every fine, forfeiture, and traffic violator school fee imposed and collected by any court that conducts a night or weekend session of the court, on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking.

(b) When a person makes a deposit of bail for an offense to which this section applies, in a case in which the person is required to appear in a court that conducts a night or weekend session, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed in this section for forfeited bail. If bail is forfeited, the amount of the assessment shall be transmitted by the clerk of the court to the county treasury for disposition as prescribed by subdivision (d).

(c) If a court conducts night or weekend sessions at two or more locations, the court may do either of the following:

(1) Levy assessments only on those persons who are required to appear at the location where night or weekend sessions are held.

(2) Levy assessments on persons who have the option to appear at a location where night or weekend court sessions are held and that is within 25 miles of the location of the court where the person is otherwise required to appear.

(d) After a determination by the court of the amount of the assessment due, the clerk of the court shall collect the amount and transmit it as provided in subdivision (g).

(e) In any case where a person convicted of any offense to which this section applies is imprisoned until the fine is satisfied, the court shall waive the penalty assessment.

(f) As used in subdivisions (g) and (h), the following terms have the following meanings:

(1) "Court Facilities Trust Fund" means the fund established by Section 70352 of the Government Code.

(2) "Location" means a court facility holding night or weekend sessions under this section.

(3) "Transfer of responsibility" means the transfer of responsibility for court facilities from the counties to the state pursuant to Chapter 5.7 (commencing with Section 70301) of Title 8 of the Government Code.

(g) (1) If transfer of responsibility for a location has occurred, the clerk shall collect any assessment imposed pursuant to subdivision (c) and transmit it to the Court Facilities Trust Fund. Moneys deposited pursuant to this subdivision shall be used for any purpose provided by subdivision (b) of Section 70352 of the Government Code.

(2) If transfer of responsibility for a location has not occurred, the clerk shall collect any assessment imposed pursuant to subdivision (c) and transmit it to the county treasury to be deposited in the night court session fund, and the moneys in the fund shall be expended by the county for maintaining courts for which transfer of responsibility has not occurred and that have night or weekend sessions for traffic offenses.

(h) (1) The county treasurer of each county shall transfer from the night court session fund to the Court Facilities Trust Fund an amount that is the same percentage of the night court session fund as of January 1, 2009, as the square footage of locations for which transfer of responsibility has occurred on or before January 1, 2009, is to the total square footage of locations.

(2) For locations for which transfer of responsibility occurs after January 1, 2009, the county treasurer shall, at the time of transfer of any location, transfer from the night court session fund to the Court Facilities Trust Fund an amount that is the same percentage of the night court session fund as the square footage of the location for which transfer of responsibility is occurring is to the sum of the square footage of locations for which transfer of responsibility has not occurred and the square footage of the location being transferred.

(3) Upon the transfer of responsibility for all locations, the county treasurer shall transfer to the Court Facilities Trust Fund any amount remaining in the night court session fund.

(4) Any expenditures made from the fund for a purpose other than those specified in paragraph (2) of subdivision (g) shall be repaid to the state for deposit in the Court Facilities Trust Fund.

# CHAPTER 219

An act to add Section 31482.5 to the Government Code, relating to public employees' retirement.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 31482.5 is added to the Government Code, to read:

31482.5. (a) Notwithstanding any provisions to the contrary in Section 20894, this section shall apply to all participants in retirement systems governed by this chapter.

(b) A person shall not receive credit for the same service in two retirement systems supported wholly or in part by public funds under any circumstance.

(c) Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan that meets the requirements of Section 457 of Title 26 of the United States Code, a tax-deferred retirement plan that meets the requirements of Section 40l(k) of Title 26 of the United States Code, or a defined contribution plan and trust that meets the requirements of Section 401(a), 403(b), or 415(m) of Title 26 of the United States Code.

(d) Nothing in this section shall preclude concurrent participation and credit for service in the defined benefit plan provided under this chapter and in a supplemental defined benefit plan maintained by the employer that meets the requirements of Section 401(a) of Title 26 of the United States Code, provided all of the following conditions exist:

(1) The defined benefit plan provided under this chapter has been designated as the employer's primary plan for the person and the supplemental defined benefit plan is adopted by the governing body of the employer.

(2) The supplemental defined benefit plan has received a ruling from the Internal Revenue Service stating that the plan qualifies under Section 401(a) of Title 26 of the United States Code, and has furnished proof thereof to the employer.

(3) The person's participation in the supplemental defined benefit plan does not, in any way, interfere with the person's rights to membership in the defined benefit plan, or any benefit provided, under this chapter.

# CHAPTER 220

An act to amend Section 27454 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 1, 2008. Filed with
Secretary of State August 1, 2008.]

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

SECTION 1. Section 27454 of the Vehicle Code is amended to read:

27454. A tire on a vehicle upon a highway shall not have on its periphery any block, stud, flange, cleat, ridge, bead, or any other protuberance of metal or wood that projects beyond the tread of the traction surface of the tire.

This section does not apply to any of the following:

(a) Tire traction devices of reasonable size used to prevent skidding when upon wet surfaces or when upon snow or ice.

(b) Pneumatic tires that have embedded therein wire not to exceed 0.075 of an inch in diameter and that are constructed so that under no conditions will the percentage of metal in contact with the roadway exceed 5 percent of the total tire area in contact with the roadway, except that during the first 1,000 miles of use or operation of the tire, the metal in contact with the roadway may exceed 5 percent of the tire area in contact with the roadway, but shall in no event exceed 20 percent of the area.

(c) Vehicles operated upon unimproved roadways when necessary in the construction or repair of highways.

(d) Traction engines or tractors when operated under the conditions of a permit first obtained from the Department of Transportation.

(e) (1) Pneumatic tires containing metal-type studs of tungsten carbide or other suitable material that are inserted or constructed so that under no condition will the number of studs or the percentage of metal in contact with the roadway exceed 3 percent of the total tire area in contact with the roadway, between November 1 and April 30 of each year. A vehicle may be equipped year-round with tires that have studs that retract pneumatically or mechanically when not in use, if the studs are retracted between May 1 and October 31 of each year. A tire on a vehicle shall not be worn to a point at which the studs protrude beyond the tire tread when retracted.

(2) The commissioner, after consultation with the Department of Transportation, may extend the period during which the studded pneumatic tires may be used with studs deployed or inserted in areas of

the state for the protection of the public because of adverse weather conditions.

(f) Pneumatic tires used on an authorized emergency vehicle, as defined in Section 165, containing metal-type studs of tungsten carbide or other suitable material, if the studs are inserted or constructed so that under no conditions will the number of studs or the percentage of metal in contact with the roadway exceed 3 percent of the total tire area in contact with the roadway. Notwithstanding subdivision (e), authorized emergency vehicles are permitted the unrestricted use of studded pneumatic tires throughout the 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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 221

An act to amend Section 7284.2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. It is the intent of the Legislature to recognize that public transit operators are moving towards the use of compressed natural gas as the primary fuel source to meet air quality objectives at the state and regional levels, as well as to provide vital public transportation services to transit dependent citizens in California. Further, the Mills-Hayes Act (Section 8655 of the Revenue and Taxation Code) states that no tax shall be imposed upon fuel used by public transit operations. Enactment of this legislation will clarify that, pursuant to the Mills-Hayes Act, the use of compressed natural gas as a motor vehicle fuel for use by local agencies or public transit operators in the operation of public transit services shall be exempt from any taxes imposed upon fuel.

SEC. 2. Section 7284.2 of the Revenue and Taxation Code is amended to read:

7284.2. (a) The board of supervisors of any county may levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.

(b) For purposes of this section, "gas" shall not be construed as referring to the consumption of compressed natural gas dispensed by a gas compressor, within a local jurisdiction, that is separately metered and is dedicated to providing compressed natural gas as a motor vehicle fuel for use by the local agency or public transit operator.

(c) For purposes of this section, "local jurisdiction" means any city, county, city and county, including any chartered city, county, or city and county, district, or public or municipal corporation.

(d) For purposes of this section "public transit operator" means a local or regional transit agency or a joint powers agency operating bus transportation service as defined pursuant to Article 1 (commencing with Section 99200) of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code.

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## CHAPTER 222

An act to amend, repeal, and add Sections 7093.6, 9278, 30459.15, 32471.5, 41171.5, 46628, 50156.18, 55332.5, and 60637 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 7093.6 of the Revenue and Taxation Code is amended to read:

7093.6. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final tax liability" means any of the following:

(A) That part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the taxpayer collected sales tax reimbursement or use tax from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 5 (commencing with Section 6561) of Chapter 5.

(B) A final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising under Article 7 (commencing with Section 6811) of Chapter 6.

(C) That part of a final tax liability for use tax, including related interest, additions to tax, penalties, or other amounts assessed under this part, determined under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 5 (commencing with Section 6561) of Chapter 5, against a taxpayer who is a consumer that is not required to hold a permit under Section 6066.

(3) A qualified final tax liability may not be compromised with any of the following:

(A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.

(B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement that permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that the installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required sales and use tax returns for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file sales and use tax returns, whichever period is earlier.

(h) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(i) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(j) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(k) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(*l*) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. No list shall be prepared and no releases distributed by the board in connection with these statements.

(m) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record, or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(n) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(o) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(p) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 1.5. Section 7093.6 is added to the Revenue and Taxation Code, to read:

7093.6. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may

compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance

of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record, or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(k) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(*l*) This section shall become operative on January 1, 2013.

SEC. 2. Section 9278 of the Revenue and Taxation Code is amended to read:

9278. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 3 (commencing with Section 8601), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or

discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final tax liability" means either of the following:

(A) That part of a final tax liability, including related interest, additions to tax, penalties or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the vendor collected use fuel tax reimbursement from the purchaser or other person and which was determined against the vendor under Article 2 (commencing with Section 8776), Article 3 (commencing with Section 8801), or Article 5 (commencing with Section 8851) of Chapter 4.

(B) A final tax liability, including related interest, additions to tax, penalties or other amounts assessed under this part, arising under Article 4.5 (commencing with Section 9021) of Chapter 5.

(3) A qualified final tax liability may not be compromised with any of the following:

(A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.

(B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall

not participate in any offer in compromise matters pursuant to this section.

(f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required use fuel tax returns for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file use fuel tax returns, whichever period is earlier.

(h) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(i) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(j) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(k) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(*l*) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive

director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 9255. No list shall be prepared and no releases distributed by the board in connection with these statements.

(m) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record, or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(n) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(o) For purposes of this section, “person” means the taxpayer, any member of the taxpayer’s family, any corporation, agent, fiduciary, or

representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(p) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2.5. Section 9278 is added to the Revenue and Taxation Code, to read:

9278. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 3 (commencing with Section 8601), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 9255. No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record, or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(k) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(*l*) This section shall become operative on January 1, 2013.

SEC. 3. Section 30459.15 of the Revenue and Taxation Code is amended to read:

30459.15. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 13 (commencing with Section 30001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated by the following:

(1) A business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) A taxpayer that has purchased untaxed cigarettes or tobacco products from out-of-state vendors for their own use or consumption.

(3) Notwithstanding paragraph (1) or (2), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final tax liability" means either of the following:

(A) That part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the taxpayer collected cigarette or tobacco products tax reimbursement or cigarette or tobacco products tax reimbursement from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with Section 30201), Article 3 (commencing with Section 30221), or Article 5 (commencing with Section 30261) of Chapter 4.

(B) That part of a final tax liability for cigarette or tobacco products tax, including related interest, additions to tax, penalties, or other amounts assessed under this part, determined under Article 2 (commencing with Section 30201), Article 3 (commencing with Section 30221), and Article 5 (commencing with Section 30261) of Chapter 4 against a taxpayer who is a consumer that is not required to hold a license under Article 1 (commencing with Section 30140) of Chapter 3.

(4) A qualified final tax liability may not be compromised with any of the following:

(A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or

transactions attributable to the liability for which the taxpayer is making the offer.

(B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required cigarette and tobacco products tax reports or returns for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file cigarette and tobacco products tax reports or returns, whichever period is earlier.

(h) Offers in compromise shall not be considered under the following conditions:

(1) The taxpayer has been convicted of felony tax evasion under this part during the liability period.

(2) The taxpayer has filed a statement under paragraph (3) of subdivision (i) and continues to purchase untaxed cigarettes or tobacco products from out-of-state vendors for their own use or consumption.

(i) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(3) For liabilities generated in the manner described in paragraph (2) of subdivision (c), the taxpayer shall file with the board a statement, under penalty of perjury, that he or she will no longer purchase untaxed cigarettes or tobacco products from out-of-state vendors for his or her own use or consumption.

(j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(k) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

(*l*) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(m) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(n) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall

be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 30455. No list shall be prepared and no releases distributed by the board in connection with these statements.

(o) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(p) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(q) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 3.5. Section 30459.15 is added to the Revenue and Taxation Code, to read:

30459.15. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 13 (commencing with Section 30001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated by the following:

(1) A business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) A taxpayer that has purchased untaxed cigarettes or tobacco products from out-of-state vendors for their own use or consumption.

(d) Offers in compromise shall not be considered under the following conditions:

(1) The taxpayer has been convicted of felony tax evasion under this part during the liability period.

(2) The taxpayer has filed a statement under paragraph (3) of subdivision (e) and continues to purchase untaxed cigarettes or tobacco products from out-of-state vendors for their own use or consumption.

(e) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(3) For liabilities generated in the manner described in paragraph (2) of subdivision (c), the taxpayer shall file with the board a statement, under penalty of perjury, that he or she will no longer purchase untaxed cigarettes or tobacco products from out-of-state vendors for his or her own use or consumption.

(f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(i) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(j) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 30455. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(*l*) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(m) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(n) This section shall become operative on January 1, 2013.

SEC. 4. Section 32471.5 of the Revenue and Taxation Code is amended to read:

32471.5. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 14 (commencing with Section 32001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated by a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and

no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final tax liability" means that part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the taxpayer collected reimbursement or tax reimbursement from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with Section 32271), Article 3 (commencing with Section 32291), or Article 4 (commencing with Section 32301) of Chapter 6.

(3) A qualified final tax liability may not be compromised with any of the following:

(A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.

(B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to

reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required tax returns and reports for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file tax returns and reports, whichever period is earlier.

(h) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.

(i) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(k) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

(*l*) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(m) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one

liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(n) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 32455. No list shall be prepared and no releases distributed by the board in connection with these statements.

(o) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(p) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(q) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 4.5. Section 32471.5 is added to the Revenue and Taxation Code, to read:

32471.5. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 14 (commencing with Section 32001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated by a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.

(e) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(i) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(j) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 32455. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(*l*) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(m) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by

the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(n) This section shall become operative on January 1, 2013.

SEC. 5. Section 41171.5 of the Revenue and Taxation Code is amended to read:

41171.5. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final surcharge liability where the reduction of surcharges is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final surcharge liability involving a reduction in surcharges in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final surcharge liability in which the reduction of surcharges is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final surcharge liability" means any final surcharge liability arising under Part 20 (commencing with Section 41001), or related interest, additions to surcharges, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the surcharge payer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final surcharge liability may be compromised regardless of whether the business has been discontinued or transferred or whether the surcharge payer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final surcharge liability shall also apply to a qualified final surcharge liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final surcharge liability" means either of the following:

(A) That part of a final surcharge liability, including related interest, additions to surcharge, penalties, or other amounts assessed under this

part, arising from a transaction or transactions in which the board finds no evidence that the service supplier collected the surcharge from the service user or other person and which was determined against the service supplier under Article 3 (commencing with Section 41070), Article 4 (commencing with Section 41080), or Article 5 (commencing with Section 41085) of Chapter 4.

(B) That part of a final surcharge liability, including related interest, additions to surcharge, penalties, or other amounts assessed under this part, determined under Article 3 (commencing with Section 41070), Article 4 (commencing with Section 41080), and Article 5 (commencing with Section 41085) of Chapter 4 against a service user who is a consumer that is not required to register with the board under Article 3 (commencing with section 41040) of Chapter 2.

(3) A qualified final surcharge liability may not be compromised with any of the following:

(A) A surcharge payer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the surcharge payer is making the offer.

(B) A business that was transferred by a surcharge payer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the surcharge payer's liability was previously compromised.

(C) A business in which a surcharge payer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the surcharge payer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the surcharge payer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the surcharge payer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A surcharge payer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the surcharge payer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A surcharge payer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required emergency telephone users surcharge returns for a five-year period from the date the liability is compromised, or until the surcharge payer is no longer required to file emergency telephone users surcharge returns, whichever period is earlier.

(h) Offers in compromise shall not be considered where the surcharge payer has been convicted of felony tax evasion under this part during the liability period.

(i) For amounts to be compromised under this section, the following conditions shall exist:

(1) The surcharge payer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the surcharge payer's present assets or income.

(B) The surcharge payer does not have reasonable prospects of acquiring increased income or assets that would enable the surcharge payer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final surcharge liability shall not be subject to administrative appeal or judicial review.

(k) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid surcharge and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the surcharge payer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the surcharge payer.

(*l*) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board

shall notify the surcharge payer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the surcharge payer.

(m) When more than one surcharge payer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, surcharge payers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable surcharge payer shall reduce the amount of the liability of the other surcharge payers by the amount of the accepted offer.

(n) Whenever a compromise of surcharges or penalties or total surcharges and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the surcharge payer.

(2) The amount of unpaid surcharges and related penalties, additions to surcharges, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the surcharge payer or violate the confidentiality provisions of Section 41131. No list shall be prepared and no releases distributed by the board in connection with these statements.

(o) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any surcharge payer or other person liable for the surcharge.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the surcharge payer or other person liable for the surcharge.

(2) The surcharge payer fails to comply with any of the terms and conditions relative to the offer.

(p) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a surcharge payer or other person liable in respect of the surcharge.

(2) 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 surcharge payer or other person liable in respect of the surcharge.

(q) For purposes of this section, "person" means the surcharge payer, any member of the surcharge payer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the surcharge payer, or any other corporation or entity owned or controlled by the surcharge payer, directly or indirectly, or that owns or controls the surcharge payer, directly or indirectly.

(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 5.5. Section 41171.5 is added to the Revenue and Taxation Code, to read:

41171.5. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final surcharge liability where the reduction of surcharges is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final surcharge liability involving a reduction in surcharges in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final surcharge liability in which the reduction of surcharges is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final surcharge liability" means any final surcharge liability arising under Part 20 (commencing with

Section 41001), or related interest, additions to surcharges, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the surcharge payer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) Offers in compromise shall not be considered where the surcharge payer has been convicted of felony tax evasion under this part during the liability period.

(e) For amounts to be compromised under this section, the following conditions shall exist:

(1) The surcharge payer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the surcharge payer's present assets or income.

(B) The surcharge payer does not have reasonable prospects of acquiring increased income or assets that would enable the surcharge payer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final surcharge liability shall not be subject to administrative appeal or judicial review.

(g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid surcharge and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the surcharge payer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the surcharge payer.

(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the surcharge payer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the surcharge payer.

(i) When more than one surcharge payer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, surcharge payers who are liable through dual

determination or successor's liability, the acceptance of an offer in compromise from one liable surcharge payer shall reduce the amount of the liability of the other surcharge payers by the amount of the accepted offer.

(j) Whenever a compromise of surcharges or penalties or total surcharges and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the surcharge payer.

(2) The amount of unpaid surcharges and related penalties, additions to surcharges, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the surcharge payer or violate the confidentiality provisions of Section 41131. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any surcharge payer or other person liable for the surcharge.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the surcharge payer or other person liable for the surcharge.

(2) The surcharge payer fails to comply with any of the terms and conditions relative to the offer.

(*l*) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a surcharge payer or other person liable in respect of the surcharge.

(2) 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 surcharge payer or other person liable in respect of the surcharge.

(m) For purposes of this section, "person" means the surcharge payer, any member of the surcharge payer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the surcharge payer, or any other corporation or entity owned or controlled by the surcharge payer, directly or indirectly, or that owns or controls the surcharge payer, directly or indirectly.

(n) This section shall become operative on January 1, 2013.

SEC. 6. Section 46628 of the Revenue and Taxation Code is amended to read:

46628. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability where the reduction of fees is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in fees in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of fees is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final fee liability" means any final fee liability arising under Part 24 (commencing with Section 46001), or related interest, additions to fees, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final fee liability may be compromised regardless of whether the business has been discontinued or transferred or whether the feepayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final fee liability shall also apply to a qualified final fee liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final fee liability" means any of the following:

(A) That part of a final fee liability, including related interest, additions to fee, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the marine terminal operator or operator of a pipeline collected the oil spill prevention and administration fee from the owner of the petroleum products or crude oil or other person and which was determined against the feepayer under Article 2 (commencing with Section 46201), Article 3 (commencing with Section 46251), or Article 5 (commencing with Section 46351) of Chapter 3.

(B) A final fee liability, including related interest, additions to fee, penalties, or other amounts assessed under this part, arising under Article 6 (commencing with Section 46451) of Chapter 4.

(C) That part of a final fee liability, including related interest, additions to fee, penalties, or other amounts assessed under this part, determined under Article 2 (commencing with Section 46201), Article 3 (commencing with Section 46251), and Article 5 (commencing with Section 46351) of Chapter 3 against an owner of crude oil or petroleum products that is not required to register with the board under Article 2 (commencing with section 46101) of Chapter 2.

(3) A qualified final fee liability may not be compromised with any of the following:

(A) A feepayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the feepayer is making the offer.

(B) A business that was transferred by a feepayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the feepayer's liability was previously compromised.

(C) A business in which a feepayer who previously received a compromise under paragraph (2) has a controlling interest or association

with a similar type of business for which the feepayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the feepayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the feepayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A feepayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the feepayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A feepayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required oil spill prevention and administration fee returns for a five-year period from the date the liability is compromised, or until the feepayer is no longer required to file oil spill prevention and administration fee returns, whichever period is earlier.

(h) Offers in compromise shall not be considered where the feepayer has been convicted of felony tax evasion under this part during the liability period.

(i) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(k) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid fee and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the feepayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the feepayer.

(*l*) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(m) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, feepayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable feepayer shall reduce the amount of the liability of the other feepayers by the amount of the accepted offer.

(n) Whenever a compromise of fees or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Section 40175. No list shall be prepared and no releases distributed by the board in connection with these statements.

(o) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion

of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(p) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) 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 feepayer or other person liable in respect of the fee.

(q) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 6.5. Section 46628 is added to the Revenue and Taxation Code, to read:

46628. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final fee liability where the reduction of fees is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in fees in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or

disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of fees is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final fee liability" means any final fee liability arising under Part 24 (commencing with Section 46001), or related interest, additions to fees, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) Offers in compromise shall not be considered where the feepayer has been convicted of felony tax evasion under this part during the liability period.

(e) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid fee and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the feepayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the feepayer.

(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(i) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, feepayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable feepayer shall reduce the amount of the liability of the other feepayers by the amount of the accepted offer.

(j) Whenever a compromise of fees or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Section 40175. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(*l*) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) 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 feepayer or other person liable in respect of the fee.

(m) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

(n) This section shall become operative on January 1, 2013.

SEC. 7. Section 50156.18 of the Revenue and Taxation Code is amended to read:

50156.18. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability in which the reduction of the fee is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in the fee in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of the fee is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final fee liability" means any final fee liability arising under Part 26 (commencing with Section 50101), or related interest, additions to the fee, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final fee liability may be compromised regardless of whether the business has been discontinued or transferred or whether the feepayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final fee liability shall also apply to a qualified final fee liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final fee liability" means that part of a final fee liability, including related interest, additions to fee, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the owner of the underground storage tank collected underground storage tank maintenance fee reimbursement from the operator of the underground storage tank or other person and which was determined against the feepayer under Article 2 (commencing with Section 50113) or Article 3 (commencing with Section 50114) of Chapter 3.

(3) A qualified final fee liability may not be compromised with any of the following:

(A) A feepayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the feepayer is making the offer.

(B) A business that was transferred by a feepayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the feepayer's liability was previously compromised.

(C) A business in which a feepayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the feepayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the feepayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the feepayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A feepayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the feepayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A feepayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required underground storage tank maintenance fee returns for a five-year period from the date the liability is compromised, or until the feepayer is no longer required to file underground storage tank maintenance fee returns, whichever period is earlier.

(h) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(i) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(j) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(k) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable feepayer shall not relieve the other feepayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(*l*) Whenever a compromise of the fee or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Chapter 8 of Article 2 (commencing with Section 50156). No list shall be prepared and no releases distributed by the board in connection with these statements.

(m) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(n) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) 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 feepayer or other person liable in respect of the fee.

(o) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

(p) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 7.5. Section 50156.18 is added to the Revenue and Taxation Code, to read:

50156.18. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final fee liability in which the reduction of the fee is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in the fee in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of the fee is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final fee liability" means any final fee liability arising under Part 26 (commencing with Section 50101), or related interest, additions to the fee, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest

or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(g) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable feepayer shall not relieve the other feepayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of the fee or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Chapter 8 of Article

2 (commencing with Section 50156). No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) 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 feepayer or other person liable in respect of the fee.

(k) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

(*l*) This section shall become operative on January 1, 2013.

SEC. 8. Section 55332.5 of the Revenue and Taxation Code is amended to read:

55332.5. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability where the reduction of fees is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in fees in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of fees is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final fee liability" means any final fee liability arising under Part 30 (commencing with Section 55001), or related interest, additions to fees, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final fee liability may be compromised regardless of whether the business has been discontinued or transferred or whether the feepayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final fee liability shall also apply to a qualified final fee liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final fee liability" means that part of a final fee liability, including related interest, additions to fee, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the feepayer collected the fee from the purchaser or other person and which was determined against the feepayer under Article 2 (commencing with Section 55061) or Article 3 (commencing with Section 55081) of Chapter 3.

(3) A qualified final fee liability may not be compromised with any of the following:

(A) A feepayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or

transactions attributable to the liability for which the feepayer is making the offer.

(B) A business that was transferred by a feepayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the feepayer's liability was previously compromised.

(C) A business in which a feepayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the feepayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the feepayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the feepayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A feepayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the feepayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A feepayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required returns for a five-year period from the date the liability is compromised, or until the feepayer is no longer required to file returns, whichever period is earlier.

(h) Offers in compromise shall not be considered where the feepayer has been convicted of felony tax evasion under this part during the liability period.

(i) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(k) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid fee and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the feepayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the feepayer.

(*l*) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(m) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, feepayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable feepayer shall reduce the amount of the liability of the other feepayers by the amount of the accepted offer.

(n) Whenever a compromise of fees or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret,

or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Section 55381. No list shall be prepared and no releases distributed by the board in connection with these statements.

(o) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(p) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate fee.

(q) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 8.5. Section 55332.5 is added to the Revenue and Taxation Code, to read:

55332.5. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final fee liability where

the reduction of fees is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in fees in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of fees is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final fee liability" means any final fee liability arising under Part 30 (commencing with Section 55001), or related interest, additions to fees, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) Offers in compromise shall not be considered where the feepayer has been convicted of felony tax evasion under this part during the liability period.

(e) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid fee and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the feepayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the feepayer.

(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(i) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, feepayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable feepayer shall reduce the amount of the liability of the other feepayers by the amount of the accepted offer.

(j) Whenever a compromise of fees or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Section 55381. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(*l*) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate fee.

(m) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

(n) This section shall become operative on January 1, 2013.

SEC. 9. Section 60637 of the Revenue and Taxation Code is amended to read:

60637. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven

thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 31 (commencing with Section 60001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final tax liability" means any of the following:

(A) That part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the supplier collected diesel fuel tax reimbursement from the purchaser or other person and which was determined by the board against the taxpayer under Article 2 (commencing with Section 60301), Article 3 (commencing with Section 60310), Article 5 (commencing with Section 60350), or Article 6 (commencing with Section 60360) of Chapter 6.

(B) A final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising under Article 6 (commencing with Section 60471) of Chapter 7.

(C) That part of a final tax liability for diesel fuel tax, including related interest, additions to tax, penalties, or other amounts assessed under this part, determined under Article 2 (commencing with Section 60301), Article 3 (commencing with Section 60310), Article 5 (commencing with Section 60350) and Article 6 (commencing with Section 60360) of Chapter 6 against an exempt bus operator, government entity, or qualified highway vehicle operator who used dyed diesel fuel on the highway.

(3) A qualified final tax liability may not be compromised with any of the following:

(A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.

(B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(d) The board may, in its discretion, enter into a written agreement which permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

(f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required returns for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file returns, whichever period is earlier.

(h) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.

(i) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(k) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

(*l*) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(m) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(n) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 60609. No list shall be prepared and no releases distributed by the board in connection with these statements.

(o) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(p) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(q) For purposes of this section, “person” means the taxpayer, any member of the taxpayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 9.5. Section 60637 is added to the Revenue and Taxation Code, to read:

60637. (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 31 (commencing with Section 60001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.

(e) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.

(2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(i) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

(j) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 60609. No list shall be prepared and no releases distributed by the board in connection with these statements.

(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any

statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(*l*) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) 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.

(2) 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.

(m) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(n) This section shall become operative on January 1, 2013.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

# CHAPTER 223

An act to amend Sections 35535, 44225, 44256, 44263, 44270, 44279.1, 44327, 44865, 49430.7, 52302, 52302.8, 56028, and 56043 of the Education Code, relating to education.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 35535 of the Education Code is amended to read:

35535. An order of a county committee attaching the territory of a lapsed district to one or more adjoining districts shall be effective for all purposes on the date of the order.

SEC. 2. Section 44225 of the Education Code is amended to read:

44225. The commission shall do all of the following:

(a) Establish professional standards, assessments, and examinations for entry and advancement in the education profession. While the Legislature recognizes that the commission will exercise its prerogative to determine those requirements, it is the intent of the Legislature that standards, assessments, and examinations be developed and implemented for the following:

(1) The preliminary teaching credential, to be granted upon possession of a baccalaureate degree from a regionally accredited institution in a subject other than professional education, completion of an accredited program of professional preparation, and either successful passage of an examination or assessment that has been adopted or approved by the commission in the subject or subjects appropriate to the grade level to be taught, to include college-level reading, writing, and mathematics skills, or completion of an accredited program of subject matter preparation and successful passage of the basic skills proficiency test as provided for in Article 4 (commencing with Section 44250). The commission shall uniformly consider the results of the basic skills proficiency test in conjunction with other pertinent information about the qualifications of each candidate for a preliminary credential, and may award the credential on the basis of the overall performance of a candidate as measured by several criteria of professional competence, provided that each candidate meets minimum standards set by the commission on each criterion. Upon application by a regionally accredited institution of higher education, the commission may categorically grant credit to coursework completed in an accredited

program of professional preparation, as specified by this paragraph, by undergraduates of that institution, where the commission finds there are adequate assurances of the quality of necessary undergraduate instruction in the liberal arts and in the subject area or areas to be taught.

(2) The professional teaching credential, to be granted upon successful passage of a state examination or assessment in the subject or subjects appropriate to the grade level to be taught, to include college-level basic reading, writing, and mathematics skills, and completion of a period of beginning teacher support that includes assessments of ability to teach subject matter to pupils, ability to work well with pupils, classroom management, and instructional skills. A candidate who successfully passes the examination or assessment pursuant to paragraph (1) shall be deemed to have passed the state examination or assessment in the subject or subjects to be taught pursuant to this paragraph.

(b) Reduce and streamline the credential system to ensure teacher competence in the subject field or fields, while allowing greater flexibility in staffing local schools. The commission shall award the following types of credentials to applicants whose preparation and competence satisfy its standards:

(1) Basic teaching credentials for teaching in kindergarten, or any of the grades 1 to 12, inclusive, in public schools in this state.

(2) Credentials for teaching adult education classes and vocational education classes.

(3) Credentials for teaching specialties, including, but not necessarily limited to, bilingual education, early childhood education, and special education. The commission may grant credentials to any candidate who concurrently meets the commission's standards of preparation and competence for the preliminary basic teaching credential and the preliminary specialty credential.

(4) Credentials for school services, for positions including, but not limited to, administrators, school counselors, speech-language therapists, audiologists, school psychologists, library media teachers, supervisors of attendance, and school nurses.

The commission may establish standards and requirements for preliminary and professional credentials of each type.

(c) Review and, if necessary, revise the code of ethics for the teaching profession.

(d) Establish standards for the issuance and renewal of credentials, certificates, and permits. In setting standards, the commission shall seek to ensure, through its credentialing of teachers, that public school teachers satisfy all of the following criteria:

(1) Are academically talented.

(2) Are knowledgeable of the subjects to be taught in the classroom.

(3) Are creative and energetic.

(4) Have the human skills to motivate and inspire pupils to achieve their goals.

(5) Have the sensitivity to foster self-esteem in pupils through recognition that each pupil has his or her own goals, talents, and levels of development.

(6) Be willing to relate the educational process and their instructional strategies to meet the needs of pupils.

(7) Are able to work effectively with and motivate pupils from a variety of ethnic, socioeconomic, cultural, academic, and linguistic backgrounds.

(8) Have an understanding of principles and laws related to educational equity, and the equitable practice of the profession of education among all pupils regardless of their ethnicity, race, gender, age, religious background, primary language, or disabling condition.

(e) Determine the scope and authorization of credentials, to ensure competence in teaching and other educational services, and establish sanctions for the misuse of credentials and the misassignment of credentialholders. The commission may grant an added or supplementary authorization to a credentialholder who has met the requirements and standards of the commission for the added or supplementary authorization. The commission shall exempt the holder of a teaching credential obtained prior to January 1, 1974, who adds an authorization by successfully completing a commission-approved subject matter examination, from the requirements of subdivision (e) of Section 44259 and Sections 44261, 44261.5, and 44261.7.

(f) Collect, compile, and disseminate information regarding exemplary practices in supporting and assessing beginning teachers.

(g) Establish alternative methods for entry into the teaching profession, and into other certificated roles in the schools, by persons in varying circumstances, including persons who have been educated outside of California, provided that each applicant satisfies all of the requirements established by the commission. One alternative method shall be the successful completion of at least two years of classroom instruction under a district intern certificate, pursuant to Article 7.5 (commencing with Section 44325). In establishing alternative methods for entry into the teaching profession, the commission shall develop strategies to encourage classroom aides to become credentialed teachers.

(h) Adopt a framework and general standards for the accreditation of preparation programs for teachers and other certificated educators pursuant to Article 7 (commencing with Section 44320).

(i) Appoint classroom teachers, school administrators, other school services personnel, representatives of the public, and public or private

higher education representatives to one or more standing committees, which shall be given authority to recommend to the commission standards relating to examinations, performance assessments, program accreditation, and licensing. The commission shall establish criteria for membership on those committees, and shall determine the terms of committee members. Appointments to standing committees by the commission shall reflect, to the extent feasible, the ethnic and cultural diversity of the California public schools.

(j) Consult with classroom teachers, faculty members from institutions of higher education that maintain accredited programs of professional preparation for teachers, administrators or other school services personnel, and other experts to aid in the development of examinations and assessments, and to study the impact of examinations and assessments on the teaching profession. To increase the fairness of its certification decisions, the commission may uniformly consider the results of tests, subtests, and assessments in conjunction with each other, and in conjunction with other pertinent information about the qualifications of each candidate. The commission may award credentials on the basis of average overall performances by candidates on several criteria of professional competence, provided that each candidate meets minimum standards set by the commission on each criterion.

(k) Adopt standards for all examinations and assessments which shall ensure that all prospective teachers demonstrate an understanding of the history and cultures of the major ethnic populations of this state and of teaching strategies for the acquisition of English language skills by non-English-speaking pupils.

(*l*) Determine the terms of credentials, certificates, and permits, except that no credential, certificate, or permit shall be valid for more than five years from the date of issuance. This article shall govern the issuance of any credential, certificate, or permit, except as follows:

(1) A credential, certificate, or permit shall remain in force as long as it is valid and continues to be valid under the laws and regulations that were in effect when it was issued.

(2) The commission shall grant teaching credentials pursuant to statutes that were in effect on December 31, 1988, to candidates who, prior to the effective date of regulations to implement subdivision (a), are in the process of meeting the requirements for teaching credentials that were in effect on December 31, 1988, except that neither enrollment as an undergraduate student nor receipt of a baccalaureate degree from a regionally accredited institution prior to the effective date of the regulations shall, by themselves, exempt a candidate from the requirements of subdivision (a). Enrollment in a preparation program for teachers prior to the effective date of the regulations shall not exempt

a candidate from the requirements of paragraph (2) of subdivision (a), if the preliminary credential of the candidate was granted after the effective date of the regulations.

(m) Review requests from school districts, county offices of education, private schools, and postsecondary institutions for the waiver of one or more of the provisions of this chapter or other provisions governing the preparation or licensing of educators. The commission may grant a waiver upon its finding that professional preparation equivalent to that prescribed under the provision or provisions to be waived will be, or has been, completed by the credential candidate or candidates affected or that a waiver is necessary to accomplish any of the following:

(1) Give a local educational agency one semester or less to address unanticipated, immediate, short-term shortages of fully qualified educators by assigning a teacher who holds a basic teaching credential to teach outside of his or her credential authorization, with the teacher's consent.

(2) Provide credential candidates additional time to complete a credential requirement.

(3) Allow local school districts or schools to implement an education reform or restructuring plan.

(4) Temporarily exempt from a specified credential requirement small, geographically isolated regions with severely limited ability to develop personnel.

(5) Provide other temporary exemptions when deemed appropriate by the commission.

No provision in this chapter may be waived under Section 33050 and 33051, after June 30, 1994, by the State Board of Education.

(n) It is the intent of the Legislature that the commission develop models for voluntary use by California colleges and universities that do not have these models in place, to assist in the screening of applications for admission to teacher education programs. The models shall give emphasis to the following qualifications of the applicants: academic talent, knowledge of subjects to be taught, basic academic skills, creativity, experience in working with children and adolescents, ability to motivate and inspire pupils, and willingness to relate education to pupils with a wide variety of cultural, ethnic, and academic backgrounds. The commission may continue to administer the state basic skills proficiency test, in order (1) to utilize the results of this test in awarding preliminary teaching credentials and emergency permits, and (2) to enable colleges and universities to utilize this test in conjunction with other appropriate sources of information in teacher preparation admission decisions. However, it is the intent of the Legislature that applicants for admission to teacher preparation programs may not be denied admission

solely on the basis of state basic skills proficiency test results. The commission may recover the costs of administering and developing the test by charging examinees a fee for taking the test.

(o) It is the intent of the Legislature that the commission encourage colleges and universities to design and implement, by August 1, 1990, concentrated internship programs for persons who have attained a bachelor's degree in the field in which they intend to teach. Those programs would be targeted at subject area shortages, would substitute for conventional training programs, and would include a full summer session of college-level coursework, a one-year internship, or the equivalent, a seminar throughout the internship, and a summer session following the internship. Educator preparation through internship programs shall be subject to Article 10 (commencing with Section 44370).

(p) Grant a field placement certificate to any candidate who has been admitted to an accredited program of professional preparation, and who must complete a supervised practicum in public elementary or secondary schools as a condition for completion of the program. The commission shall establish standards for the issuance of field placement certificates.

(q) Propose appropriate rules and regulations to implement the act which enacts this section.

(r) Adopt subject matter assessments for teaching credentials after developing those assessments jointly with the Superintendent.

SEC. 3 Section 44256 of the Education Code is amended to read:

44256. Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools. The holder of a single subject teaching credential or a standard secondary credential or a special secondary teaching credential, as defined in this subdivision, who has completed 20 semester hours of coursework or 10 semester hours of upper division or graduate coursework approved by the commission at an accredited institution in any subject commonly taught in grades 7 to 12, inclusive, other than the subject for which he or she is already certificated to teach, shall be eligible to have this subject appear on the credential as an authorization to teach this subject. The commission, by regulation, may require that evidence of additional competence is a condition for instruction in particular subjects, including, but not limited to, foreign languages. The commission may establish and implement alternative requirements for additional authorizations to the single subject credential on the basis of specialized needs. For purposes of this subdivision, a special secondary teaching credential

means a special secondary teaching credential issued on the basis of at least a baccalaureate degree, a student teaching requirement, and 24 semester units of coursework in the subject specialty of the credential.

(b) "Multiple subject instruction" means the practice of assignment of teachers and students for multiple subject matter instruction, as is commonly practiced in California elementary schools and as is commonly practiced in early childhood education.

The holder of a multiple subject teaching credential or a standard elementary credential who has completed 20 semester hours of coursework or 10 semester hours of upper division or graduate coursework approved by the commission at an accredited institution in any subject commonly taught in grades 9 and below shall be eligible to have that subject appear on the credential as authorization to teach the subject in departmentalized classes in grades 9 and below. The governing board of a school district by resolution may authorize the holder of a multiple subject teaching credential or a standard elementary credential to teach any subject in departmentalized classes to a given class or group of students below grade 9, provided that the teacher has completed at least 12 semester units, or six upper division or graduate units, of coursework at an accredited institution in each subject to be taught. The authorization shall be with the teacher's consent. However, the commission, by regulation, may provide that evidence of additional competence is necessary for instruction in particular subjects, including, but not limited to, foreign languages. The commission may establish and implement alternative requirements for additional authorizations to the multiple subject credential on the basis of specialized needs.

(c) "Specialist instruction" means any specialty requiring advanced preparation or special competence, including, but not limited to, reading specialist, mathematics specialist, specialist in special education, or early childhood education, and such other specialties as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or career technical courses which courses may be part of a program of trade, technical, or career technical education.

SEC. 4. Section 44263 of the Education Code is amended to read:

44263. A teacher licensed pursuant to the provisions of this article may be assigned, with his or her consent, to teach a single subject class in which he or she has 18 semester hours of coursework or nine semester hours of upper division or graduate coursework or a multiple subject class if he or she holds at least 60 semester hours equally distributed among the 10 areas of a diversified major set forth in Section 44314. A three-semester-unit variance in any of the required four areas may be

allowed. The governing board of the school district by resolution shall provide specific authorization for the assignment. The authorization of the governing board shall remain valid for one year and may be renewed annually.

SEC. 5. Section 44270 of the Education Code is amended to read:

44270. (a) The minimum requirements for the preliminary services credential with a specialization in administrative services are all of the following:

(1) Possession of one of the following:

(A) A valid teaching credential requiring the possession of a baccalaureate degree and a professional preparation program including student teaching.

(B) A valid designated subjects career technical education, adult education, or special subjects teaching credential, as specified in Section 44260, 44260.1, 44260.2, 44260.3, or 44260.4, provided the candidate also possesses a baccalaureate degree.

(C) A valid services credential with a specialization in pupil personnel, health, or clinical or rehabilitative services, as specified in Section 44266, 44267, 44267.5, or 44268, or a valid services credential authorizing service as a teacher librarian, as specified in Section 44269.

(D) A valid credential issued under the laws, rules, and regulations in effect on or before December 31, 1971, which authorizes the same areas as in subparagraphs (B) and (C).

(2) Completion of a minimum of three years of successful, full-time classroom teaching experience in the public schools, including, but not limited to, service in state- or county-operated schools, or in private schools of equivalent status or three years of experience in the fields of pupil personnel, health, clinical or rehabilitative, or librarian services.

(3) Completion of an entry-level program of specialized and professional preparation in administrative services approved by the commission or a one-year internship in a program of supervised training in administrative services, approved by the commission as satisfying the requirements for the preliminary services credential with a specialization in administrative services.

(4) Current employment in an administrative position after completion of professional preparation as defined in paragraph (3), whether full or part time, in a public school or private school of equivalent status. The commission shall encourage school districts to consider the recency of preparation or professional growth in school administration as one of the criteria for employment.

(b) The preliminary administrative services credential shall be valid for a period of five years from the date of initial employment in an

administrative position, whether full or part time, and shall not be renewable.

(c) A candidate who completed, by September 30, 1984, the requirements for the administrative services credential in effect on June 30, 1982, is eligible for the credential authorized under those requirements. All other candidates shall satisfy the requirements set forth in this section.

SEC. 6. Section 44279.1 of the Education Code is amended to read:

44279.1. (a) The Legislature finds and declares that the beginning years of the career of a teacher are a critical time in which it is necessary that intensive professional development and assessment occur. The Legislature recognizes that the public invests heavily in the preparation of prospective teachers, and that more than one-half of all new teachers leave some California school districts after one or two years in the classroom. Intensive professional development and assessment are necessary to build on the preparation that precedes initial certification, to transform academic preparation into practical success in the classroom, to retain greater numbers of capable beginning teachers, and to remove novices who show little promise as teachers. It is the intent of the Legislature that the commission and the Superintendent develop and implement policies to govern the support and assessment of beginning teachers, as a condition for the professional certification of those teachers in the future.

(b) There is hereby established the California Beginning Teacher Support and Assessment System, to be administered jointly by the commission and the Superintendent. In administering the system, the commission and the Superintendent shall approve the most cost-effective programs of support and assessment. The commission and the Superintendent also shall ensure that programs meet the Standards of Quality and Effectiveness for Beginning Teacher Support and Assessment Programs adopted by the commission in 1997 and that local programs support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession adopted by the commission in January 1997. The system shall do all of the following:

(1) Provide an effective transition into the teaching career for first-year and second-year teachers in California.

(2) Improve the educational performance of pupils through improved training, information, and assistance for new teachers.

(3) Enable beginning teachers to be effective in teaching pupils who are culturally, linguistically, and academically diverse.

(4) Ensure the professional success and retention of new teachers.

(5) Ensure that a support provider provides intensive individualized support and assistance to each participating beginning teacher.

(6) Improve the rigor and consistency of individual teacher performance assessments and the usefulness of assessment results to teachers and decisionmakers.

(7) Establish an effective, coherent system of performance assessments that are based on the California Standards for the Teaching Profession adopted by the commission in January 1997.

(8) Examine alternative ways in which the general public and the educational profession may be assured that new teachers who remain in teaching have attained acceptable levels of professional competence.

(9) Ensure that an individual induction plan is in place for each participating beginning teacher and is based on an ongoing assessment of the development of the beginning teacher.

(10) Ensure continuous program improvement through ongoing research, development, and evaluation.

(c) Participation in the system shall be voluntary for teachers, school districts, and county offices of education and participation by certificated employees shall not be made a condition of employment. The commission and the Superintendent shall adopt and implement criteria and standards for participation in the system, including criteria regarding the eligibility of teachers and standards of local program quality and intensity for schools, school districts, county offices of education, colleges, universities, and other educational and professional organizations. The criteria and standards shall be consistent with the purposes of the system.

(d) (1) For purposes of this article, unless the context otherwise requires, "beginning teacher" means a teacher with a valid California credential, as defined in Section 44259.

(2) For purposes of this article, "beginning teacher" does not include a teacher with a life credential, a clear credential, or a professional clear teaching credential who returns to serve in a certificated teaching position.

(e) Subject to verification and approval by an induction program director, a beginning teacher shall not be required to demonstrate that an induction standard has been met, or complete an element of an approved induction program designed to assist a candidate in mastering a given standard, if the candidate previously met the induction standard while participating in a commission-approved preparation program.

(f) The Superintendent and the commission shall disseminate the California Standards for the Teaching Profession adopted by the commission in January 1997 to colleges, universities, school districts, county offices of education, and professional associations, who shall be encouraged to use the standards in efforts to improve teacher preparation and support programs. Performance assessments developed under this article shall be designed to provide useful, helpful feedback to beginning

teachers and their support providers. That information shall not be used for employment-related evaluations, as a condition of employment, or as a basis for terminating employment.

(g) It is the intent of the Legislature that the commission and the Superintendent establish a statewide teacher induction program that supports locally designed, high-quality induction programs that provide individualized support and formative assessment for all participating beginning teachers as defined in subdivision (d). At the discretion of the local beginning teacher support and assessment system teacher induction program, funds allocated to a program on the basis of eligible beginning teachers may be used to provide support, assistance, and preparation services to other credential candidates who are in their first or second year of employment as a classroom teacher.

(h) This article shall be known, and may be cited, as the Marian Bergeson Beginning Teacher Support and Assessment System.

SEC. 7. Section 44327 of the Education Code is amended to read:

44327. On or before July 1, 1995, the commission, in consultation with participating school districts and other affected organizations, shall revise existing standards and adopt additional standards, as necessary, related to the quality of the training, support, evaluation, and performance of district interns. The standards shall be appropriate for an alternative program of teacher recruitment, preparation, and certification. Each school district with a district intern program is responsible for maintaining appropriate records of the program so that the credit earned by each district intern is transferable to his or her academic record in the same manner as if the intern had participated in a college or university program. To the extent feasible, the standards shall also be equivalent to the standards of the commission for professional preparation programs in colleges and universities.

SEC. 8. Section 44865 of the Education Code is amended to read:

44865. A valid teaching credential issued by the State Board or the Commission on Teacher Credentialing, based on a bachelor's degree, student teaching, and special fitness to perform, shall be deemed qualifying for assignment as a teacher in the following assignments, provided that the assignment of a teacher to a position for which qualifications are prescribed by this section shall be made only with the consent of the teacher:

(a) Home teacher.
(b) Classes organized primarily for adults.
(c) Hospital classes.
(d) Necessary small high schools.
(e) Continuation schools.
(f) Alternative schools.

(g) Opportunity schools.
(h) Juvenile court schools.
(i) County community schools.
(j) District community day schools.
(k) Independent study.

SEC. 9. Section 49430.7 of the Education Code is amended to read:

49430.7. (a) For purposes of this section, the following terms have the following meanings:

(1) "School" means a school operated and maintained by a school district or county office of education, or a charter school.

(2) "School district" means a school district, charter school, or county office of education.

(3) "Child development program" means a program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1.

(b) As a condition of receipt of funds pursuant to Section 49430.5, commencing with the 2007–08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a school or school district shall comply with all of the following requirements and prohibitions:

(1) Follow the United States Department of Agriculture (USDA) nutritional guidelines or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school or school district.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat that is prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this paragraph include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(c) Commencing with the 2007–08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a child

development program is encouraged to comply with all of the following guidelines:

(1) Meet developmentally and programmatically appropriate meal pattern and meal planning requirements developed by the USDA or menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school, school district, or child development program.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this provision include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(d) The prohibitions and requirements of this section regarding food items sold or served by a school or school district apply to raw bulk USDA commodity foods ordered by schools or school districts and sent to commercial processors for conversion into ready to use end products, but do not apply to other USDA commodity foods until the scheduled 2009 reauthorization of the USDA National School Lunch Program is complete or ingredient and nutrition information is available for all USDA commodity foods, whichever is earlier.

(e) As a condition of receipt of funds pursuant to Section 49430.5, by no later than June 30, 2008, and annually thereafter, schools and school districts shall provide the department with an annual certification of compliance with the provisions of this section.

(f) This section shall become operative only upon an appropriation for its purposes in the annual Budget Act or another statute.

SEC. 10. Section 52302 of the Education Code is amended to read:

52302. (a) On or before July 1, 2010, the governing board of each regional occupational center or program shall ensure that at least 90 percent of all state-funded courses offered by the center or program, in occupational areas in which both the program or center and the

community college offer instruction, are part of occupational course sequences that target comprehensive skills. Each occupational sequence shall do all of the following:

(1) Result in an occupational skill certificate developed in cooperation with the appropriate employer advisory board created under Section 52302.2.

(2) Provide prerequisite courses that are needed to enter apprenticeship or postsecondary vocational certificate or degree programs. Where possible, sequenced courses shall be linked to certificate and degree programs in the region.

(3) Focus on occupations requiring comprehensive skills leading to high entry-level wages or the possibility of significant wage increases after a few years on the job, or both.

(4) Offer as many courses as possible that have been approved by the University of California as courses meeting the "A-G" admissions requirements.

(b) (1) On or before July 1, 2008, the governing board of each regional occupational center or program shall develop a plan for establishing sequences of courses, and certify to the department, that those sequences have been developed, as described in subdivision (a). The board shall consult with the superintendents of the school districts served by the center or program and presidents of community colleges in the area during the development of the plan.

(2) The plan shall be presented at a public hearing by the governing board of each school district served by the regional occupational center or program and by the county board of education.

(3) Community college boards with identified articulated programs shall also review the plans in a public session.

(4) In developing the plan, each regional occupational program or center shall consult with school districts and community college districts located within the region served by the program or center and with the relevant occupational advisers and local workforce investment board to ensure the plan meets the vocational education needs of high school pupils in the region by providing sequences of courses that begin with middle or high school introductory courses, including, but not limited to, occupational skill courses provided by high schools or regional occupational programs or centers.

(5) The plan shall maximize the use of local, state, and federal resources in helping high school pupils enter comprehensive skill occupations or apprenticeship programs, or continue education in college, or all of these, after graduating from high school.

(6) The plan shall include strategies for filling gaps in courses or other services needed to make the sequences effective in meeting the needs

of pupils in developing skills and attending community college upon graduation from high school.

(7) Each center or program shall submit a copy of the approved plan to the appropriate community college or colleges in the region and the Superintendent on or before September 1, 2008. Every four years after this date, on or before July 1, each center and program shall submit an update to the plan to the local community college or colleges and the Superintendent.

(c) As a condition of receiving federal funds provided under the Carl D. Perkins Vocational and Applied Technology Education Act of 1998 (20 U.S.C. Sec. 2301 et seq.), or a successor of that act, and to the extent permitted by federal law, school districts, regional occupational centers or programs, and community college districts shall do all of the following:

(1) Develop course sequences that meet the requirements of this section according to the schedule set forth in this paragraph.

(A) On or before July 1, 2008, school districts, regional occupational centers or programs, and community college districts shall have adopted an approved plan as required under this section.

(B) On or before July 1, 2009, school districts, regional occupational centers or programs, and community college districts shall have established course sequences as required under this section that include at least one-third of the courses offered by the regional occupational center or program in occupational areas in which both the program or center and the community college offer instruction.

(C) On or before July 1, 2010, school districts, regional occupational centers or programs, and community college districts shall have established course sequences as required under this section that include at least two-thirds of the courses offered by the regional occupational center or program in occupational areas in which both the program or center and the community college offer instruction.

(2) Provide pupils who are participating in vocational sequences with information and experiences designed to increase their postgraduation work and school options, including, but not limited to, all of the following:

(A) Information about the admissions requirements of the University of California and California State University.

(B) Information about the placement requirements of the local community college or colleges.

(C) Information about higher education options related to the interests of the pupil.

(D) Encourage visits to local colleges and universities offering programs that allow pupils to gain additional skills and degrees in related occupations.

(E) Information and referrals to employers for internships, summer employment opportunities, and employment after graduation from high school.

(3) School districts, regional occupational centers or programs, and community college districts that do not develop course sequences on or before the dates established under this subdivision, and have not received a waiver under subdivision (d), shall enter into a corrective action plan with the department and shall meet any timelines established by the Superintendent.

(d) (1) The department, with the assistance of the Office of the Chancellor of the California Community Colleges, shall meet with each program or center and the community college or colleges in the region no later than the 2009–10 fiscal year to validate that course sequences meeting the requirements of this section have been developed. These meetings shall be conducted using the existing resources of the department and shall be consistent with the standards developed pursuant to Section 51226.

(2) The department and the office of the chancellor shall provide technical assistance to programs or centers and community colleges that have developed articulated sequences for less than half of the courses offered by the program or center.

(3) The Superintendent may waive the requirements of subdivision (a) for programs or centers and community colleges located in rural areas of the state if the Superintendent finds that development of sequences is infeasible because of the distance, travel time, or safety between the center or program and the community college.

SEC. 11. Section 52302.8 of the Education Code is amended to read:

52302.8. (a) The Legislature hereby finds and declares that vocational training resources that are provided through regional occupational centers and programs are an essential component of the state's secondary school system and the local system of providing occupational skills training to high school pupils. For this reason, the Legislature finds and declares that these resources should be focused primarily on the needs of pupils enrolled in high school.

(b) For the 2008–09 fiscal year, a regional occupational center or program may claim no more than 50 percent of the state-funded average daily attendance for which the center or program is eligible, for services provided to students who are not enrolled in grades 9 to 12, inclusive.

(c) For the 2009–10 fiscal year, a regional occupational center or program may claim no more than 30 percent of the state-funded average daily attendance for which the center or program is eligible, for services provided to students who are not enrolled in grades 9 to 12, inclusive.

(d) For the 2011–12 fiscal year and every fiscal year thereafter, a regional occupational center or program may claim no more than 10 percent of the state-funded average daily attendance for which the center or program is eligible, for services provided to students who are not enrolled in grades 9 to 12, inclusive, and up to an additional 5 percent for CalWORKs, Temporary Assistance Program, or Job Corps participants and participants under the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2810 et seq.) who are enrolled in Intensive Training services.

(e) Pupils who are CalWORKs, Temporary Assistance Program, or Job Corps participants shall have priority for service within the percentage limits established under subdivision (d).

(f) Notwithstanding subdivision (d), a regional occupational center or program may claim more than 15 percent of its average daily attendance for students who are not enrolled in grades 9 to 12, inclusive, if all of the students who are not enrolled in grades 9 to 12, inclusive, are CalWORKs, Temporary Assistance Program, or Job Corps participants, and if the governing board of the regional occupational center or program does all of the following:

(1) Meets with local human services directors, and representatives of adult education programs, community colleges and other institutions of higher education, to assess the needs of CalWORKs, Temporary Assistance Program, or, Job Corps and federal Workforce Investment Act participants to identify alternative ways to meet the needs of these adult students.

(2) Enters into a transition plan, approved by the Superintendent, to become in compliance with subdivision (d) in accordance with benchmarks and timelines established in the transition plan. Transition plans shall be established pursuant to guidelines issued by the department, in consultation with the State Department of Social Services, and shall be resubmitted and reviewed annually.

(g) Notwithstanding subdivisions (b), (c), and (d), a regional occupational center or program that claims more than 40 percent of its students are not enrolled in grades 9 to 12, inclusive, on January 1, 2007, shall submit a letter to the Superintendent by July 1 of each year until it complies with this subdivision, outlining the goals of the regional occupational center or program to reduce the number of adult students in order to comply with subdivision (d) on or before July 1, 2013.

(h) Regional occupational centers and programs operated in a rural county of the sixth, seventh, or eighth class may exceed the number of adults by an additional 10 percent of the limits established in subdivisions (b), (c), and (d).

(i) For purposes of this calculation, adult average daily attendance attributable to continuously enrolled grade 12 pupils who have not passed the high school exit examination pursuant to Section 60851 is excluded from the calculation under this section. Amounts that may become available from reductions resulting from the enactment of this section shall be redirected to other regional occupational centers or programs to serve additional secondary pupils.

(j) The governing boards of a community college district and a regional occupational center or program may enter into contractual agreements under which the center or program provides services to adult students of the community college district affected by this section if both of the following are satisfied:

(1) The agreements conform to state regulations and audit requirements jointly developed by the Chancellor of the Office of the California Community Colleges and the State Department of Education, in consultation with, and subject to approval by, the Department of Finance.

(2) A course offered for adults pursuant to an agreement entered into pursuant to this subdivision is limited to the same cost per student to the state as if the course were offered at the regional occupational center or program. This subdivision does not authorize the apportionment of funds for community colleges for adult students in excess of the revenue limit for regional occupational centers or programs if a course is deemed eligible for college credit.

(k) A regional occupational center or program that fails to meet a timeline established under subdivision (d) or (g) shall meet with the community college, adult education program, or other adult service to identify alternative means of meeting the needs of adult students and shall enter into a corrective action plan administered by the department. The corrective action plan shall be established pursuant to guidelines issued by the department and shall be submitted to the department annually for review.

SEC. 12. Section 56028 of the Education Code is amended to read:

56028. (a) "Parent" means any of the following:

(1) A biological or adoptive parent of a child.

(2) A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations.

(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the Welfare and Institutions Code.

(4) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.

(5) A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the Government Code, and in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code.

(b) (1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (1) to (4), inclusive, of subdivision (a) to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent" for purposes of this part, Article 1 (commencing with Section 48200) of Chapter 2 of Part 27 of Division 4 of Title 2, and Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and Sections 361 and 726 of the Welfare and Institutions Code.

(c) "Parent" does not include the state or any political subdivision of government.

(d) "Parent" does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

SEC. 13. Section 56043 of the Education Code is amended to read:

56043. The primary timelines affecting special education programs are as follows:

(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.

(b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.

(c) Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations

shall be made, and an individualized education program team meeting shall occur within 60 days of receiving parental consent for the assessment, pursuant to subdivision (a) of Section 56302.1, except as specified in subdivision (b) of that section, and pursuant to Section 56344.

(d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, pursuant to subdivision (d) of Section 56341.1.

(e) A parent or guardian shall be notified of the individualized education program team meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5. In the case of an individual with exceptional needs who is 16 years of age or younger, if appropriate, the meeting notice shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual with exceptional needs, and the meeting notice described in this subdivision shall indicate that the individual with exceptional needs is invited to attend, pursuant to subdivision (e) of Section 56341.5.

(f) (1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees in writing to an extension, pursuant to Section 56344.

(2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(g) (1) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the individualized education program team, and updated annually thereafter, the individualized education program shall include appropriate measurable postsecondary goals and transition services needed to assist the pupil in reaching those goals, pursuant to paragraph (8) of subdivision (a) of Section 56345.

(2) The individualized education program for pupils in grades 7 to 12, inclusive, shall include any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation, pursuant to paragraph (1) of subdivision (b) of Section 56345.

(3) Beginning not later than one year before the pupil reaches the age of 18 years, the individualized education program shall contain a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 years, pursuant to Section 56041.5, subdivision (g) of Section 56345, and Section 300.520 of Title 34 of the Code of Federal Regulations.

(h) Beginning at the age of 16 years or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code.

(i) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program team meeting, pursuant to Section 300.323(c)(2) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(j) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343. The local educational agency shall maintain procedures to ensure that the individualized education program team reviews the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revises the individualized education program as appropriate to address, among other matters, the provisions specified in subdivision (d) of Section 56341.1, pursuant to subdivision (a) of Section 56380.

(k) A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise in writing, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary, pursuant to Section 56381, and in accordance with Section 1414(a)(2) of Title 20 of the United States Code.

(*l*) A meeting of an individualized education program team requested by a parent or guardian to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written request, pursuant to Section 56343.5.

(m) If an individual with exceptional needs transfers from district to district within the state, the following are applicable pursuant to Section 56325:

(1) If the child has an individualized education program and transfers into a district from a district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents or guardians, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law, pursuant to paragraph (1) of subdivision (a) of Section 56325.

(2) If the child has an individualized education program and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with state and federal law, pursuant to paragraph (2) of subdivision (a) of Section 56325.

(3) If the child has an individualized education program and transfers from an educational agency located outside the state to a district within the state within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents or guardians, until the local educational agency conducts an assessment as specified in paragraph (3) of subdivision (a) of Section 56325.

(4) In order to facilitate the transition for an individual with exceptional needs described in paragraphs (1) to (3), inclusive, the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records, as specified, pursuant to subdivision (b) of Section 56325.

(n) The parent or guardian shall have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after a request is made by the parent or guardian, either orally or in writing, and before any meeting regarding an individualized education program of his or her child or any hearing or resolution session pursuant to Chapter 5 (commencing with Section 56500), in accordance with Section 56504 and Chapter 6.5 (commencing with Section 49060) of Part 27.

(o) Upon receipt of a request from a local educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy thereof, to the new local educational agency within five working days, pursuant to subdivision (a) of Section 3024 of Title 5 of the California Code of Regulations.

(p) The department shall do all of the following:

(1) Have a time limit of 60 calendar days after a complaint is filed with the state educational agency to investigate the complaint.

(2) Give the complainant the opportunity to submit additional information about the allegations in the complaint.

(3) Review all relevant information and make an independent determination as to whether there is a violation of a requirement of this part or Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(4) Issue a written decision pursuant to Section 300.152(a)(5) of Title 34 of the Code of Federal Regulations.

(q) A prehearing mediation conference shall be scheduled within 15 calendar days of receipt by the Superintendent of the request for mediation, and shall be completed within 30 calendar days after the request for mediation, unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation, pursuant to Section 56500.3.

(r) Any request for a due process hearing arising from subdivision (a) of Section 56501 shall be filed within two years from the date the party initiating the request knew or had reason to know of facts underlying the basis for the request, except that this timeline shall not apply to a parent if the parent was prevented from requesting the due process hearing, pursuant to subdivision (*l*) of Section 56505.

(s) The Superintendent shall ensure that, within 45 calendar days after receipt of a written due process hearing request, the hearing is immediately commenced and completed, including any mediation requested at any point during the hearing process, and a final administrative decision is rendered, pursuant to subdivision (f) of Section 56502.

(t) If either party to a due process hearing intends to be represented by an attorney in the due process hearing, notice of that intent shall be given to the other party at least 10 calendar days prior to the hearing, pursuant to subdivision (a) of Section 56507.

(u) Any party to a due process hearing shall have the right to be informed by the other parties to the hearing, at least 10 calendar days prior to the hearing, as to what those parties believe are the issues to be

decided at the hearing and their proposed resolution of those issues, pursuant to paragraph (6) of subdivision (e) of Section 56505.

(v) Any party to a due process hearing shall have the right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents, including all assessments completed and not completed by that date, and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing, pursuant to paragraph (7) of subdivision (e) of Section 56505.

(w) An appeal of a due process hearing decision shall be made within 90 calendar days of receipt of the hearing decision, pursuant to subdivision (k) of Section 56505.

(x) When an individualized education program calls for a residential placement as a result of a review by an expanded individualized education program team, the individualized education program shall include a provision for a review, at least every six months, by the full individualized education program team of all of the following pursuant to paragraph (2) of subdivision (c) of Section 7572.5 of the Government Code:

(1) The case progress.

(2) The continuing need for out-of-home placement.

(3) The extent of compliance with the individualized education program.

(4) Progress toward alleviating the need for out-of-home care.

(y) A complaint filed with the department shall allege a violation of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a provision of this part that occurred not more than one year prior to the date that the complaint is received by the department, pursuant to Section 56500.2 and Section 300.153(c) of Title 34 of the Code of Federal Regulations.

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## CHAPTER 224

An act to amend Section 206.5 of the Labor Code, relating to employment.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 206.5 of the Labor Code is amended to read:

206.5. (a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.

(b) For purposes of this section, "execution of a release" includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 225

An act to add Section 1265.4 to the Health and Safety Code, relating to health facilities.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 1265.4 is added to the Health and Safety Code, to read:

1265.4. (a) A licensed health facility, as defined in subdivision (a), (b), (c), (d), (f), or (k) of Section 1250, shall employ a full-time, part-time, or consulting dietitian. A health facility that employs a registered dietitian less than full time, shall also employ a full-time dietetic services supervisor who meets the requirements of subdivision (b) to supervise dietetic service operations. The dietetic services supervisor shall receive frequently scheduled consultation from a qualified dietitian.

(b) The dietetic services supervisor shall have completed at least one of the following educational requirements:

(1) A baccalaureate degree with major studies in food and nutrition, dietetics, or food management and has one year of experience in the dietetic service of a licensed health facility.

(2) A graduate of a dietetic technician training program approved by the American Dietetic Association, accredited by the Commission on Accreditation for Dietetics Education, or currently registered by the Commission on Dietetic Registration.

(3) A graduate of a dietetic assistant training program approved by the American Dietetic Association.

(4) Is a graduate of a dietetic services training program approved by the Dietary Managers Association and is a certified dietary manager credentialed by the Certifying Board of the Dietary Managers Association, maintains this certification, and has received at least six hours of in-service training on the specific California dietary service requirements contained in Title 22 of the California Code of Regulations prior to assuming full-time duties as a dietetic services supervisor at the health facility.

(5) Is a graduate of a college degree program with major studies in food and nutrition, dietetics, food management, culinary arts, or hotel and restaurant management and is a certified dietary manager credentialed by the Certifying Board of the Dietary Managers Association, maintains this certification, and has received at least six hours of in-service training on the specific California dietary service requirements contained in Title 22 of the California Code of Regulations prior to assuming full-time duties as a dietetic services supervisor at the health facility.

(6) A graduate of a state approved program that provides 90 or more hours of classroom instruction in dietetic service supervision, or 90 hours or more of combined classroom instruction and instructor led interactive Web-based instruction in dietetic service supervision.

(7) Received training experience in food service supervision and management in the military equivalent in content to paragraph (2), (3), or (6).

(c) Pursuant to Section 1276, the State Department of Public Health may grant a program flexibility request to the facility to modify the requirements in subdivision (b) for any individual who has at least five years experience prior to January 1, 2009, as a dietetic services supervisor in a health facility specified in subdivision (a) to allow that individual to function as a dietetic services supervisor for a period not to exceed 18 months, as long as the individual is enrolled in a program that meets the requirements listed in subdivision (b). The department may extend the program flexibility request for a period not to exceed six months if the individual can demonstrate to the department that the coursework could not otherwise be completed within the original 18-month period.

Program flexibility requests shall be submitted not later than December 31, 2009.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 226

An act to add Section 54.25 to the Civil Code, relating to peace officers.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 54.25 is added to the Civil Code, to read:

54.25. (a) (1) A peace officer or firefighter assigned to a canine unit assigned to duty away from his or her home jurisdiction because of a declared federal, state, or local emergency, and in the course and scope of his or her duties shall not be discriminated against in hotels, lodging establishments, eating establishments, or public transportation by being required to pay an extra charge or security deposit for the peace officer's or firefighter's dog. However, the peace officer's law enforcement agency or the firefighter's fire agency shall be liable for any damages to the premises or facilities caused by the peace officer's or firefighter's dog.

(2) Any person, firm, association, or corporation, or the agent of any person, firm, association, or corporation that prevents a peace officer or a firefighter assigned to a canine unit and his or her dog from exercising, or interferes in the exercise of, the rights specified in this section is subject to a civil fine not exceeding one thousand dollars ($1,000).

(b) (1) For purposes of this section, a "peace officer's or firefighter's dog" means a dog owned by a public law enforcement agency or fire department and under the control of a peace officer or firefighter assigned to a canine unit that has been trained in matters including, but not limited to, discovering controlled substances, explosives, cadavers, victims in

collapsed structures, and peace officer on-command searches for suspects and victims at crime scenes.

(2) "Declared emergency" is any emergency declared by the President of the United States, the Governor of a state, or local authorities.

(c) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(d) This section is intended to provide accessibility without discrimination to a peace officer or firefighter with a trained, public-owned dog in hotels, lodging places, eating establishments, and public transportation during declared emergencies.

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## CHAPTER 227

An act to amend Section 10232.3 of the Insurance Code, relating to insurance.

[Approved by Governor August 1, 2008. Filed with Secretary of State August 1, 2008.]

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

SECTION 1. Section 10232.3 of the Insurance Code is amended to read:

10232.3. (a) All applications for long-term care insurance except that which is guaranteed issue, shall contain clear, unambiguous, short, simple questions designed to ascertain the health condition of the applicant. Each question shall contain only one health status inquiry and shall require only a "yes" or "no" answer, except that the application may include a request for the name of any prescribed medication and the name of a prescribing physician. If the application requests the name of any prescribed medication or prescribing physician, then any mistake or omission shall not be used as a basis for the denial of a claim or the rescission of a policy or certificate.

(b) The following warning shall be printed conspicuously and in close conjunction with the applicant's signature block:

"Caution: If your answers on this application are misstated or untrue, the insurer may have the right to deny benefits or rescind your coverage."

(c) Every application for long-term care insurance shall include a checklist that enumerates each of the specific documents that this chapter requires be given to the applicant at the time of solicitation. The documents and notices to be listed in the checklist include, but are not limited to, the following:

(1) The "Important Notice Regarding Policies Available" pursuant to Section 10232.25.

(2) The outline of coverage pursuant to Section 10233.5.

(3) The HICAP notice pursuant to paragraph (8) of subdivision (a) of Section 10234.93.

(4) The long-term care insurance shoppers guide pursuant to paragraph (9) of subdivision (a) of Section 10234.93.

(5) The "Long-Term Care Insurance Personal Worksheet" pursuant to subdivision (c) of Section 10234.95.

(6) The "Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance" pursuant to Section 10235.16 if replacement is not made by direct response solicitation or Section 10235.18 if replacement is made by direct response solicitation. Unless the solicitation was made by a direct response method, the agent and applicant shall both sign at the bottom of the checklist to indicate the required documents were delivered and received.

(d) If an insurer does not complete medical underwriting and resolve all reasonable questions arising from information submitted on or with an application before issuing the policy or certificate, then the insurer may only rescind the policy or certificate or deny an otherwise valid claim, upon clear and convincing evidence of fraud or material misrepresentation of the risk by the applicant. The evidence shall:

(1) Pertain to the condition for which benefits are sought.

(2) Involve a chronic condition or involve dates of treatment before the date of application.

(3) Be material to the acceptance for coverage.

(e) No long-term care policy or certificate may be field issued.

(f) The contestability period as defined in Section 10350.2 for long-term care insurance shall be two years.

(g) A copy of the completed application shall be delivered to the insured at the time of delivery of the policy or certificate.

(h) Every insurer shall maintain a record, in accordance with Section 10508, of all policy or certificate rescissions, both state and countrywide, and shall annually furnish this information to the commissioner, which shall include the reason for rescission, the length of time the policy or certificate was in force, and the age and gender of the insured person, in a format prescribed by the commissioner.

(i) The commissioner may, in his or her discretion, make public the aggregate data collected under subdivision (h), upon request.